

ISRAEL

The price of principles: Imprisonment of conscientious objectors

INTRODUCTION

Every year Israel jails individuals simply because they refuse to perform military service for reasons of conscience¹. Jewish and Druze men who study in religious institutions can receive a deferment from military service. By contrast conscientious objectors, including pacifists and those opposed to implementing Israeli policies in the Occupied Territories, who refuse to perform military service are normally imprisoned for weeks and sometimes months, after receiving unfair trials by military officers. In many cases they serve multiple prison sentences. The exact number of conscientious objectors who are imprisoned in Israel each year is unknown. Amnesty International learns of a few cases each year. The small number of persons imprisoned should not detract from the fact that Israeli law and policy do not recognize the rights of most conscientious objectors and fail to enable conscientious objectors to perform an alternative form of civilian service. There may be many more conscientious objectors who would request exemption if the Israeli government established proper procedures for the exemption of conscientious objectors from military service and publicized these procedures, as required by international human rights standards.

Over the years Amnesty International has adopted many conscientious objectors imprisoned in Israel as prisoners of conscience and has campaigned for their immediate and unconditional release. In 1988 the organization published *Israel and the Occupied Territories: Conscientious Objection* (MDE 15/40/88) focussing on the imprisonment of Jewish objectors to military service. Three years later Amnesty International published *Israel and the Occupied Territories: Druze conscientious objectors to military service* (MDE 15/55/91) which focussed on members of the Druze community who had been jailed for refusing to carry out military service for reasons of conscience.

This report includes information gathered during a mission to Israel in January 1999. During this visit Amnesty International delegates met with representatives of the Israel Defence Forces (IDF) to discuss the IDF's policies towards conscientious objectors. The delegates also interviewed conscientious objectors and met with individuals and non-governmental organizations active in this field.

¹In this report the term "conscientious objection" should be understood to include both absolute objection to all forms of military service and selective objection to military service.

Amnesty International defines as a conscientious objector any person liable to conscription for military service or registration for conscription to military service, who, for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical or similar motives, refuses to perform armed service or to any other direct or indirect participation in wars or armed conflicts. This definition is equally applicable to persons who refuse to serve in all wars and to persons who refuse to participate, directly or indirectly in particular wars or armed conflicts (selective objectors).

Amnesty International also considers a person already serving in the armed forces who refuses to continue his or her service for reasons of conscience or profound conviction to be a conscientious objector.

If such a person is detained or imprisoned solely for having been refused the right to register an objection or to perform a genuinely civilian alternative to military service under purely civilian control, Amnesty International will adopt that person as a prisoner of conscience and campaign for his or her immediate and unconditional release. Such alternative service should be of a non-punitive character.

In recent years, a number of states have enacted legal reforms to exempt conscientious objectors from military service and to enable them to perform civilian service as an alternative. For instance, among the 40 members states of the Council of Europe, the vast majority have now recognized the right to conscientious objection to military service in their constitutions and/or enacted legislation providing for some form of alternative civilian service for conscientious objectors. In 1998, the Council of Europe Committee of Ministers convened a Group of Specialists to assist members states with the implementation of that body's 1987 Recommendation Regarding Conscientious Objection to Compulsory Military Service in national legislation and practice. Even though there is a growing recognition of the rights of conscientious objectors throughout the world, there has been very little substantive change in

Israel's policy towards conscientious objectors since the publication of Amnesty International's reports in 1988 and 1991. Furthermore, Israeli law continues to discriminate against male conscientious objectors. Although Israeli law contains a formal, albeit limited, recognition of the right of women to refuse to perform military service on grounds of conscience, the law does not confer this right on men. In 1995 the Israeli government established an internal committee, known as the Conscientious Objection Committee, to which male conscientious objectors could apply for recognition and exemption from military service. However, the operation of this Committee has been extremely unsatisfactory. The Committee has not exempted applicants whom Amnesty International regarded as conscientious objectors. Amnesty International knows of only four cases where the Committee has recognized applicants as conscientious objectors.

Israeli law also differentiates unfairly between people who hold different types of beliefs. Jewish orthodox women can receive an exemption from military service and men who study in religious institutions can receive a deferment from military service. A December 1998 decision by the High Court of Justice that deferments given to Jewish students in *yeshivot*

(religious schools) are unlawful, has sparked a debate in Israel as to what should be the nature of military service, who should be required to perform military service and whether there should be an alternative civilian service. Amnesty International hopes that this report will contribute to that debate.

Following the Israeli elections in May 1999 the new government decided to set up a committee composed of Israeli officials and representatives of *yeshivot* to formulate an arrangement for the exemption of Yeshiva students from military service. Amnesty International urges the Israeli government to introduce, as part of any package of reforms on military service, changes in Israel's law and procedure to ensure that the country complies with its obligations under international human rights law by recognizing fully the rights of conscientious objectors.

INTERNATIONAL HUMAN RIGHTS LAW AND CONSCIENTIOUS OBJECTION

Article 18 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of thought, conscience and religion. Articles 2 and 3 of the ICCPR make it clear that all rights guaranteed by the Covenant must be applied without discrimination on grounds of sex.

The Human Rights Committee, an expert body established to oversee states parties' implementation of the Covenant, has expressed its opinion that conscientious objection to military service is a legitimate exercise of the right to freedom of thought, conscience and religion². Israel ratified the ICCPR in 1993 and is thereby bound to adopt legislation and other measures to give effect to the right to freedom of thought, conscience and religion.

The United Nations Commission on Human Rights has set down the elements of the right to refuse to perform military service for reasons of conscience in several resolutions. In 1998 the Commission adopted Resolution 1998/77 where it recommended that states establish a form of alternative service of a non-combatant or civilian character for conscientious objectors. The resolution also emphasized that states should not imprison conscientious objectors for failure to perform military service and called on states to establish independent and impartial decision-making bodies to determine whether a person has a genuine conscientious objection. The Commission urged states not to discriminate between conscientious objectors on the basis of their particular beliefs. It also stressed the importance of making information about the right to conscientious objection to military service freely available.

Article 14 of the ICCPR requires that every person charged with a criminal offence receive a fair trial by an independent and impartial tribunal. Even where a state does not classify

² Human Rights Committee General Comment Number 22 (48) concerning Article 18 of the ICCPR, adopted in July 1993.

a charge as criminal, international fair trial standards will apply if an accused person faces a penalty of some severity, such as imprisonment. The Human Rights Committee has stated that "Article 14 applies not only to procedures for the determination of criminal charges against individuals but also to procedures to determine their rights and obligations in a suit at law."

ISRAELI LAW AND PRACTICE

All Israeli citizens and residents are required to perform military service, in accordance with the Defence Service Law of 1986. Men and women are conscripted into the Israel Defence Forces (IDF) at the age of 18. The requirement to perform military service is sexually discriminatory. Men are required to perform three years and women two years of "regular service". Thereafter the law requires both men and women to perform a period of "reserve service" each year until men reach the age of 51 years and women reach the age of 24 years. In practice, according to the IDF Spokesperson's office, men are normally not required to perform reserve service beyond the age of 45.

The Defence Service Law provides for various types of exemptions from the duty to perform regular and reserve service. The law differentiates unfairly between people who hold different types of beliefs and discriminates against men.

Section 40 automatically exempts from regular and reserve service a Jewish woman who makes a written declaration before a judge that reasons of religious conviction prevent her from performing military service and that she observes the Jewish dietary laws and does not ride in a vehicle on the Sabbath. The law does not require an inquiry into whether the woman's claim is genuine or not. Section 39 enables a woman to receive an exemption if she can prove that reasons of conscience or reasons connected with her family's religious way of life prevent her from undertaking military service. Men cannot be exempted from military service under section 39 and section 40, a clear instance of discrimination on the basis of sex.

Section 36(1) of the Defence Service Law gives the Minister of Defence a general discretion to exempt anyone from military service. The Minister of Defence has used his powers to exempt general categories of people as well as specific individuals. Israeli citizens of Palestinian origin have been exempted from compulsory military service since the establishment of the State of Israel. This exemption was withdrawn from male members of the small Druze and Circassian communities in 1956 and Druze and Circassian men have been subject to conscription since then.

In addition, the Minister of Defence can grant deferments from military service for a prescribed period. Jewish men who study in a *yeshiva* routinely receive deferments, as well as Druze men who perform full-time religious study. In December 1998 a special 11-judge panel of the High Court of Justice found that the deferments granted to Jewish *yeshiva* students were

unlawful. The court ruled that the Minister of Defence was not empowered by the Defence Service Law to issue a deferment for an entire category of people. The court gave the government one year to adopt legislation to regulate the situation. If the government fails to adopt legislation, the court will re-examine the issue. The High Court's ruling was extremely controversial in Israel with many secular Israelis supporting the decision and many members of Israel's ultra orthodox communities firmly opposed. According to a May 1998 report by the State Comptroller, 28,772 draft deferments were granted during 1997, representing about 7.4 percent of those eligible in that year for military service. In response to the new government's decision to establish a committee composed of Israeli officials and representatives of the *yeshivot* to discuss exemption from military service for *yeshiva* students, on 26 July 1999 three organizations, Conscientious Objectors in Israel, New Profile and the Committee for the Druze Initiative, who support conscientious objectors and describe themselves as representatives of "a public of men and women who are not prepared to serve in the IDF on moral grounds" wrote to Ehud Barak, the Prime Minister and Minister of Defence, requesting representation in this committee. In their letter they stated:

"In the existing political status quo there are several groups who enjoy the special status of a collective agreement enabling them to be exempt from service: Yeshiva students, Jehovah Witnesses and Orthodox Druze are three such groups. These collective agreements gravely discriminate against those who are unable to serve in the army due to their conscience - for religious, moral, national or ideological reasons - and who do not belong to the above groups covered by the collective agreements. According to the existing conscription law, there is no option for men to be exempted from military service on moral grounds, nor are women able to actualize this right easily."

It is important to note that the Defence Service Law does not provide for an alternative form of civilian service for conscientious objectors, or indeed for anyone who is exempted from military service. However, an administrative arrangement exists whereby religious Jewish women who are exempted from military service can perform national service in a civilian setting, for example, in schools and hospitals. These women receive the same generous social benefits, for example financial assistance for academic study, as persons who served in the IDF.

In addition, an increasing number of secular Israelis who do not want to serve in the IDF are reportedly avoiding military service by deliberately failing their assessment tests and receiving Military Profile 21. This profile indicates that a person is not suitable to serve in the IDF, often because of poor physical or mental health. In a context where thousands of young persons each year do not serve in the IDF for religious or other reasons, the Israeli government's imprisonment of a small number of conscientious objectors each year appears even more unreasonable.

MALE CONSCIENTIOUS OBJECTORS AND THE CONSCIENTIOUS OBJECTION COMMITTEE

Israeli law does not recognize the right of men to refuse to perform military service on grounds of conscience. In 1995 the Minister of Defence set up an internal IDF committee, known as the Conscientious Objection Committee, with powers to exempt male conscientious objectors from military service. It is questionable whether the Committee is sufficiently impartial and it appears to apply an over-restrictive definition of conscientious objection. Amnesty International is aware of only four cases where the Committee has recognized applicants as conscientious objectors. The organization wrote to the IDF Spokesperson in June 1999 requesting statistics on the number of persons the Committee has recognized as conscientious objectors, but had not received any response from the IDF by 5 August 1999.

The Conscientious Objection Committee has no formal legal status. An internal administrative directive sets down the composition of the Committee and its procedures and there is no right of appeal. This directive is not published.

According to IDF officials with whom Amnesty International delegates met, if a man states to an IDF official that he cannot perform military service on grounds of conscientious objection, his case will be referred to the Conscientious Objection Committee. Staff at the Absorption and Classification Base (*Bakom*), IDF assessment centres and commanders of IDF units are informed and know the procedures to follow in such cases. In their January 1999 meeting with IDF officials, Amnesty International delegates expressed concern that in many cases men who declared their conscientious objection to the IDF were not being referred to the Committee. The officials denied that this could be the case. The delegates informed the officials that they had interviewed a number of Druze men who had informed the IDF that they were conscientious objectors and who had not been referred to the Committee. The delegates confirmed that the Committee had not examined the cases of any Druze applicants and said that they had not heard of any case where a Druze had refused to serve in the army for reasons of conscience.

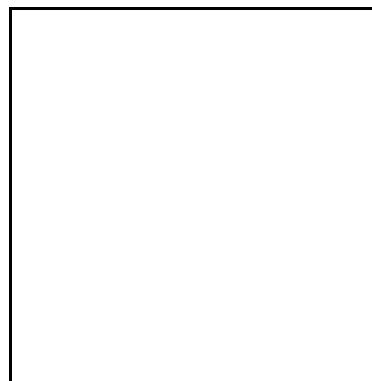
In the January 1999 meeting the IDF representatives were unable to provide Amnesty International's delegates with a working definition of conscientious objection used by the Committee in its assessments. However, they did emphasize that under Israeli law selective objection to military service would not be regarded as conscientious objection and would not attract exemption from military service.

It is questionable whether the Conscientious Objection Committee is impartial in appearance or in actuality. All except one of its members are serving members of the IDF. The head of the *Bakom* is the president of the Committee and the Committee must also include a psychologist, a representative of the Military Advocate General's Corps and a representative

of the *Bakom*, according to the IDF. From interviews with conscientious objectors who have appeared before this Committee, it appears that all its members, who normally number five or six, are employees of the IDF, with the exception of the psychologist, who is a civilian.

The Committee's role does not appear to conduct an impartial assessment as to whether an applicant's conscientious objection is genuine. Rather the Committee's task appears to be to assess how the beliefs of a conscientious objector can be accommodated with service in the IDF. At the January 1999 meeting, one IDF representative said, "We see the Committee as trying to solve a problem, accepting the soldier's beliefs and seeing how he can fit in the army with those beliefs."

This approach is demonstrated by the type of questions the Committee asks applicants. They are normally questioned as to whether they would be willing to participate in activities in the IDF such as performing in a musical band or working in a hospital. Applicants whom Amnesty International interviewed said that they were asked how they would react if a person attempted to kill them. Several applicants said that Committee members' questioning had been hostile and aggressive, leaving them with the impression that they were not impartial but rather held hostile views towards conscientious objection. One conscientious objector, Sergei Achin (see below) described his experience before the Conscientious Objection Committee in a letter to Yitzhak Mordechai, the then Minister of Defence, in July 1996:



Sergei Achin

"I wish to protest several things concerning the "Exemptions Committee" before which I appeared. First, it was my impression that the "Exemptions Committee" never intended to consider the possibility of exempting me from military service. The fact is that I received a new draft order before I went before the "Committee"; most of the questions were formal and insignificant and I was not asked about the depth of my pacifist beliefs and even the formal questions were repeated several times. Second, most of the Committee members were military personnel and in my view there was not one civilian who was familiar with pacifist philosophy. Third, the translator that was provided did not know Hebrew sufficiently and her translation was inaccurate and even contradicted some of the things that I said ... Fourth, I had the feeling that the members of the Committee did not even try to understand me. They demonstrated an unfair approach towards me and they insulted my dignity."

Many men who appear to have a genuine conflict of conscience and declare to the IDF their conscientious objection to military service are not recognized by the IDF as conscientious objectors and are not exempted from military service either because they are never referred to the Conscientious Objection Committee or because the Committee declines to recognize them.

FEMALE CONSCIENTIOUS OBJECTORS AND THE EXEMPTIONS COMMITTEE

Section 39 of the Defence Service Law states that a woman who has proved that reasons of conscience or reasons connected with her family's religious way of life prevent her from performing military service is entitled to receive an exemption. Regulations establish an Exemptions Committee to examine applications. The Committee consists of either three or five members who are civilians.

Although the law treats female conscientious objectors more generously than males, this is not to say that Israel fully recognizes the rights of female conscientious objectors to exemption from military service. Female applicants face difficulties in seeking official recognition and an exemption from military service. Women sometimes face long delays before the Exemptions Committee hears their applications. Like the Conscientious Objection Committee, members of the Exemptions Committee appear to view their role as being to find a way of accommodating the applicant within the IDF rather than conducting an independent and impartial assessment as to whether the applicant is a genuine conscientious objector.

Additionally, Israeli law does not recognize the right of women who have already served in the IDF to seek exemption from military service on grounds of conscientious objection. Women are only entitled to submit applications to the Committee before they are called up for the first time for military service.

LACK OF INFORMATION

The Commission on Human Rights has emphasized that states should make information available about the right to conscientious objection to military service and the means of acquiring conscientious objector status. However, in Israel there is a distinct lack of transparency in the IDF's handling of conscientious objectors.

Much material relating to the treatment of conscientious objectors, such as the Minister of Defence's directive establishing the Conscientious Objection Committee and information relating to the operation of unsuitability committees, which frequently deal with imprisoned conscientious objectors, is confidential. Many conscientious objectors, as well as organizations and activists working in this field, have observed that the Israeli authorities do not make any effort to publicize information about conscientious objection. Even when individuals seek

information from the IDF or the Ministry of Defence, they are not informed about the IDF's policy towards conscientious objectors and how they can seek conscientious objector status and exemption from military service. In fact, they are frequently given inaccurate and misleading information.

TRIAL AND IMPRISONMENT OF CONSCIENTIOUS OBJECTORS

Conscientious objectors who refuse to perform military service face the risk of prosecution on various charges. Section 46(a) of the Defence Service Law makes it an offence, punishable by a term of up to two years' imprisonment, to fail to fulfil a duty imposed under the law such as reporting for military service. According to section 46(b), if a person commits this offence with intent to evade military service he or she can be sentenced to up to three years' imprisonment. These offences are triable in the ordinary courts as opposed to military courts. Despite the existence of civil offences, conscientious objectors are routinely prosecuted under the Military Justice Law. Under Israeli law, a person is regarded as a member of the IDF to whom military law is applicable from the time prescribed for him to report for military service, even if he does not report at that time.

If a conscientious objector reports for service but refuses to serve, he or she can be prosecuted for not complying with an order, punishable by up to two years' imprisonment. If a conscientious objector does not report for service without sufficient excuse he is deemed to have left the IDF without permission and faces prosecution for desertion, meaning absence from the IDF without intent to return, an offence punishable by up to 15 years' imprisonment. If a person has been absent from the IDF without permission for 21 consecutive days, there is a legal presumption that he or she left military service with intent not to return. Alternatively a conscientious objector who does not report for service could be charged with absence from service without permission, punishable by up to two years' imprisonment.

If a conscientious objector is charged with not complying with an order or being absent without permission, he can be tried in his unit by a disciplinary officer if he is below the rank of lieutenant colonel. A lower disciplinary officer has jurisdiction to sentence a person to seven days' imprisonment and a higher disciplinary officer has jurisdiction to impose a sentence of up to 35 days' imprisonment. The disciplinary officer may decide to refer the case to a military court. The accused has the right to insist on trial in a military court if he is being tried before a higher disciplinary officer.

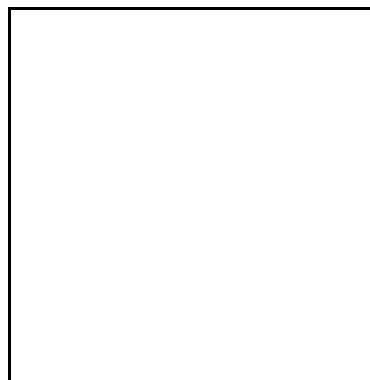
Most conscientious objectors who refuse to report for duty or refuse to serve are prosecuted by higher disciplinary officers within their units. The whole trial process normally takes between five and 10 minutes. According to the Military Justice Law the trial must be conducted in the presence of the accused. The disciplinary officer is required to read the text of the complaint to the accused and give the accused an opportunity to be heard before giving

judgement. The accused is not entitled to representation or to any time for the preparation of his or her defence. As the accused faces a relatively severe penalty of up to 35 days' imprisonment and a decision which affects his or her right to liberty, international fair trial standards apply to the conduct of trials for these offences before disciplinary officers. The lack of apparent or actual impartiality on the part of disciplinary officers, the fact that the accused is not entitled to legal representation or to adequate time for defence preparation and the summary nature of the proceedings contravenes Article 14 of the ICCPR.

In cases which the IDF takes more seriously, for example where a conscientious objector has repeatedly refused to perform military service or where a person develops a conscientious objection when he or she is already serving in the IDF and refuses to continue serving, the accused may be tried in a military court, facing the possibility of a longer sentence of imprisonment.

In many cases, conscientious objectors are repeatedly called up to do military service and repeatedly prosecuted and imprisoned. It is very common for a conscientious objector who is required to perform regular service to be served an order to report to his or her base within a few days upon release from prison. In several cases, conscientious objectors have been sentenced to four consecutive terms of imprisonment. Sergei Achin, a Tolstoyan pacifist, who at the time of his first arrest was aged 18, served four terms of imprisonment in 1996 and 1997 for refusing to serve in the IDF because of his conscientious objection.

After a conscientious objector has been imprisoned several times, the IDF often refers his or her case to what is known as an "unsuitability committee". According to the IDF, these committees are designed to deal with persons who have behavioural problems and are unsuitable for service in the IDF and it is not official policy to bring conscientious objectors before unsuitability committees. In practice, however, unsuitability committees appear to be the mechanism whereby the IDF rids itself of the problem of conscientious objectors who have been repeatedly imprisoned. Other conscientious objectors have been exempted on grounds of poor mental health. Israel Falke, aged 18 at the time of his arrest, objected to serving in the IDF on grounds of conscience as he was an anarcho-pacifist and was opposed to the IDF's role in the occupation of Palestinian land and its use of animals in scientific experiments. He was sentenced to 28 days' imprisonment on 6 February 1996 in connection with his refusal to serve in the IDF. Israel Falke was later interviewed by an IDF Mental Health Officer and informed the officer of his conscientious objection. He was exempted from service in the IDF on mental health grounds.



Israel Falke

CONSCIENTIOUS OBJECTION IN ISRAEL

There is a long tradition in Israel of objection to military service, both selective and absolute objection, although those who declare themselves to be conscientious objectors form a tiny minority of the thousands who each year perform regular and reserve service, as required by law.

During the Palestinian uprising or *Intifada*, the massive scale of human rights violations such as extrajudicial executions and other unlawful killings, beatings and arbitrary arrests, committed by the IDF in the Occupied Territories prompted hundreds of soldiers, many of them reservists, to refuse to serve in the West Bank and Gaza Strip on grounds of conscience.³ The Israeli association *Yesh Gvul* estimates that between December 1987 and the signing of the Declaration of Principles between Israel and the PLO about 2,000 people, almost all of them reservists, refused to serve in the Occupied Territories. According to *Yesh Gvul*, about 200 selective objectors were imprisoned for refusing to serve in the IDF. However, in the vast majority of cases, selective objectors were not imprisoned for refusing to obey orders. Their commanding officers managed informally to accommodate the political beliefs of the selective objectors with their regular or reserve service, for example by arranging for them to serve inside Israel.

After the signing of the Oslo Agreement in September 1993, the number of Jewish selective objectors to service in the Occupied Territories declined. However, selective objection continues and there have continued to be a few cases where selective objectors have been imprisoned for failing to comply with an order.

Since the early 1990s, hundreds of citizens of the Commonwealth of Independent States (CIS), who were entitled by Israel's Law of Return to reside in Israel, have emigrated to Israel. A small number of new immigrants (*olim*), many of them absolute pacifists, have refused to perform military service on grounds of conscientious objection.

Since compulsory military service was imposed on Druze men in 1956, many Druze have refused to perform regular military service or reserve duty. According to the Committee for the Druze Initiative, a Druze association which campaigns against Druze conscription, since 1956 about 5,000 Druze have been imprisoned for refusing to serve in the IDF. The committee does not have statistics on how many of those imprisoned declared to the IDF that they were conscientious objectors. The majority of Druze objectors have justified their refusal to perform military service to the IDF on the basis of economic and social circumstances or poor physical

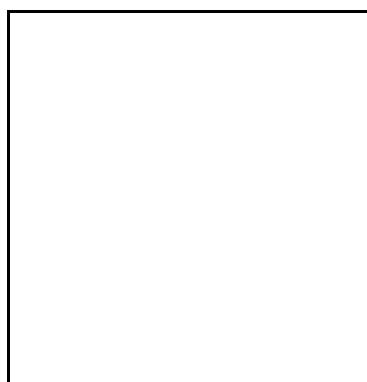
³ For additional details, see *Israel and the Occupied Territories: Conscientious Objection* (MDE 15/40/88) (referred to above).

or mental health. There is reportedly a great deal of fear within the Druze community of actively stating conscientious objection as the reason for refusing to serve as many Druze perceive that a conscientious objector may face problems in securing employment. However, a small number of Druze have declared to the IDF that their refusal to serve is for reasons of conscience. Most Druze conscientious objectors base their objection on their refusal to bear arms against other Arabs. Some have also cited pacifist beliefs.

CASE HISTORIES

Yehuda Eagos

Yehuda Eagos, a student now aged 29, who describes himself as an anarcho-pacifist, developed a conscientious objection to military service after he had completed his regular service. In 1998 he began resisting service in the IDF reserve forces because of "his opposition to organized violence and to Israel's military occupation of the territory of the Palestinian people". In January 1998 he informed the Minister of Defence by letter that he intended to refuse to serve in the IDF for reasons of conscience. He was referred to the Conscientious Objection Committee and after a hearing on 14 June 1998 the Committee rejected his application stating in a written decision:



Yehuda Eagos

"The Committee did not find that the above-mentioned person is unable to serve due to pacifism. He raised various political arguments concerning the IDF policy in the [Occupied] Territories etc., that are closer to the field of selective refusal. Even his principled arguments against serving are less relevant to pacifism than to an unwillingness to serve and also ideological and political positions."

On 8 September 1998 Yehuda Eagos was ordered to report for reserve duty on 9 November 1998. On 3 November he informed the Minister of Defence that he would report to his base on 9 November, but would refuse to serve on grounds of conscience. On that day he reported to his military unit at Beit Naballah base and refused to serve, restating his conscientious objection. In a disciplinary trial, the base commander sentenced him to 14 days' imprisonment for failing to comply with an order. He served his sentence at Military Prison No. 4 at Tserifin and was released on 21 November. At that time he was given an order to report for reserve service again on 26 January 1999. On 1 December 1998 he wrote to the Minister of Defence again stating his intention to report for reserve service on 26 January and to refuse to serve on grounds of conscience.

Yehuda Eagos reported to his base on 26 January and refused to serve in the IDF. An IDF officer sentenced him to 28 days' imprisonment for failing to obey an order. He served his term of imprisonment at Military Prison No. 4 and was released on 19 February. As of 5 August 1999, the Minister of Defence had not exempted him from performing reserve service.

Oleg Bar On

Oleg Bar On, now aged 21, is an ethnic Russian immigrant from Ukraine. He is a Roman Catholic and a pacifist. He was called up for military service on 1 December 1997 but did not report to the IDF until 5 November 1998. On that date he went to the *Bakom* and explained that he was unable to serve in the IDF because of his pacifist and Roman Catholic beliefs. An IDF officer sentenced him to 28 days' imprisonment. Upon his release he was called up for service again and, after refusing to serve, he was again sentenced to 28 days' imprisonment. This cycle continued and Oleg Bar On was sentenced on three occasions to 28 days' imprisonment. He was released from prison on 13 February 1999, when he was again ordered to report to the IDF for military service soon after his release from prison.

Oleg Bar On did not report to the IDF until 12 April 1999. He was arrested and charged with desertion before a military court. At a later stage he was charged with misconduct in prison. It was only during his fourth period of imprisonment that the IDF referred Oleg Bar On's case to the Conscientious Objection Committee. His hearing before the Committee lasted 10 minutes and the Committee rejected his application for exemption from military service on grounds of conscientious objection. In May 1999 a military court sentenced him to 55 days' imprisonment for desertion and 28 days' imprisonment for bad behaviour in prison. On 25 June Oleg Bar On was released from prison and sent to the *Bakom* with a letter of recommendation from an IDF officer that he should be exempted from military service on grounds of unsuitability. In July Oleg Bar On received a letter from the IDF informing him that he was being exempted from the IDF on this basis.

Sarah Barak⁴

Sarah Barak registered for the Academic Reserves in the IDF, enabling her to defer her military service in order to continue her studies. She served as an officer in the IDF, working in a post related to her area of study between September 1995 and May 1996. During this period of military service Sarah Barak was often in conflict with her superiors and on occasion she refused to carry out orders which she considered to be cruel. In May 1996 she was removed from her military unit.

On 30 September 1996, the IDF ordered Sarah Barak to report for military service two days later. At that time she discovered the existence of the Exemptions Committee, which is

⁴Amnesty International is using a pseudonym in order to protect the individual's identity.

empowered to release women from military service on grounds of conscientious objection. The following day she wrote, with the assistance of a lawyer, to the Minister of Defence requesting an exemption from military service on grounds of conscience. In the letter she described how her pacifist beliefs had developed during her childhood and during her military service. She stated that she was willing to carry out an alternative form of civilian service.

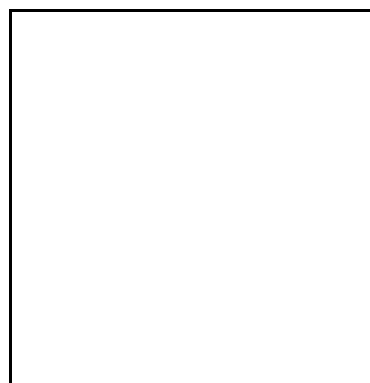
Sarah Barak did not report for service on 2 October 1996. Although she tried to resolve her situation with the IDF, the IDF maintained that her case could only be resolved after she had recommenced military service. The IDF arrested her on 1 January 1997. Sarah Barak was charged with desertion and at least one other offence and brought before a military court. Sarah Barak was reportedly tried *in camera* and eventually sentenced to about 45 days' imprisonment. The IDF refused to refer her case to the Exemptions Committee on the grounds that she had filed her application too late, after she had already started military service. An unsuitability committee eventually exempted her from military service.

Yuval Lotem

Yuval Lotem, a selective refuser, declined to serve as a reservist in the Occupied Territories. He was ordered to perform his reserve service instead as a guard in Megiddo Military Detention Centre where Palestinians are held in administrative detention.⁵ Yuval Lotem refused to guard administrative detainees on the grounds that their detention was unacceptable because they were being held without charge or trial. A disciplinary court sentenced him on 6 July 1997 to 28 days' imprisonment for refusing to obey an order. Yuval Lotem served his sentence in Military Prison No. 6 and was released in August 1997. Following Yuval Lotem's release, 'Imad Sabi, a Palestinian who had been held in administrative detention since December 1995, wrote an open letter to Yuval Lotem. The two men began a correspondence which attracted a great deal of publicity in Israeli and international media. The publicity generated by Yuval Lotem's refusal to serve helped to galvanize the movement against administrative detention in Israel and was almost certainly one of the factors which led to the release of 'Imad Sabi and scores of other administrative detainees in 1997 and 1998.

Sauser Chatukai

Sauser Chatukai, a member of Israel's Circassian minority, now aged 21, was drafted into the IDF in 1995. He served for one month and then continued his studies in electronics for two years. In May 1997 he was drafted again into the IDF and in July he was sent on a course. During the course



Sauser Chatukai

⁵Palestinians are held in administrative detention without charge or trial for periods of up to six months by order of the IDF or the Minister of Defence. Administrative detention orders can be renewed indefinitely.

he developed a conscientious objection to military service based on his Muslim beliefs. He felt that he could not serve in an army which was in conflict with Muslim countries. Later in July he informed his commanding officer that he had developed a conscientious objection to military service. In October 1997 an unsuitability committee examined his case and refused to exempt him from military service. Sauser Chatukai refused to continue performing his military service and left his base. He was arrested by the Military Police on 25 November 1997. A higher disciplinary officer sentenced him to 28 days' imprisonment. He was released on 7 December 1997 and ordered to return for military service on 9 December. He reported to the IDF as required and served in the IDF until March 1998. He left his base at that time as the IDF refused to refer him to another unsuitability committee.

On 21 April 1998 Sauser Chatukai handed himself over to the Military Police. A military court sentenced him to 120 days' imprisonment, 80 days of which were suspended. On 26 May 1998 he was released and ordered to return for military service. Sauser Chatukai reported to the IDF and explained his conscientious objection to his commanding officer, who referred him to another committee. In July 1998 an unsuitability committee refused to exempt Sauser Chatukai from military service. The committee reportedly recommended that his case should not be referred to any other unsuitability committees and that he should be imprisoned if he continued to refuse to serve in the IDF.

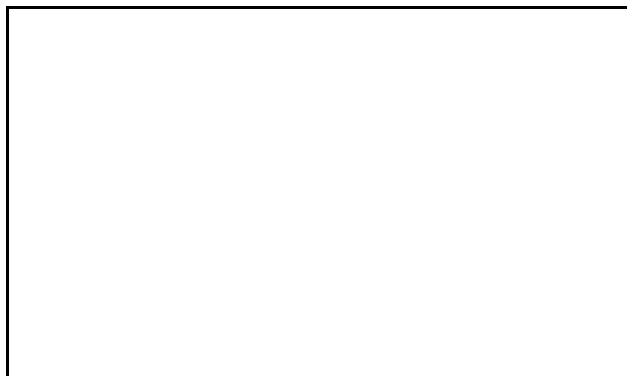
Sauser Chatukai reported to the IDF but stopped performing military service in August 1998 after the IDF informed him that he would not be referred again to an unsuitability committee. He gave himself up to the IDF in October 1998. On 28 October 1998 he was tried in the Haifa Military Court for desertion. His lawyer informed the court that Sauser Chatukai had a conscientious objection to military service. The court convicted him of desertion but did not activate the suspended sentence of 80 days' imprisonment imposed on him in October 1998, recommending that his case should be re-examined by a committee. In November 1998 the IDF ordered Sauser Chatukai to report to his base. He has been performing military service there ever since but continues to seek exemption from military service on grounds of conscientious objection.

On 27 December 1998 the Military Court of Appeals heard an appeal by the IDF against the decision of the Haifa Military Court. The Military Court of Appeals adjourned the appeal with the consent of both parties and recommended that a committee should examine whether Sauser Chatukai should be exempted from military service for reasons of conscience. Sauser Chatukai's lawyer had informed the court during the hearing that the Conscientious Objection Committee would not convene to discuss Sauser Chatukai's case because his conscientious objection was not of a type which had been recognized by the Committee. The Military Court of Appeals commented that, "if what the defence has argued is true, we recommend that this position, which would seem to have no basis, be reconsidered."

In February 1999 the Conscientious Objection Committee heard Sauser Chatukai's case and refused to exempt him on grounds of conscientious objection on the basis that the Committee was only empowered to exempt pacifists. In May 1999 Sauser Chatukai was referred to another unsuitability committee which reportedly concluded that it could not reach a decision. The committee referred his case to Major General Yehuda Segev, the Head of the IDF's Personnel Division for further consideration. As of 5 August 1999, Sauser Chatukai had not been exempted and remained at risk of further imprisonment.

‘Ali Sa’id Naffa’

‘Ali Sa’id Naffa’, a Druze aged 18 at the time, reported for military service at the *Bakom* in Tel Aviv on 5 August 1995. An officer interviewed him and informed him that he would be sent to the *Nahal*, an IDF combat unit. ‘Ali Naffa’ informed the officer that he refused to serve in the *Nahal* because he would be required to fight against other Arabs. The officer threatened to imprison him. The following day, a higher disciplinary officer sentenced



‘Ali Naffa’ (left), Qussay Naffa’ (centre) and ‘Ala’ Naffa’ (right)

him to 28 days’ imprisonment for failure to comply with an order. The hearing lasted five minutes. He served his sentence at Military Prison No. 4, where he was held with his brother ‘Ala’ Sa’id Naffa’, also a conscientious objector. Upon his release he received an order to report to the *Bakom* two days later. He went and again declared his refusal to serve in the *Nahal* for reasons of conscience. He was sentenced to another 28 day imprisonment term. Upon his release ‘Ali Naffa’ was again ordered to report to the *Bakom*. Two days later the officer who had initially interviewed him decided to post ‘Ali Naffa’ to the IDF’s District Coordination Office (DCO) near Ramallah in the Occupied Territories.

After 30 days’ training in the use of weapons ‘Ali Naffa’ started work at the DCO where he worked as a translator and later in the communications office. During the period of over one year when he served at the office, he developed further conflicts of conscience about military service, as a result of witnessing human rights violations committed against the Palestinian residents of the Occupied Territories by both Jewish and Druze IDF soldiers. In February 1996, ‘Ali Naffa’ approached his commanding officer and informed him that he intended to refuse to continue performing military service. He told his commanding officer that he could no longer serve in the IDF because he had witnessed soldiers carrying out inhuman acts against Palestinians and because he could not tolerate the discriminatory attitudes of IDF soldiers towards Palestinians. The officer tried to persuade him not to desert and expressed his shock that a Druze could think in such a way. Two days later ‘Ali Naffa’ left the DCO to go home and did not return.

At the end of March 1996 ‘Ali Naffa’ handed himself over to the IDF at the Neshar Military Detention Centre near Haifa. He was held there overnight and then transferred to Military Prison No. 4. A week later he was arraigned in the Jaffa Military Court on charges of desertion. He was represented by a lawyer appointed by the court. ‘Ali Naffa’ explained to the court that he could not serve in the IDF on grounds of conscience. He explained that he

considered himself to be part of the Palestinian people and part of the Arab nation and therefore could not work against Palestinians or Arabs in general. The court recommended that an unsuitability committee examine 'Ali Naffa's case before he was sentenced.

'Ali Naffa' remained in detention and the unsuitability committee at the *Bakom* examined his case in June 1996. The committee members asked him the reasons why he refused to continue his military service. He related his experiences in the IDF and explained that he objected to service in the IDF on grounds of conscience. It reportedly took the committee about five minutes to reach a decision that he was suitable for military service. The committee did not state the reasons for its decision. The following day 'Ali Naffa' returned to the Jaffa Military Court and was sentenced to 105 days' imprisonment for desertion. He was released from detention shortly after the court's decision. Upon his release he was ordered to report two days later for military service at the headquarters of the Military Commander of the Central Division in Jerusalem.

He went to the base and was interviewed by an officer responsible for allocating soldiers to units. 'Ali Naffa' explained that he was seeking an exemption from military service on grounds of conscientious objection. In August 1996 'Ali Naffa' was interviewed by Colonel Mufid Othman, who at the time had a special responsibility for Druze soldiers in the IDF. 'Ali Naffa' explained his reasons for refusing to serve in the IDF and Colonel Mufid Othman recommended that 'Ali Naffa's case should be examined again by an unsuitability committee. The committee sat in August 1996. After examining his file and reading Colonel Mufid Othman's letter, the committee exempted 'Ali Naffa' on grounds of unsuitability.

'Ali Naffa's twin brother, 'Ala' Naffa' was also imprisoned on three occasions in 1995 for refusing to serve in the IDF on grounds of conscientious objection. Their brother Qussay Naffa', also a conscientious objector, was imprisoned on five occasions between 1997 and 1998.

RECOMMENDATIONS

Amnesty International makes the following recommendations to the Israeli government:

- 1) The right to refuse to perform military service on grounds of conscience should be fully recognized in Israeli law and in all relevant practices and procedures, as required by Israel's obligations under the ICCPR to give full effect to Article 18 which guarantees the right to freedom of conscience, thought and religion.
- 2) Israel should not imprison conscientious objectors for refusing to perform military service.
- 3) Israel should recognize that persons who are already performing military service are entitled to refuse to continue such service on grounds of conscience.

4) Israel should not differentiate between conscientious objectors on the basis of their particular beliefs, in conformity with Article 3 of the ICCPR, which prohibits any form of discrimination.

5) Israel should not differentiate between persons who refuse to serve in all wars and to persons who refuse to participate, directly or indirectly in particular wars or armed conflicts.

6) In relation to conscientious objection, Israel should accord equal treatment to women and men, in conformity with Articles 2 and 3 of the ICCPR, which prohibit sex discrimination.

7) Israel should either accept claims of conscientious objection as valid without inquiry or should ensure that any decision-making body empowered to determine whether a conscientious objection claim is valid:

- a) is established by law;
- b) is impartial and composed of men and women drawn from diverse backgrounds. Members should not be drawn mainly or exclusively from the IDF;
- c) is independent;
- d) applies fair and transparent procedures; and
- e) allows the applicant to be legally represented.

8) Israel should make available to all relevant persons affected by military service accurate and comprehensive information about the right to conscientious objection and the means of acquiring conscientious objector status; and

9) Israel should introduce an alternative non-punitive form of civilian service for conscientious objectors.

Pending implementation of these recommendations, Amnesty International recommends:

1) All conscientious objectors who are currently detained should be immediately and unconditionally released; and

2) Israel should refrain from trying conscientious objectors for refusing to perform military service and from imprisoning them.