

ARMENIA

“Respect my human dignity”: Imprisonment of conscientious objectors

Introduction

In October 1997 a young man named Yerem Nazaretyan was arrested in Armenia for refusing his call-up papers. Writing to the public prosecutor to explain the reasons which underlay his inability to perform compulsory military service, Yerem Nazaretyan stated that after studying the Bible and considering himself a true Christian, his conscience did not allow him to serve in the army. “Article 23 of the Constitution of the Armenian Republic guarantees each the right to freedom of conscience and religion”, he wrote “Respect my human dignity”. To no avail - the following month a court sentenced Yerem Nazaretyan to two years’ imprisonment.

Today young men continue to face imprisonment in Armenia because their conscience leads them into conflict with the law that makes military service compulsory for young males, and offers them no civilian alternative. With their religious beliefs precluding service in the military, some are imprisoned for refusing call-up papers. Others have been forcibly conscripted, and then prosecuted for refusing to don a military uniform, for declining to take the military oath, or for desertion. Some have reportedly sustained beatings after trying to explain their religious beliefs to conscription officials. Others are even said to have had family members detained illegally as hostages, to force an appearance at conscription offices. All have been imprisoned in violation of Armenia’s domestic and international obligations to safeguard the right to freedom of conscience, and to grant its citizens the free exercise of this right. All are regarded by Amnesty International as prisoners of conscience, who should be released immediately and unconditionally.

This paper updates the situation of conscientious objectors as described in two documents issued last year.¹

Compulsory military service

¹ *Armenia: A summary of Amnesty International’s concerns*, AI Index: EUR 54/01/98, January 1998, and *Armenia: Comments on the Initial Report submitted to the United Nations Human Rights Committee*, AI Index: EUR 54/05/98, September 1998.

Conscription was mandatory while Armenia was part of the former Soviet Union, and the practice has continued since independence.² Under the Armenian Constitution “every citizen is obligated as provided by law to participate in the defence of the Republic of Armenia”³, and military service is currently compulsory for all young men between the ages of 18 and 27, following procedures very similar to those inherited from Soviet times.

There are usually two call-up sessions a year, in spring and autumn. Now, as in Soviet times, there is no provision in law of a civilian alternative for those who cannot perform this military service because of religious, moral, ethical or other objections, springing from their deeply held conscientious beliefs. Those who refuse conscription on conscientious grounds face imprisonment under criminal law.

In the past it appears that local military enlistment agencies in some cases had a practice of reaching a certain accommodation with religious conscientious objectors, rather than prosecuting them. In such cases conscripts with conscientious objections were not required to take the normally compulsory oath of military allegiance, for example, and were sent to serve in capacities where they were not required to bear arms, such as drivers, cooks or as members of construction battalions. In recent years, however, Amnesty International has received regular reports of young men being imprisoned for their refusal to perform military service.

Jehovah’s Witnesses and compulsory military service

All the recent cases of imprisoned conscientious objectors known to Amnesty International have involved adherents to the Jehovah’s Witness religion. The Jehovah’s Witnesses are said to have been active in Armenia since 1975, and they have faced various forms of problems with the authorities since then. One cause of friction has been their missionary activity. A year ago, for example, a bishop in the Armenian Apostolic Church (the leading denomination in the country⁴) was quoted as condemning such activity of the Jehovah’s Witnesses, referring to them as “a totalitarian sect” which posed “the most horrible threats to our people, our state, our faith”.⁵

One of the main issues of contention, however, has been the religious beliefs of Jehovah’s Witnesses, in accordance with which they are not permitted to bear arms for a

² Armenia achieved independence following the collapse of the USSR at the end of 1991, and became a member of the United Nations in March 1992.

³ Article 47 of the Constitution of the Republic of Armenia, passed by referendum in July 1995.

⁴ The Armenian Apostolic Church is recognized as “the national church of the Armenian people” in the preamble to the 1991 Law of the Republic of Armenia on Freedom of Conscience and Religious Organizations.

⁵ Bishop Parget Martirossian, quoted by *Noyan Tapan* news agency, 17 August 1998.

secular power or to swear the oath of allegiance required of army conscripts in Armenia.

This opposition to compulsory military service has led to the authorities' continued refusal to register Jehovah's Witnesses officially. A religious organization refused registration cannot publish a newspaper or magazine, rent a meeting place, have its own programme on television or radio, or officially sponsor the visas of visitors. A large quantity of Jehovah's Witness literature was reportedly confiscated in April 1997, on the grounds that it could not be imported legally without registration.

More seriously for those individuals facing conscription, however, is that the conscientious objection to compulsory military service held by Jehovah's Witness adherents has frequently resulted in their imprisonment. Some have even faced repeated imprisonment, when sent call-up papers following their release from the previous sentence and again refusing conscription.

Punishments in law for refusing military service

A young man liable for conscription is contacted by the local conscription office, the District Military Registration and Enlistment Office (DMREO), and told that he will be sent call-up papers at the appropriate time. Refusal to respond to call-up papers is punishable by up to five years' imprisonment under Article 75 of the Criminal Code - "Evasion of regular call-up to active military service."⁶

In many of the recent cases of imprisoned Jehovah's Witnesses known to Amnesty International, the young men concerned have submitted statements to DMREO officials at or before their call-up, outlining their inability to perform military service on conscientious grounds and expressing their willingness to perform a civilian alternative.

In the absence of any such alternative, these statements have been widely ignored, and prosecutions initiated.

Sometimes the statements have included explicit recognition that such a refusal would result in criminal prosecution under Article 75. In the case of former prisoner of conscience Yerem Nazaretyan⁷, for example, his repeated statements to the DMREO of the town of Zod in Ararat Region expressed the desire either to be able to perform alternative service or to be prosecuted under Article 75 for his refusal. At first sight it

⁶ Article 75 states: "Evasion of regular call-up to active military service shall be punished by deprivation of freedom for a term of one to three years. The same act committed by means of causing oneself bodily injury or by malingering, by means of forgery of documents or by any other deception, or committed under other aggravating circumstances, shall be punished by deprivation of freedom for a term of one to five years." The criminal code currently in use is that of the Soviet era, adopted in 1961, with subsequent amendments.

⁷ For details on his case see AI Index: EUR 54/01/98. Yerem Nazaretyan was released early from his sentence on 14 December 1998, under an amnesty in honour of the seventh anniversary of Armenia's independence.

may seem strange to ask for such a prosecution, but the reasons lie with what is often perceived as the alternative - that the authorities, instead of prosecuting the young men as civilians under Article 75, forcibly conscript them into the army.

In several cases detailed to Amnesty International,⁸ young Jehovah's Witnesses have said they would rather be imprisoned under the criminal procedure than face forcible conscription, and the ensuing intolerable - and insoluble - conflict with their deeply-held religious beliefs. Yerem Nazaretyan was one of several who described leaving home and going into hiding to avoid forcibly being taken into the army. He was eventually caught and imprisoned under Article 75, but others have had to face the consequences of continuing to refuse military service while located at a military unit. These have included not only physical and verbal abuse, but prosecution under military jurisdiction with penalties potentially more severe than those under Article 75 ("Evasion of regular call-up" is part of the ordinary rather than the military section of the Armenian Criminal Code, and those prosecuted under it fall within civil rather than military jurisdiction).

Those who, even after forcible conscription, continue to refuse to perform any military duties on grounds of conscience face prosecution under Article 257a of the military section of the criminal code with "Evasion of military service by maiming or other means", which carries up to seven years' imprisonment.⁹ Karen Voskanian (see below), for example, was sentenced to three years' imprisonment in September 1998 after refusing to take the military oath of allegiance at the military unit in Gyumri to which he had been forcibly conscripted. In June 1999 Gagik Ohanian (also below) likewise received a three-year sentence under Article 257a, for refusing to put on military uniform.

⁸ Much information on such cases has been provided to Amnesty International by Mikael Danielian, of the Helsinki Association of Armenia.

⁹ Article 257a states: "The evasion by a person in military service of performance of military duties by causing himself any kind of injury (maiming) or by malingering, forgery of documents, or any other deception, or a refusal to perform military duties, shall be punished by deprivation of freedom for a term of three to seven years.

The third charge brought against conscientious objectors known to Amnesty International is also under the military section of the criminal code - that of desertion. For example, Samvel Manukyan (see below) was taken by force to a military unit and then tried under military law for desertion when he escaped - the only way he could avoid the military demands his conscience forbade him to carry out. While he was in hiding following his escape Samvel Manukyan sent several statements to relevant officials noting his reasons for refusing military service and requesting that he be tried as a civilian under Article 75, rather than be forcibly conscripted. He was eventually detained and sentenced for desertion under Article 255a¹⁰ of the criminal code, which carries up to seven years' imprisonment.

International law and conscientious objection

The right to conscientious objection is a basic component of the right to freedom of thought, conscience and religion. The Constitution of Armenia guarantees this right,¹¹ which is also articulated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (to which Armenia is a party), and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It has been recognized as such in resolutions and recommendations adopted by the United Nations Commission on Human Rights, the United Nations Human Rights Committee, the Council of Europe and the European Parliament.¹²

These bodies have all urged governments to guarantee that individuals objecting to compulsory military service because of their conscientiously held beliefs are given the opportunity to perform an alternative service. They have stated explicitly in a number of resolutions that this alternative service should be of a genuinely civilian character and of a length which cannot be considered as punitive. They have also recommended that individuals be permitted to register as conscientious objectors at any point in time before their conscription, after call-up papers have been issued, or during military service. Likewise, the United Nations Commission on Human Rights, the Council of Europe and

¹⁰ Article 255a states: "Desertion, that is the abandonment of the unit or duty station by a person in military service for a regular term for the purpose of evading military service, of failure to report for duty, for the same purpose, upon assignment, upon transfer, upon return from detached service, upon return from leave, or from a medical institution, shall be punished by deprivation of freedom for a term of three to seven years."

¹¹ Article 23 of the Armenian Constitution states: "Everyone has the right to freedom of thought, conscience, and faith."

¹² For further information on the issue of conscientious objection in general see *Out of the margins: The right to conscientious objection to military service in Europe*, AI Index: EUR 01/02/97, April 1997.

the European Parliament have emphasized that information about how to seek recognition as a conscientious objector should be readily available to all those facing conscription into the armed forces - as well as to those already conscripted.

In October 1997, the importance which the Council of Europe attaches to the recognition of the right to conscientious objection and the provision of a genuinely civilian alternative service in each of its member states was reflected in the decision of the Council's Steering Committee for Human Rights to convene a Group of Specialists to assist member states with the drafting and implementation of appropriate legislation in this area and to raise public awareness of the issue. This group held its first meeting in Strasbourg in April 1998, and has since met several times to articulate a program of action. First steps include the production of a comparative legal study of legislation on alternative service in Council of Europe member states and of a handbook on international standards concerning the right to conscientious objection, and a proposed series of technical assistance seminars on drafting alternative service legislation in compliance with international standards.

Likewise, in November 1997, both the Council of Europe and the European Union reminded participating states in the Organization for Security and Co-operation in Europe (OSCE) - including Armenia - at the OSCE's Human Dimension Implementation Meeting in Warsaw that recognition of the right to conscientious objection to military service is an important part of the Organization's commitment to upholding freedom of thought, conscience and religion for all people living in the OSCE region.

Conscientious objectors as prisoners of conscience

Based on such international standards, Amnesty International considers a conscientious objector to be any person liable to conscription for military service who refuses to perform armed service for reasons of conscience or profound conviction. Their profound conviction may arise from religious, ethical, moral, humanitarian, philosophical, political or similar motives. But regardless of the conscientious base to their objection, the right of such individuals to refuse to carry weapons or to participate in wars or armed conflicts should be guaranteed. This right also extends to those individuals who have already been conscripted into military service, as well as to soldiers serving in professional armies who have developed a conscientious objection after joining the armed forces. Wherever such a person is detained or imprisoned solely because they have been refused their right to register a conscientious objection or to perform a genuinely alternative service, Amnesty International will adopt that person as a prisoner of conscience.

Amnesty International does not question the right of governments to conscript individuals into the armed forces, nor does it agree or disagree with the motives of individual conscientious objectors. In keeping with the international standards mentioned above, however, Amnesty International insists that all those liable to conscription are given the opportunity to perform an alternative to armed service on the grounds of their conscience or profound conviction. On this basis, Amnesty

International campaigns for the development of law and procedure which make adequate provision for conscientious objectors, and for the release of all those imprisoned solely on those grounds.

To this end Amnesty International is continuing to urge the relevant authorities in Armenia to take all appropriate steps to introduce without delay the necessary legislation guaranteeing conscientious objectors their fundamental rights, and to ensure that no one is imprisoned solely for exercising their right to conscientious objection, in violation of international standards to which Armenia is a party.

Alleged beatings and hostage-taking

Amnesty International is also concerned about other serious allegations made in connection with some cases of conscientious objectors - including reports of severe beatings and of relatives being illegally detained as hostages. Andranik Kosian, for example, was said to have been subjected to severe beatings in June 1997 on arrival at a military unit in Zod to which he had



been forcibly conscripted, after refusing to perform military service on religious grounds. He also reports being subjected to physical violence when he was transferred to the Central Administration of Military Police after declaring his hunger strike.¹³ Karen Voskanian (see below) was allegedly beaten at the Mashtots DMREO after explaining his religious beliefs and inability to serve in the army. Samvel Manukyan (also below) reported being severely beaten and having his own clothes torn off when he refused to put on a military uniform after being forcibly conscripted to a military unit in Vanadzor. Similarly it was reported that Grigor Daian (also below) was beaten at a military unit after refusing to dress in military clothes.

A variety of sources have also alleged that military officials involved in conscription have detained family members illegally and arbitrarily, in effect as hostages, in order to force young men liable to call-up to report for conscription. In June 1997, for example, the father of a young Jehovah's Witness was reportedly held illegally for over 24 hours by the Shahumyan DMREO in Armenia's capital, Yerevan. John Martirosyan had left home shortly before his 18th birthday, fearing forcible conscription, and gave his

¹³ Andranik Kosian was first imprisoned for refusing his call-up papers in March 1997, but was released early under an amnesty (see AI Index: EUR 54/05/98). It was initially reported that he had been charged under Article 257a, but the Ministry of Internal Affairs and National Security later informed Amnesty International that he had been sentenced on 29 October 1998 to two years' imprisonment under Article 75. He was released in December 1998 and is now reported to be at home in Vanadzor. The exact mechanism of his early release is not known to Amnesty International - according to one report it was on health grounds.

father a copy of a written statement already presented to the District Military Commissar which explained that military service was in conflict with his religious beliefs. Two days after John's birthday two men from the DMREO came looking for him at home. His father, Levon Martirosyan, accompanied them back to the DMREO to hand over a further copy of his son's statement. Once there, however, officials reportedly ripped up this statement and ordered Levon to be detained in a solitary confinement cell until his son agreed to present himself there for military service. This was around 7am on 23 June 1997.

The following day Levon Martirosyan's wife went to the DMREO to seek an explanation as to why he was being detained. She was also told that he would be kept until John Martirosyan came to take his place. When she protested that her husband was unwell, having reportedly suffered an attack of radiculitis while detained, and said that she was calling an ambulance, the Military Commissar himself is said to have told her that in that case they would detain her instead of her husband. Eventually both parents were allowed to leave the DMREO at around 5pm on 24 June. John Martirosyan was sentenced to 18 months' imprisonment in September 1997 under Article 75, having been placed under arrest the previous month.¹⁴

Cases of individual prisoners of conscience

At the time of writing at least nine young Jehovah's Witnesses were said to be imprisoned as a result of their conscientious objection to military service. Their cases are described below. At least three of them, Samvel Manukyan, Karen Voskanian, and Gagik Ohanian, have reported being severely beaten while in military custody. At least one, Grigor Daian, is serving his second term for the same offence of refusing his call-up papers. Six of the nine have been sentenced this year, indicating no let up in prosecutions.

Samvel Manukyan

Samvel Manukyan was born on 15 November 1978 and left Armenia in April 1996, before he reached the age of conscription. He lived in Russia for a while, returning home to Yerevan on 28 November 1996. He was at liberty for only a few days, as representatives of the DMREO detained him at his home on 4 December and took him by force to military unit 63853 in Vanadzor. He reports that he was severely beaten there, and forcibly dressed in a military uniform after his own clothes were torn from him.

¹⁴ For further details see AI Index: EUR 54/01/98. John Martirosyan was released early on 27 October 1998 under an amnesty.



Despairing of his treatment, and seeing no other means of removing himself from the military unit, Samvel Manukyan managed to escape after two days and spent the next five months staying with a friend. During this time he sent several statements to relevant officials noting his refusal to perform military service, and the reasons for it, and requesting to be brought to trial rather than face forcible conscription. His family contacted the procurator's office and believed they had reached an agreement for him to face prosecution as a civilian, so Samvel Manukyan eventually returned home around 15 days before the trial was due to take place. On 16 May 1997, however, eight representatives of the DMREO

detained him at his home and Samvel Manukyan was held for the next two months in military custody in solitary confinement. According to reports he was severely beaten during this time. He stood trial on 15 July 1997 in Vanadzor, and was sentenced to three years' imprisonment for the military crime of desertion (Article 255a of the Armenian Criminal Code). Samvel Manukyan is serving his term in Kosh ordinary regime corrective labour colony, Aragatsotn region (to the west of Yerevan), and will be due for release on 16 May 2000, should he serve his term in full.

Unlike three other prisoners described in Amnesty International's paper of January last year - Tigran Petrosyan, Yerem Nazaretyan and John Martirosyan - Samvel Manukyan did not benefit from early release under an amnesty declared by Armenia's parliament on 15 September 1998 to mark the seventh anniversary of the country's independence. They had all been sentenced under Article 75, and it is possible that those convicted of the offence of desertion did not fall under the terms of the amnesty.

Karen Voskanian

Karen Voskanian was born on 11 April 1980, and became a Jehovah's Witness in 1993.

On 8 March 1998 two military personnel are said to have come unannounced to Karen Voskanian's home in Yerevan and to have taken him to Mashtots DMREO. He attempted to escape, knowing that otherwise he faced forcible conscription, but his attempt failed. On recapture, he was severely beaten - it is also reported that his brother and mother were assaulted at one point when they attempted to intervene.¹⁵

¹⁵ See the open letter by the non-governmental organization Human Rights Watch to President Robert Kocharian, dated 29 January 1999.

According to his parents, Karen Voskanian was detained at the Yerevan Military Police Department for nearly six days before being forcibly conscripted to military unit number 56952 in Gyumri on 14 May 1998; there, it is alleged, he continued to be ill-treated by officials who beat him and threatened him with a knife in an attempt to coerce him into serving. Throughout this time Karen Voskanian apparently repeated his conscientious objection to military service and requested that he be allowed to perform alternative service.

On 20 June 1998 Karen Voskanian refused to take the military oath of allegiance and was taken into the custody of the military police in Gyumri. In a conversation with a military prosecutor, Karen Voskanian was reportedly told that compulsory military service is not considered to be a violation of freedom of conscience nor to breach the constitution, and that in case of his continued refusal to perform military service Karen Voskanian would face charges.

Subsequently charged with evading military service, on 9 September 1998 Karen Voskanian received a three-year sentence of imprisonment under Article 257a. He is currently serving this term in a disciplinary battalion of the Ministry of Defence located in Sevan, Gegarkunik region (apparently after having initially spent some time at a disciplinary battalion in Hrazdan). Like Samvel Manukyan, Karen Voskanian did not benefit from the amnesty declared in September 1998.

Gagik Ohanian

Gagik Ohanian was born in 1979 and is from Yerevan. He was reportedly removed from his home on 8 December 1998 by three men in civilian clothing. They showed no documents, but were believed to have been from the DMREO of the Sovetashen district of Yerevan. Gagik Ohanian had written to the office on 24 January that year, expressing his willingness to serve an alternative, civilian service.

Gagik Ohanian was then said to have been forcibly conscripted into military unit No. 70179 in the Vajots region. His family allege that on 12 and 13 December 1998 he was beaten by a senior officer at the unit when he refused to put on military uniform. The military police in the city of Baik, to whose custody the military unit wished to transfer Gagik Ohanian, reportedly refused to accept him because of his visible injuries and he was returned to the unit's guardhouse, dressed only in his underclothes.

Gagik Ohanian was charged with evading military service under Article 257, and was sentenced to three years' imprisonment on 23 June 1999. In July he was said to be held at an investigation-isolation prison, Nubarashen No. 1 in Yerevan, awaiting transfer to Kosh corrective labour colony, Aragatsotn region.

Artur Stepanian

Artur Stepanian was born in 1976 and is from Yerevan. He was sentenced to three years and six months' imprisonment on 16 June 1998 for desertion, under Article 255. Like

Samvel Manukyan, he had reportedly been forcibly conscripted into a military unit and deserted as the only way to remove himself from the military demands with which his conscience forbade him to comply. Artur Stepanian is serving his term at Kosh corrective labour colony.

Armen Asoian

Born in 1976 and from Yerevan, Armen Asoian was also convicted of desertion under Article 255, after leaving the military unit into which he had been forcibly conscripted. He was sentenced to three years' imprisonment under Article 255 on 9 January 1999, and is serving his term in Kosh corrective labour colony.

Grigor Daian

Grigor Daian, born in 1975 and from Yerevan, is currently reported to be serving his second term for refusing his call-up papers.¹⁶ His most recent sentence of one year and five months' imprisonment was imposed on 18 May 1999, under Article 75. He is said to be serving this at Sovetashen corrective labour colony, in Yerevan.

Artur Martirosian

Artur Martirosian was born in 1974 and is from Yerevan. He was sentenced on 16 March 1999 to two years' imprisonment for refusing his call-up papers, under Article 75. He is serving this term in Kosh corrective labour colony.

Ruslan Ohanganian

Ruslan Ohanganian was born in 1980, and is said to be a refugee who fled to Armenia, possibly from neighbouring Azerbaijan as a result of conflict over the disputed Karabakh region.¹⁷ At the time of his arrest he was living in Kapan, in the south-west of Armenia. He was sentenced to one year's imprisonment on 21 April 1999 under Article 75, for refusing his call-up papers on religious grounds. The appeal court left the sentence unchanged on 28 June this year, and Ruslan Ohanganian is serving his term in Kosh corrective labour colony.

¹⁶ It is likely that Grigor Daian is the Grigor Dayan named in a previous paper (AI Index: EUR 54/01/98), who was said in April 1996 to be serving an 18-month term under Article 75 for refusing his call-up papers.

¹⁷ Conflict over the disputed Karabakh region, situated in Azerbaijan but populated mainly by ethnic Armenians, escalated to large-scale armed clashes in the area before a cease-fire was declared in May 1994. Hundreds of thousands of people have been displaced by the conflict, which has seen large movements of ethnic Armenians out of Azerbaijan, and of Azerbaijanis leaving Armenia.

Gurgen Sevoian

Gurgen Sevoian, born in 1979, is from the village of Vardenik in the Gegarkunik region. On 25 June 1999 he was sentenced to 18 months' imprisonment under Article 75 for refusing his call-up papers. He is serving his sentence in Kosh corrective labour colony.

International reactions to the situation of conscientious objectors

As mentioned above, international standards recognize that the right to conscientious objection is a basic component of the right to freedom of thought, conscience and religion, and international bodies have urged governments to guarantee that individuals objecting to compulsory military service because of their conscientiously held beliefs are given the opportunity to perform an alternative service of genuinely civilian character and non-punitive length.

One of such bodies to have commented most recently on the situation in Armenia has been the United Nations Human Rights Committee, an 18-member body of experts which monitors the compliance of states with the International Covenant on Civil and Political Rights and its protocols.¹⁸ On 26 October 1998 the Human Rights Committee reviewed Armenia's first report on what the state had done to implement and strengthen the provisions of the covenant, to which Armenia acceded in 1993.¹⁹

During the session committee members raised a number of issues with the Armenian government's delegate, including the question of conscientious objection and the numerous reports of ill-treatment of detainees in general. The committee's concluding observations were published the following month and reflected the experts' concern in a number of areas.²⁰

¹⁸ The right to freedom of conscience and other fundamental principles enshrined in the Universal Declaration of Human Rights are given a more precise legal form in two covenants: the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. These three instruments (plus the attached protocols) are known as the International Bill on Human Rights. The covenant and the protocols are law: their provisions are binding on the states which have become a party.

¹⁹ Amnesty International had submitted its own report to the Committee, outlining the organization's concerns about Armenia's failure to implement fully its obligations under the covenant. These included, among other things, the imprisonment of conscientious objectors who have not been offered any civilian alternative to compulsory military service; the alleged arbitrary detention of family members to force young men to report for conscription; continuing allegations of torture and ill-treatment in detention and in the army; and the criminalization of consensual homosexual relations between adult males - see AI Index: EUR 54/05/98.

²⁰ UN ref: CCPR/C/79/Add.100, 19 November 1998.

In point 18, for example, the report states:

“The Committee regrets the lack of legal provision for alternatives to military service in case of conscientious objection. The Committee deplors the conscription of conscientious objectors by force and their punishment by military courts, and the instances of reprisals against their family members.”

Speaking of ill-treatment in point 12 of the report:

“The Committee expresses its concern about allegations of torture and ill-treatment by law enforcement officials. The Committee recommends the establishment of a special independent body to investigate complaints of torture and ill-treatment by law enforcement personnel.”

Amnesty International’s recommendations

Amnesty International has urged the Armenian authorities to implement promptly the recommendations of the Human Rights Committee. The organization has also called on the government to take the following steps to ensure that its citizens are guaranteed the right to freedom of conscience, in line with domestic and international obligations:

- ◆ release immediately and unconditionally all those imprisoned for their refusal on conscientious grounds to perform military service, and refrain from imprisoning anyone else as a conscientious objector;
- ◆ introduce without delay legislative provisions to ensure that a civilian alternative of non-punitive length is available to all those whose religious, ethical, moral, humanitarian, philosophical, political or other conscientiously-held beliefs preclude them from performing military service;
- ◆ establish independent and impartial decision-making procedures for applying a civilian alternative to military service;
- ◆ ensure, after the introduction of a civilian alternative service, that all relevant persons affected by military service, including those already serving in the army, have information available to them about the right to conscientious objection and how to apply for an alternative service;
- ◆ ensure that all allegations of torture or ill-treatment in detention are investigated promptly and impartially, with the results made public and - if the allegations are substantiated - with those responsible brought to justice in the courts;

- ◆ ensure comprehensive and impartial investigations into all allegations that people have been detained illegally and arbitrarily, in effect as a hostage, to force their relatives to report for military service. Ensure also that anyone found responsible for such acts is brought to justice, and that anyone found to have been the victim of arbitrary detention is compensated.

Alternative service elsewhere in the South Caucasus

The South Caucasus region - which includes Armenia's neighbours Azerbaijan and Georgia - has experienced instability and armed conflicts over the last 10 years. Some of these conflicts are unresolved, and the areas remain tense in spite of cease-fire agreements and the absence of active hostilities (the situation over Karabakh, for example, has been described as one of "frozen instability"). The fragility of this uneasy peace has been quoted by officials in the region as one of the reasons why they are reluctant to grant their citizens the internationally-recognized right to a civilian alternative service.

Azerbaijan

An example is Azerbaijan, where the Karabakh conflict has coloured discussions of an alternative to military service. Here, as in Armenia, military service is compulsory for young men between 18 and 27, but - in violation of a constitutional provision - there is no currently functioning legislation providing a civilian alternative for conscientious objectors. On 26 November 1998 members of the Milli Mejlis (parliament) debated a draft bill "On Alternative Service", which would provide a civilian alternative to military service. They reportedly decided that such a bill would not be appropriate at the current time given Karabakh's unresolved status, and that the bill would only come into force after the liberation of all occupied territory in Azerbaijan.²¹

²¹ Ethnic Armenian forces currently control Karabakh as well as adjacent territory in Azerbaijan.

The Constitution of the Azerbaijani Republic, in force since 1995, states that if active military service runs counter to a person's convictions then it may be replaced by an alternative "in the cases specified by law"²². The latest bill "On Alternative Service" was drafted to give the legal basis and concrete substance to this right, replacing a Presidential Decree of 31 July 1992 entitled "The position with regard to performing alternative service". To Amnesty International's knowledge the latter decree has never been implemented in terms of setting up and administering an alternative service for all those with conscientious objections to military service. In 1999 it was reported that at least one young man, a Jehovah's Witnesses named Rovshan Mursalov, had suffered harassment by the police and military authorities for seeking on religious grounds to exercise the right to perform alternative service.²³

Amnesty International welcomed the fact that a debate had taken place on the draft bill, and sought further information from the authorities on its provisions. While recognizing that the issue of Karabakh and the occupied territory is one of great importance to Azerbaijan, Amnesty International expressed its disappointment at the report that any bill on a civilian alternative to military service would be introduced only after this question had been resolved. The organization remains concerned that in the meantime young men with a conscientious objection to military service will continue to face imprisonment for their beliefs, in violation of Azerbaijan's obligations under international law.²⁴

Georgia

On paper, Georgia has a long record, predating independence, of passing legislation intended to provide a civilian alternative service.²⁵ As far back as June 1990 what was then the Georgian Soviet Socialist Republic passed a law "On work (alternative) service", superseded in June the following year by a law "On civilian, alternative work service". This 1991 law granted the right to perform a civilian service of non-punitive nature to those unable to carry out compulsory military service because of their conscience and

²² Article 76 of the Constitution of the Azerbaijani Republic reads: "Defence of Homeland shall be the duty of every citizen. Citizens shall serve in the armed forces according to the order specified by the Law. If serving in the armed forces runs counter to a person's convictions then active military service can be replaced by an alternative one in the cases specified by law."

²³ Report by Eldar Zeynalov, head of the non-governmental Human Rights Centre of Azerbaijan.

²⁴ Like Armenia, Azerbaijan is a party to the International Covenant on Civil and Political Rights, Article 18 of which guarantees "the right to freedom of thought, conscience and religion".

²⁵ For further information see *Georgia: A summary of Amnesty International's concerns*, AI Index: EUR 56/02/98, August 1998.

convictions. No such service was ever set up and implemented, however, in part because of the severe economic dislocation and armed hostilities in parts of the country which marked the first years of independence.

Military service remained, and remains, compulsory, and it was not until 1997 that further legislation was brought in on a civilian alternative. On 28 October that year the Georgian parliament passed a Law on Non-military Alternative Labour Service, which came into force on 1 January 1998 following presidential approval. However, problems have again arisen in the actual implementation of the law, and it is reported that the Georgian authorities have yet to establish any decision-making procedures for applying in practice the civilian alternative to compulsory military service for which the law provides.

Amnesty International has expressed concern at this lack of implementation, and also about aspects of the law itself which appear not to conform to recommendations by international bodies of which Georgia is a member.²⁶ For example, Amnesty International understands that the new legislation does not make absolutely clear that any alternative service should be completely civilian in nature and separate from military structures. In Chapter 3, Article 18, for example, the law stipulates that “after demobilization from alternative non-military labour service citizens are enlisted in the reserve until 50 years of age”, suggesting that they may be liable to subsequent mobilization within the military.

Amnesty International also understands that although the law provides for the possibility for those performing alternative service to transfer to military service, there is no corresponding provision for those performing military service to transfer to an alternative civilian one (for example should they develop a conscientious objection following conscription).

In addition the organization is concerned that the length of alternative labour service, at 36 months, is a year longer than the 24 months set for compulsory military service. The law already stipulates that “the nature of the alternative non-military labour service must conform with the difficulties of the general military service” (Chapter 1, Article 2). Amnesty International has sought clarification on the reasons why alternative labour service is 12 months longer, including what measures have been taken to ensure that this length is not punitive.

The unrecognized entities of Karabakh, South Ossetia and Abkhazia

The Azerbaijani and Georgian governments are currently unable to exercise *de facto* control over areas of their territory, as a result of hostilities in the late 1980s and early 1990s. In Azerbaijan this includes the self-proclaimed Nagorno-Karabakh Republic,

²⁶ Georgia is a party to the International Covenant on Civil and Political Rights, for example, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

together with adjacent territory currently under ethnic Armenian control. In Georgia there are two such areas - South Ossetia and Abkhazia. Although none of these three territories has been recognized internationally as a separate entity or state, all have their own legislative, executive and judicial structures operating independently of those in the state within whose international borders they are located. Amnesty International has been addressing authorities in Karabakh, South Ossetia and Abkhazia as those with *de facto* control (and responsibility), and not as a recognition of their status *de jure*.

In all three regions military service is compulsory and there is no civilian alternative for those who may have conscientious or other objections.

There are no current details available to Amnesty International on possible conscientious objectors in the **Nagorno-Karabakh Republic**, although some religious sects such as the Jehovah's Witnesses have reported problems in operating in the territory.²⁷

In **South Ossetia**, according to officials there, conscription is only applied to ethnic Ossetians, resident in the territory controlled by South Ossetia. Speaking to visiting Amnesty International delegates in May 1998, presidential advisor Kosta Kochiyev claimed that there were no cases of young men refusing to serve, and that the uncertain situation over the area's political status militated against the introduction of a civilian alternative service (presumably because it is perceived as weakening potential defensive capacity).

The situation is similar in **Abkhazia**. Officials speaking to Amnesty International delegates who visited Sukhumi²⁸ in May 1998 also argued that the uncertain security situation made it extremely unlikely that any moves towards an alternative civilian service would be made in the near future.

In the meantime those who find military service in conflict with their beliefs face imprisonment for seeking the internationally recognized right to conscientious objection, and at least six young men were imprisoned in Abkhazia on these grounds in 1998. They were all Jehovah's Witnesses (as in Armenia, Jehovah's Witnesses report that their religious beliefs, especially their refusal to serve in the army, have frequently led them into conflict with the Abkhazian authorities, who responded by banning their activity in a decree issued by President Vladislav Ardzinba on 10 October 1995²⁹).

²⁷ See for example *Concerns in Europe, January to June 1999*, AI Index: EUR 01/02/99.

²⁸ the capital of Abkhazia, known as Sukhum to Abkhazians.

²⁹ In material compiled on their situation in Abkhazia from early 1992 to May 1998, the Jehovah's Witnesses allege numerous violations of their rights, including the break-up of their meetings and attempts to preach; house searches and confiscation of literature without a warrant; and short-term detention accompanied by verbal threats and physical assaults. For further information see *Georgia: A summary of Amnesty International's concerns*, AI Index: EUR 56/02/98, August 1998.

Five of the six young men were reported detained in April 1998, for refusing conscription. All five were said to have been detained in prison in the town of Dranda, and were released in June, although the charges against them were reportedly not dropped. The sixth man was named as Adgura Ashuba, born in 1977 and from Sukhumi. It appears that he had deserted from the Abkhazian armed forces some time ago and then, having become a Jehovah's Witness, refused to return and complete his service. He was arrested in March 1998, and on 4 May that year was sentenced to five years' imprisonment for desertion under Article 265 of the criminal code.³⁰ Amnesty International has requested further information on the current status of Adgura Ashuba.

Amnesty International has also urged the *de facto* authorities in all three regions to release anyone imprisoned for refusing compulsory military service on grounds of conscience, and to introduce a fully civilian, non-punitive alternative to military service.

³⁰ Abkhazian officials told Amnesty International delegates that they are continuing to use the Criminal Code of the Georgian Soviet Socialist Republic, adopted in 1961, with amendments.