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CONSCIENCE AND PEACE TAX INTERNATIONAL

UPR SUBMISSION RUSSIAN FEDERATION 44th SESSION (Oct/Nov 2023)

Executive Summary

- 1. This submission highlights human rights concerns in the Russian Federation narrowly linked to military recruitment. Space does not permit the inclusion of such linked issues as the negative effects of the “Foreign Agents Law” or the widespread *dedovschina* (“hazing”) within the Russian armed forces.**
- 2. The submission was prepared in March 2023 and incorporates the latest information available to CPTI at that time.**
- 3. The issues focussed upon are:
inadequacies in the provisions for conscientious objection to military service
the banning of the Jehovah’s Witnesses under the law against extremism
irregularities and human rights violations during the “partial reserve mobilisation” of Autumn 2023.**

Conscientious objection to military service

4. The right of conscientious objection was included in the post-Soviet Constitution, but there was a delay of more than ten years before this was implemented under Federal Law No 113 on Alternative Civilian Service, which set the duration of such service at 42 months in civilian organizations and 36 months for service in military organizations - the length of regular military service being 24 months. In 2008, a military reform reduced the duration of both types of service by half: the regular military service to 12 months; and the alternative civil service to 21 months in civilian entities and to 18 months in military entities.

5. When the Human Rights Committee considered the Sixth Periodic Report of the Russian Federation under the International Convention on Civil and Political Rights (ICCPR), in October 2009, it came to the conclusion:

“While welcoming the reduction, in 2008, of the prescribed length of civilian service for conscientious objectors from 42 months to 21 months, the Committee notes with concern that it is still 1.75 times longer than military service, and that the State party maintains the position that the discrimination suffered by conscientious objectors is due to such alternative service amounting to “preferential treatment”. The Committee notes with regret that the conditions for alternative service are punitive in nature, including the requirement to perform such services outside places of permanent residence, the receipt of low salaries, which are below the subsistence level for those who are assigned to work in social organizations, and the restrictions in freedom of movement for the persons concerned. The Committee is also concerned that the assessment of applications, carried out by a draft panel for such service, is under the control of the Ministry of Defence.

“The State party should recognize fully the right to conscientious objection, and ensure that the length and the nature of this alternative to military service do not have a punitive character. The State party should also consider placing the assessment of applications for conscientious objector status entirely under the control of civilian authorities.”ⁱ

6. Little subsequent progress has been made on any of these issues, and the recommendations therefore remain valid.

7. Not mentioned by the Committee was the effect of strict time limits for applying for recognition as a conscientious objector. Under the Law on Military Duty and Military Service all male citizens must register for military service before the end of March in the year in which they reach 17 and are liable for call-up during the first Spring or Autumn recruitment period after they turn eighteen. Under Article 11 of the Federal Law on Alternative Civilian Service, (No. 113-FZ) application to be recognised as a conscientious objector must be lodged immediately after registration, with an absolute deadline six months before the prospective date of call-up. Thus it is only in very unusual circumstances that application can be made *after* the eighteenth birthday; sometimes applications must be lodged at the age of sixteen. As far as is known, the Russian Federation is the *only* country where this situation applies. The implications for the developing deep-seated beliefs and convictions of minors are severe, and no allowance is made for the freedom to change one's religion or belief, which requires that it is possible to present a claim of conscientious objection at any time, before, during, or (with regard to reserve liability) after military service.

8. Moreover, the strict deadlines for the submission of applications make it imperative that those who might wish to benefit from the provisions of the Alternative Civilian Service Law should have access to full information about the possibility at the time of registration. Evidence for doubting that this is the case is provided by the historically large proportion of successful applications coming from the Jehovah's Witness community, who had institutionally mastered the requirements and took care to brief their young men accordingly in good time.

The ban on the Jehovah's Witnesses

9. A major threat has now been posed to the ACS system by the liquidation as "extremist" of the religious organization of Jehovah's Witnesses in Russia. One of the grounds cited was expressly that the Jehovah's Witnesses encouraged their members to apply for ACS. And, as Jehovah's Witnesses had hitherto provided an estimated 60 – 70% of applicants for ACS, and - partly because members in good standing were readily able to "prove" their status as conscientious objectors. - an even higher proportion of successful applicants, this has had a catastrophic effect on overall numbers.

10. The Soviet Freedom of Conscience and Religious Organisations Act of 1990, and the 1999 successor Act of the Russian Federation removed the former criminalisation of Jehovah's Witnesses; the Administrative Centre of the Religious Organisations of Jehovah's Witnesses, and subsequently local congregations were able to register. Legal challenges however closely followed, resulting in the enforced closure of a number of "Local Religious Organisations". In two cases the European Court of Human Rights (ECtHR) found that these closures violated Article 9 (Freedom of thought, conscience, and religion) of the European Convention on Human Rights.ⁱⁱ By the time the second of these decisions was announced, these piecemeal violations had been followed by the April 2017 decision under the 2002 Federal Law on Combating Extremist Activity to liquidate as extremist the Jehovah's Witness Administrative Centre and 395 Jehovah's Witness grass-root organisations, banning their activities and confiscating their property.

11. The ban ironically came immediately after the Human Rights Committee had considered Russia's Seventh Periodic Report under the ICCPR, and in its Concluding Observations had repeated its concern that the vague and open-ended definition of "extremist activity" in the ["Extremism" Law] does not require any element of violence or hatred to be present and that no clear and precise criteria on how materials may be classified as extremist are provided in the law and that numerous reports indicate that the law is increasingly used to curtail freedom of expression

(...) and freedom of religion”, and had reiterated its recommendation that the Russian Federation should revise the Law without undue delay “ensuring that the definition requires an element of violence or hatred and establishing clear and precise criteria on how materials may be classified as extremist.”ⁱⁱⁱ

12. Even in the Russian court proceedings it had to be accepted – not surprisingly - that there was no evidence that the Jehovah’s Witnesses had ever advocated violence or hatred against holders of other beliefs. Elements of the decision to liquidate the Association which were particularly disturbing were that by encouraging its members to apply for ACS it “incited citizens to refuse to fulfil their civil duties”, that it taught that its own interpretation on scripture was the only correct one, and that other denominations were in error – a view which Orthodox and Catholic clergy were quoted as finding offensive, and that it indoctrinated the children of members, thus violating the rights of any parents who were non members.

13. The European Court of Human Rights was singularly unimpressed by the first two arguments: “For the Court, it is obvious that choosing one of the two legally available alternatives does not amount to incitement to abandon the civil duties.”^{iv}

“The Court reiterates that preference for one’s own religion, the perception of it as unique and the only true one or as a (...) is a cornerstone of almost any religious system, as is the assessment of the other faiths as “false”, “wrong” or “not conducive to salvation”. Proclaiming the superiority of a particular religious dogma or conception of life is an essential aspect of a legitimate exercise of the right to try to convert others by means of non-coercive persuasion which enjoys protection under Article 9 of the Convention^v”

14. As for the indoctrination of children, an absolute prohibition on this would appear to violate Article 18.4 of the ICCPR, which guarantees “the liberty of parents (...) to ensure the religious and moral education of their children in accordance with their own convictions”.

15. Since 2018, individual Jehovah’s Witnesses have suffered persecution, with increasing numbers being convicted each year for practising their beliefs. In 2022 the number of convictions in first-instance courts reached 124, a small number of which were later overturned on appeal.. The number of convictions had risen every year since 2018. In all 48 Jehovah's Witnesses were jailed, 63 received suspended sentences, 12 were fined, and one was given an assigned work sentence. The number of Jehovah's Witnesses simultaneously behind bars (in prison or pre-trial detention) passed 100 for the first time in 2022, and stood at 115 as of 23rd December, including 19 aged over-60.^{vi}

The military mobilisation of Autumn 2022

16. On 21st September 2022 President Putin announced a “partial reserve mobilisation” (accompanied by a postponement by one month of the normal Autumn call-up). Although this was supposedly to be of trained military personnel with relevant skills, all accounts indicate that it was implemented indiscriminately and that many persons who had never performed military service found themselves called-up.^{vii} Contrary to the international standards, as this was defined as a reserve mobilisation, no opportunity of alternative civilian service was made available.

17. On 30th November, a Leningrad Region court upheld the application of Pavel Mushumansky to have his mobilisation order cancelled, because on the basis of his Christian beliefs he could not "carry out orders aimed at the destruction and utter defeat of living people" and he had already completed ACS as a conscript. Some other mobilised men who have requested (and been denied) ACS carried out military service as conscripts; both forms of service place a person in the reserve

upon completion, rendering them liable to call-up in the future. According to his lawyer, the fact that Mushumansky undertook alternative civilian service as a conscript was "important, even if not key" to his case, his lawyer^{viii}

18. Through the courts, Kirill Berezin, an Orthodox Christian, ultimately resulted in assignment to a non-combat role in a Russia-based unit, but at least one further legal challenge, by Dmitry Zlkazov, a Protestant, was unsuccessful:

19. The mobilisation appears to have been concentrated on areas distant from the major cities and to have heavily targetted disadvantaged sectors of the community, in both cases with the obvious motive of minimising high-profile public reaction. In particular indigenous peoples appear to have suffered, even though under the Federal Law on Military Duty and Military Service members of indigenous communities of less than 50,000 people are exempt from conscription, and furthermore all residents of 24 municipalities in the far north-eastern Yakutia, Chukotka, Transbaikal, Kamchatka and Khabarovsk territories are subject to call up only in the spring draft. The effects of mobilisation in these areas are potentially drastic.

20. As explained by Uliana Vinokurova, a member of the Supreme Council of Elders of the Republic of Sakha:

“Indigenous men are essential during the period when their communities are preparing for winter. The recruitment of these men to war damages the culture and traditions of the Indigenous peoples of Russia. (...) Who will complete tasks that require physical strength - heat and repair houses, take care of horses and reindeer during long and cold Arctic winter? (...) Hunters and fishermen have also been mobilized. Who will provide food for people in the Far North?”^{ix} The very existence of small indigenous communities could be threatened.

21. Indigenous people’s organisations and local politicians have launched several legal initiatives regarding exemption from mobilization. For example the deputy of the State Duma and former mayor of Yakutsk city, Sardana Avksentyeva, has proposed that men belonging to Indigenous peoples officially recognized by the Federal Decree ‘On Approval of the List of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation’ should not be mobilized.—The deputy of the State Duma from the Nenets Autonomous Okrug, with the support of its Governor, has pledged to initiate a bill on the exemption of reindeer herders from mobilization.^x

22. It has also been widely documented that despite official policy statements conscripts and newly-mobilised personnel have been widely deployed in Crimea, sometimes ill-equipped and having been reclassified after only four month’s training. Often they were reclassified when persuaded to sign a normal military service contract. There have been recent alarming reports of secret detention centres in Ukraine where alleged deserters are subjected to torture and to threats of extrajudicial execution.

23. It has been reported that Russian conscription legislation has been imposed in the annexed Ukrainian territory of Crimea, which constitutes a violation of the Geneva Conventions and of the Rome Statute of the International Criminal Court. In 2022 the Human Rights Committee expressed grave concern “about allegations of forced mobilization and conscription of thousands of Crimean inhabitants, many of whom are Indigenous people.” and recommended that the Russian Federation “Immediately end the practice of forced mobilization and conscription of Crimean residents”^{xi}

Previous Cycles of the UPR

24. It does not appear that Russia has ever received UPR recommendations regarding its arrangements for conscientious objection to military service, which in view of their shortcomings is a grave omission

25. In the Second Cycle, two recommendations referred specifically to the Law on Extremism. (140.25,26), suggesting that it should be more specifically targetted.

26. In the Third Cycle recommendations 147.199 to 202 inclusive suggested lifting the ban on the Jehovah's Witnesses; 203 and 204 referred in general terms to the targetting of religious denominations under the extremism act.

27. By definition, the concerns relating to the 2022 mobilisation did not arise in that form during previous Cycles.

Suggested recommendations

28. That the Russian Federation revise the Military Service and Military Duty Act in order to bring its provisions in line with international standards, specifically by ensuring that all affected by military service are informed of the right and the procedures for accessing it, by making the arrangements for alternative civilian service completely independent of military control, by ensuring that the service is neither punitive nor discriminatory by comparison with military service, either in duration or the other terms and conditions, and by making application possible at any time, before, during, or after military service.

29. That the ban on the activities of the Jehovah's Witnesses be lifted forthwith, and that no obstacles be put in the way of the renewed registration of Jehovah's Witness congregations under the Religion Act.

30. That a retrospective opportunity be given to those mobilised in Autumn 2023 to apply for exemptions, including for conscientious objectors admission to alternative civilian service.

31. That in any future mobilisation exemptions are fully and openly made available, so that no-one ineligible is recruited.

32. That under no circumstances should members of small indigenous peoples be subject to military mobilisation.

33. That under no circumstances should conscripts and other persons with less than a year's military experience be deployed in active conflict areas.

34. That the arbitrary detention of alleged deserters in Ukraine cease forthwith and that due processes be put in place to enable serving members of the armed forces to apply for release on grounds of conscientious objection, whether general or to a specific action.

35. To cease forthwith all military recruitment in Crimea and other occupied areas.

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i CCPR/C/RUS/CO/6, October 2009, para 23.

ii European Court of Human Rights, First Chamber, Case of Jehovah's Witnesses of Moscow and others v Russia (Application no. [302/02](#)), Judgement, 18 August 2010, and Third Section, Case of Taganrog LRO and others v Russia, (Application 32410/10 and 19 others), Judgement, 7th June 2022,

iii CCPR/C/RUS/CO/7, 28th April, 2017, para 20.

iv Taganrog, para 170.

v Ibid, para 154

vi Arnold, V., "Russia: two trials, nine long jail terms" Forum 18, 23rd January 2023.

vii See European Union Agency for Asylum: Country of Origin Report: The Russian Federation – Military Service, December 2022

viii Arnold, V "Russia: refusing to 'obey orders aimed at destruction and utter defeat of living people'", Forum 18, 20th December, 2022.

ix "The impact of the militarization on the indigenous peoples of Russia", Arctic Review on Law and Politics *Vol. 14*, 2023, pp. 70–75

xZmiyvalova, E: The Rights of Indigenous Peoples of Russia after Partial Military Mobilization

<https://www.culturalsurvival.org/news/violations-indigenous-peoples-rights-republic-sakha-yakutia-during-partial-military>

xi CCPR/C/RUS/CO/8, 1st December 2022, paras 38,39.