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TAJIKISTAN: Conscientious objection "a major crime"?

By Mushfig Bayram, Forum 18 (<https://www.forum18.org>)

Jehovah's Witness conscientious objector Jovidon Bobojonov has been held since October 2019 by the military despite offering to do alternative civilian service, even though the government claimed in March 2019 to the UN Human Rights Committee that an alternative service law is being prepared.

From early October 2019, 19-year-old Jehovah's Witness conscientious objector Jovidon Bobojonov has been held in a military unit near Dushanbe pending trial as he refused to bear arms, wear military uniform, or take the military oath. His requests to do an alternative civilian service have been refused. No criminal case against him is known to have been launched.

In October 2019, Bobojonov's parents complained to officials about their son's arrest and detention. Among the replies they received was a letter from Major-General Musa Odinzoda, Deputy Chief of the Armed Forces General Staff, claiming that Bobojonov "committed a major crime by refusing to serve in the Armed Forces" (see below).

Officials such as Sugd Regional Military Prosecutor Abdukodyr Nurov refused on 10 January 2020 to give any legal grounds to Forum 18 as to why Bobojonov was arrested and taken to a military unit.

Asked why Tajikistan will not pass an alternative service law and ignores repeated United Nations (UN) Human Rights Committee recommendations to do so, Nurov shouted "Who are you and why should I answer you?" before putting the phone down (see below).

In defiance of its international human rights obligations, and despite repeated requests from the UN Human Rights Committee and UN Working Group on Arbitrary Detention, Tajikistan has not introduced a possibility for a genuinely civilian alternative service to the military conscription imposed on young men.

The Working Group on Arbitrary Detention in October 2017 asked for a reply within six months as to "whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Tajikistan with its international obligations in line with the present opinion". As of 14 January 2020, Tajikistan has not replied to the Working Group (see below).

Instead, conscientious objectors (as in the previous 2017 case of Daniil Islamov) have been jailed. Officials claimed as an excuse that a civilian alternative service law has not been introduced (see below).

On 29 March 2019 Tajikistan claimed to the UN Human Rights Committee that an alternative service law was being prepared. Yet on 13 January 2020 Subhiddin Bakhriddinzoda of the President's National Centre for Law told Forum 18 that "there is no draft law on alternative civilian service ready to present to Parliament".

Bakhriddinzoda claimed that one had been prepared with the involvement of the Presidential Administration, but that it would only be considered after parliamentary elections on 1 March. The Presidential Administration has refused to answer questions on the issue (see below).

Human rights defenders in Dushanbe told Forum 18 they had no information about any government plans to introduce a law allowing an alternative civilian service.

Latest conscientious objector Bobojonov

On 13 August 2019, Khujand's Military Conscription Office summoned Jehovah's Witness Jovidon Jamolovich Bobojonov (born 10 March 2000). He replied on 22 August with a written request to perform alternative civilian service, Jehovah's Witnesses told Forum 18.

However, on 4 October officers took Bobojonov into custody and escorted him to the Conscription Office, where they detained him. On 6 October officers sent him against his will by train to military unit 45075 in Rudaki District just south of the capital Dushanbe.

At the military unit, officers tried to pressure him into wearing a military uniform and taking the military oath of allegiance. In accordance with Bobojonov's conscientious objection as a Jehovah's Witness to military service he refused to do this.

"Jovidon is still being held in the military unit without trial and without investigation," Jehovah's Witnesses told Forum 18 on 10 January. "No criminal case against him has been launched."

Prisoner of conscience Bobojonov is still being held in:

Military unit 45075

Rudaki District

Dushanbe

Bobojonov "committed a major crime"

In October 2019, Bobojonov's parents complained about their son's arrest and detention to officials including the Presidential Administration, which passed on the complaint to the Defence Ministry and the General Prosecutor's Office on 22 October.

Major-General Musa Odinzoda, Deputy Chief of the Armed Forces General Staff, replied to Bobojonov's parents on 28 October (in a letter seen by Forum 18) claiming that Bobojonov "committed a major crime by refusing to serve in the Armed Forces". Major-General Odinzoda insisted that serving in the military is Bobojonov's "sacred duty" and that his conscription was not therefore illegal.

Major-General Odinzoda's assistant, who refused to give his name, on 10 January 2020 claimed Odinzoda was in a meeting and asked Forum 18 to call back. When Forum 18 called back a different official (who also refused to give their name) answered the phone and claimed that "Odinzoda is not available and his assistant was sent somewhere." He then refused to answer questions and put the phone down.

Sugd Regional Military Prosecutor Abdukodiy Nurov also replied to Bobojonov's parents on 28 October 2019 (also seen by Forum 18), denying that a right to conscientious objection exists. Officials claimed that, as there is no law on alternative service, refusal to do military service is a crime, and conscription officers acted lawfully.

Regional Military Prosecutor Nurov on 10 January 2020 refused to give any legal grounds to Forum 18 for Bobojonov being arrested and taken to a military unit. He also refused to say why he claimed to Bobojonov's parents that there is no right to alternative civilian service, than claiming that "I do not know what case you are speaking about."

Asked why Tajikistan will not pass an alternative service law and ignores repeated UN Human Rights Committee recommendations to do so, Nurov shouted "Who are you and why should I answer you?" before putting the phone down. Subsequent calls to his phone went unanswered.

"The will of the people"?

The regime's claim that not having a law on alternative service makes jailing conscientious objectors legal was also used in the case of conscientious objector and former prisoner of conscience Daniil Islamov (see below).

In June 2017 Colonel Musa Odinzoda, Deputy Chief of the General Staff and Head of the Organisation and Mobilisation Department, told Islamov's mother that he cannot do alternative service because no domestic legal provision exists for this. (http://www.forum18.org/archive.php?article_id=2312)

Similarly, Rakhmonali Saidaliyev, Qurghonteppa's Military Prosecutor, told Forum 18 in August 2017 that Islamov cannot do the alternative civilian service he is willing to do as "Tajikistan does not have alternative service."

Deputy Murodullo Davlatov, a member of Parliament's Lower Chamber and Deputy Head of its International Relations Committee, claimed to Forum 18 in February 2017 that "the people of Tajikistan do not want alternative service, and Parliament represents the will of the people". (http://www.forum18.org/archive.php?article_id=2312)

On 10 January 2020 the assistant (who refused to give her name) to Deputy Imomali Nasriddinzoda, Head of Parliament's Law and Human Rights Committee, claimed that Parliament "may consider" passing an alternative service law "after the next election" (due on 1 March).

Asked why conscientious objectors are, despite repeated UN Human Rights Committee recommendations, still being arrested and prosecuted, the assistant refused to answer and referred Forum 18 to the Foreign Ministry. She then immediately put the phone

down. Deputy Nasriddinzoda did not answer his phone.

Tajikistan has never held an election found to be free and fair by Organisation for Security and Co-operation in Europe (OSCE) Election Observation Missions. (http://www.forum18.org/archive.php?article_id=2138)

Asked whether prisoner of conscience Islamov and human rights defenders do not represent people of Tajikistan, and whether Islamov is entitled to his human rights, Deputy Davlatov replied: "He violated the law, which is why he was arrested." (http://www.forum18.org/archive.php?article_id=2312)

As has happened to conscientious objector Bobojonov, officials also attempted to force conscientious objector Islamov to wear military uniform and take the military oath. (http://www.forum18.org/archive.php?article_id=2312)

No alternative civilian service law

Military service of two years is compulsory for almost all able-bodied young men between the ages of 16 and 27.

Article 1 of the November 2000 Universal Military Obligation and Military Service Law includes the provision: "In accordance with the law, a citizen has the right to undergo alternative service in place of military service. The procedure for undergoing alternative service is determined by law". However, no law enacting alternative service has ever been adopted.

Indeed, military comments in 2007 suggested that the ban that year on the Jehovah's Witnesses might be linked to this community's conscientious objection to compulsory military service. (http://www.forum18.org/archive.php?article_id=2138)

Jailing conscientious objectors

On 13 October 2017 Jehovah's Witness conscientious objector Daniil Ruslanovich Islamov (born 31 January 1999) was sentenced to six months' jail until April 2018 (http://www.forum18.org/archive.php?article_id=2327) under Criminal Code Article 376, Part 1 ("Evasion by an enlisted serviceman of fulfilment of military service obligations by way of inflicting on oneself injury (self-mutilation) or evasion by simulation of sickness or by other deception").

Prisoner of conscience Islamov had been forcibly conscripted in April 2017, despite health problems preventing him doing military service even if he wanted to do it (http://www.forum18.org/archive.php?article_id=2312), and was then detained in a military unit before being tried and sentenced.

On 5 October 2017 the United Nations (UN) Working Group on Arbitrary Detention publicly stated that Tajikistan should release prisoner of conscience Islamov "immediately" (http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_43_EN.pdf). The regime ignored this and in January 2019 Jehovah's Witnesses complained about the case to the UN Human Rights Committee. (http://www.forum18.org/archive.php?article_id=2455)

The UN Working Group's Opinion (A/HRC/WGAD/2017/43) found that Tajikistan had contravened the International Covenant on Civil and Political Rights, and also noted that "The right to conscientious objection is well established in international law and derives from article 18 of the Covenant. The Government of Tajikistan has already been made fully aware of this by the Human Rights Committee, which has specifically recommended that Tajikistan provide for alternatives to military service in such cases" (see below).

The UN Working Group also stated that among the follow up actions were that within six months of the date of transmission of the October 2017 Opinion the government should inform the Working Group "whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Tajikistan with its international obligations in line with the present opinion".

As of 14 January 2020, Tajikistan has not replied to the UN Working Group.

Will a genuine alternative service law be passed and implemented?

On 29 March 2019 Tajikistan claimed to the United Nations Human Rights Committee that "to give effect to this right [to alternative civilian service], an inter-agency working group, after studying international experience with regard to recognition of the right to conscientious objection to compulsory military service and conducting research into the administrative and legal issues that the exercise of this right in Tajikistan would entail, prepared and transmitted to the Government a bill on alternative service" (see Replies to the issues raised by the Human Rights Committee in relation to the third periodic report of the Republic of Tajikistan CCPR/C/TJK/Q/3/Add.1).

But the government gave no timetable for this claimed alternative service law to be adopted.

"There is no draft law on alternative civilian service ready to present to Parliament," Subhiddin Bakhridinzoda, First Deputy Director of the President's National Centre for Law, told Forum 18 on 13 January 2020. Among the National Centre's functions is responsibility for improving draft laws and checking their correspondence to the Constitution and Tajikistan's international obligations.

The National Centre for Law is also responsible for publishing the text of draft laws, but when asked for the text Bakhridinzoda claimed that "the inter-agency working group has prepared a text but it has not been finalised yet". Asked why, he responded that "this March we will have a new Parliament, and only then will this issue be discussed."

Bakhridinoza then stated that "you need to talk Zarif Alizoda, the adviser in the Presidential Administration's Section responsible for laws and their preparation". He then refused to talk more. Alizoda was formerly the Human Rights Ombudsperson and is currently the Assistant to the President on Legal Issues and Plenipotentiary Representative of the President to Parliament.

On 13 January the Presidential Administration claimed that Alizoda would be available to talk on 14 January. But on 14 January various Presidential Administration officials either did not answer their phones, or refused to talk to Forum 18, or claimed that only Alizoda – who was claimed to be unavailable – could answer questions.

Human rights defenders in Dushanbe told Forum 18 on 14 January that they had no information about any government plans to introduce a law allowing an alternative civilian service.

Bakhridinzoda of the National Centre for Law also refused to answer any questions about Tajikistan arresting and jailing conscientious objectors in defiance of Tajikistan's international obligations.

Ignoring human rights obligations

Tajikistan has for more than fifteen years ignored repeated insistence by UN human rights bodies and local human rights groups that the regime must allow individuals to refuse on grounds of conscience to do military service.

In its 22 July 2004 Concluding Observations on Tajikistan's record under the International Covenant on Civil and Political Rights (CCPR/CO/84/TJK), the UN Human Rights Committee stated: "The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service."

(http://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FCO%2F84%2FTJK&Lang=en)

This was repeated in the Human Rights Committee's 23 April 2013 Concluding Observations (CCPR/C/TJK/CO/2), which "reiterates its previous concern" about "the State party's lack of recognition of the right to conscientious objection to compulsory military service, and at the absence of alternatives to military service".

(http://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FTJK%2FCO%2F2&Lang=en)

The Human Rights Committee's concern was again repeated in its Concluding Observations (CCPR/C/TJK/CO/3), adopted on 18 July 2019: "The State party should step up its efforts to adopt the legislation necessary to recognize the right to conscientious objection to military service without discrimination as to the nature of the beliefs (religious or non-religious beliefs grounded in conscience) justifying the objection, and to ensure that alternative service is not punitive or discriminatory in nature or duration by comparison with military service."

(http://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/TJK/CO/3&Lang=En) (END)

Full reports on freedom of thought, conscience and belief in Tajikistan (<http://www.forum18.org/archive.php?country=31>)

For more background, see Forum 18's Tajikistan religious freedom survey (http://www.forum18.org/archive.php?article_id=2138)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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