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## **Conscience and Peace Tax International**

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### **Joint UPR Submission: RUSSIAN FEDERATION Sixteenth Session: May / June 2013**

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## Executive Summary

**This submission was prepared in October 2012 on the basis of the latest information available at that date. It focusses on shortcomings in the provisions for conscientious objection to military service in the Russian Federation, on compulsory military training in schools, and on forced labour and mistreatment within the Russian Army.**

### CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

1. When the Human Rights Committee considered the Sixth Periodic Report of the Russian Federation, 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” (para. 151, CCPR/C/RUS/6). 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. (arts. 18, 19, 21, 22 and 25)

“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.”<sup>1</sup>

2. Subsequent progress has been made on some, but not all of the concerns which the Committee highlighted.

#### Discriminatory and punitive duration of alternative civilian service

3. A previous recommendation on this topic had been addressed in Paragraph 150 of the State Report, which indicated that the ratio between the duration of alternative civilian service and military service was established by in the 2002 Alternative Civilian Service Law - unless the “alternative civilian service” is undertaken in military establishments, in which case the ratio is 1.5 times. Thus the successive shortening of obligatory military service has brought automatic proportional reductions in the length of alternative civilian service. With effect from the beginning of 2008, obligatory military service lasts for 12 months, alternative civilian service for 21 months, or 18 months if performed in a military establishment.

4. It has been reported that the duration of alternative civilian service was in 2011 reduced to 18 months, but no details are available. This represents 1.5 times the duration of military service, and would still be considered punitive and discriminatory by the Human Rights Committee.

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<sup>1</sup> CCPR/C/RUS/CO/6, October 2009, para 23.

## Conditions of alternative service

5. It is believed that at the same time as its duration was reduced the stipulation in Article 4 of the Law on Alternative Civilian Service that that service will be performed “as a rule” outside the area of the person’s own “subject of the Russian Federation” was repealed, perhaps in recognition of the small number of potential placement authorities who are able to provide accommodation - in 2006 it was estimated that only 21% of the accepted organisations for supplying alternative service placements were able to offer accommodation.<sup>2</sup> Recent accounts from conscientious objectors who have performed alternative civil service<sup>3</sup> however indicate that living conditions are often poor, that the remuneration remains barely at subsistence level, and there are still restrictions on movement even when off-duty.

## Assessment of applications

6. Applications for recognition as a conscientious objector must be addressed to the district military draft commissariat. Applications must be “grounded”; documentary evidence and/or the names of witnesses who may be called in support of the application must be submitted at the time of initial application. The panel which considers the applications, although civilian in itself and chaired by the deputy head of the local authority, is responsible to the Ministry of Defence and includes the physician responsible for conducting medical examinations before military service. In practice, the conscientious objector is invariably required to appear before the panel in order to convince them of the sincerity and strength of his objections. According to the Council of Europe’s High Commissioner on Human Rights, this process “has led to several violations of conscripts’ rights. (but) Support from (NGOs) has enabled many young people wishing to do alternative service to win their case”.<sup>4</sup> Although the panel decides on eligibility to substitute Civilian Alternative Service for military service, it is, according to Article 14 of the Law on Civilian Alternative Service, the Military Commissioner who issues the “Departure Order” which notifies the conscientious objector of the placement to which he has been allocated. The conscientious objector has no say in this decision, and only limited rights of appeal.<sup>5</sup>

7. As is indicated in Russia’s Report under the ICCPR<sup>6</sup>, the Ministry of Defence is closely involved in the process of drawing up the list of acceptable placements. There is no obvious justification for this.

8. Finally, a conscientious objector may find himself posted against his will to work under military command in a military establishment further underlines the close involvement of the military authorities in what is supposedly civilian service.

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<sup>2</sup> Unpublished report by NGO Coalition for a Democratic Civilian Service, Moscow, April 2008

<sup>3</sup> European Bureau of Conscientious Objection ([www.ebco-beoc.org](http://www.ebco-beoc.org)), The Right to Refuse to Kill, November/December 2011.

<sup>4</sup> Council of Europe document CommDH(2005)2, op. cit., para 403.

<sup>5</sup> General Counsel of Jehovah’s Witnesses. Evidence submitted to the OHCHR in response to the questionnaire on “best practices concerning the right of everyone to have conscientious objections to military service”, supplemented by comments received by CPTI from the NGO Coalition for a Democratic Civilian Service, Moscow, December 2008.

<sup>6</sup> CCPR/C/RUS/6, para 154.

## Other concerns regarding conscientious objection provisions:

### Compatibility of placements with the reasons for the objection

9. The fact that individual objectors have no choice between placements, and indeed over whether they are assigned to placements in military establishment makes it impossible to guarantee that the service will be compatible with the nature of the objection.

### Early deadline for application and lack of information

10. 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 recruitment period after they turn eighteen; these take place in the spring (April - July) and the autumn (October - December). 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 latest six months before the prospective date of military call-up. This means that it is only in very unusual circumstances that application can be made *after* the eighteenth birthday; sometimes in practice applications will be lodged at the age of sixteen. As far as is known, the Russian Federation is the *only* country where this situation applies.

11. It is axiomatic that the entitlement to the freedom of thought, conscience and religion, and thus the right to declare oneself a conscientious objector, must apply without discrimination to minors. But that right also includes the freedom to change one's religion or belief. Not only could a conscientious objection to military service, or any other deep-seated personal conviction, develop at any time, but it is more than usually likely that an individual's beliefs will be developing during the crucial years between 16 and 18, as will also the ability to understand the requirements of the application process, to articulate in writing, as is required, the bases of the objection, and not to be intimidated by the interview process. The protection of minors, as well as the freedom of thought, conscience and religion, demand that there must at the very least be an opportunity within the system to claim recognition as a conscientious objector *after* the eighteenth birthday; best practice of course is that such a claim may be presented at any time, before, during, or after military service.

12. 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. There is strong circumstantial evidence for doubting that this is the case; as of 24<sup>th</sup> December 2008, the Russian Federal Agency for Labour and Employment had received only 149 applications for civilian service from persons affected by the Spring 2009 call-up.<sup>7</sup> Numbers have subsequently increased, with about 800 – 900 performing alternative civilian service each year. However of these some 500 are Jehovah's Witnesses, who hear about the possibility through their own networks, and the figure has to be compared with approximately 300,000 who are drafted into military service each year.<sup>8</sup>

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<sup>7</sup> Information from the NGO Coalition for a Democratic Civilian Service, Moscow, December 2008.

<sup>8</sup> "Russia discourages conscientious objectors – activist" AFP, 23<sup>rd</sup>. April 2012. (Accessible at <http://wri-irg.org/node/15068>)

### Arbitrary denial of conscientious objector status

13. This issue is exemplified in a press release from the “Soldiers' Mothers of St Petersburg

14. “Nikita Konev from Kirovsk, Murmansk oblast, grew up in a family of Jehovah’s Witnesses. In 2011, he applied for substitution of the military conscript service by alternative civilian service to the Kirovsk military commissariat who should have transmitted the application to the call up commission. (...) the commission has not received the application and on 22 November 2011 issued decision to call Konev up. Konev contested the commission’s decision in court twice. The case has been never opened.

15. “At the same time, the military commissariat complained against Konev evading of military service. Eventually, the criminal case against him was opened in late April on Article 328, part 1 of the Criminal Code (evading of military service). In the conclusion of the case is indicated that the offense started at 04:30 on 26 March 2012, since Konev received the call up notification.

16. “Konev complained the decision to the court. The fact of complaint makes the court’s decision suspended. In a tête-à-tête talk with Konev the state investigator stressed that he should have gone to perform military service first and, if the court would have approved his application for the civilian service, he would be retired from the army.”<sup>9</sup>

17. It might be noted that this piece of advice is inconsistent with what has already been reported about deadlines for application.

18.

### MILITARY TRAINING IN SCHOOLS

18. Not only are conscientious objectors to military service required to declare themselves at the age of 16 or 17; they will have already been obliged at an even younger age to participate in activities which might well conflict with the beliefs underlying that objection. Under amendments introduced in 2006 to Articles 12 and 13 of the Federal Law on Military Duty (No53-FZ), military training was made a requirement during the last two years of school education, normally at the age of 15 or 16.<sup>10</sup> It is not recorded that there are any provisions to exempt conscientious objectors from this requirement.

### FORCED LABOUR WITHIN THE RUSSIAN ARMY

19. A report published early in 2012 by the “[Centre for the Development of Democracy and Human Rights](#)”, and written by Lyudmila Vakhnina (“Memorial” Moscow), Member of the Expert Council of the Russian Ombudsman, provides case studies covering around a hundred episodes of forced labour from 2006 to early 2012, and an analysis of the legislation and its enforcement.

20. The coercion of soldiers of the Russian army to illegal labour and activities unrelated to the

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<sup>9</sup> Soldiers Mothers of St Petersburg, “A pacifist charged with conscription dodging”, 12<sup>th</sup> May 2012.

<sup>10</sup> Information from Coalition to Stop the Use of Child Soldiers, [Child Soldiers Global Report 2008](#) (London, 2008) p. 284, modified in the light of comments from the NGO Coalition for a Democratic Civilian Service, Moscow, December 2008.

duties of the military service remains a serious concern for human rights NGOs. The tradition of such "extracurricular" labour is deeply rooted. In the Soviet era the society was aware of the notorious problem of "general's dachas" being built by soldiers. At present, the public finds out about the scale of this phenomenon due to the activities of human rights NGOs and publications in the mass media.

21. Facts show that soldiers' forced labour is still in demand and is widely used. Case analysis reveals the following types of forced labour:

22. First of all, there are – so called 'quasi legal' – cases of conscript soldiers working on civilian objects. In such cases, they do their service in units belonging to the Federal Agency of Special Construction (Spetsstroy), Military Railway Service, and Military Engineering Troops. This work has no relation to the purposes of military service, and the servicemen do not get salaries equal to those of civilian workers. Their officers have full power over them, and the soldiers cannot refuse to take part in such work. According to the Russian Constitution, the Labour Code and Convention 105 of the International Labour Organization, such work bears the signs of forced or compulsory labour.

23. Among the positive changes related to this issue, is the reduction of a number of military construction units – so called Stroybat (2006). However, conscripted servicemen are still doing their military service in road construction units belonging to the Spetsstroy which is under the authority of the Ministry of Defence of the Russian Federation, while they are still involved in work on civilian construction sites.

24. Unskilled labour on construction sites, for factories and businesses as labourers, loaders, caretakers, etc. Quite often this turns into real slavery: soldiers are actually rented out to work for businesses or on construction sites. The payment for the soldiers' labour often goes directly into the pockets of the officers. Sometimes military units can make a formal agreement with the local authorities, factories or businesses on the use of soldiers' labour. Until recently this was considered to be a legalizing factor.

25. Coercion to perform services for officers – labourers constructing houses or dachas, as servants or unskilled workers in the officers' private households, etc.

26. An especially cruel criminal form of the abuse of the Russian soldiers' rightless situation: coercion to illegal actions under the threat of battering or victimisation: thieving, begging, and even prostitution. All profits obtained this way go to the officers or senior conscripts. Along with that, soldiers (and, indirectly, their parents) are continuously subjected to extortion on the part of officers and senior conscripts.

27. There are cases registered where soldiers were never engaged in combat training or participated in manoeuvres throughout their term of service because they were involved in work unrelated to military service from the very start.

28. Before being dispatched to illegal work, soldiers often have all their documents including passports taken away. As a result, they are deprived of any civil rights. In particular, they cannot leave the place of their forced labour (the practice of taking away people's documents is widely spread in other forms of contemporary slavery, for example, in human trafficking).

29. As a rule, no safety measures are observed, hence the high injury rate during such illegal

work. Unfortunately, the illegal work is brought into the focus of police attention mostly when it leads to injuries or deaths.

30. The bias of military justice, contributes to maintaining this practice. Cases are known where soldiers found at slave work are declared to have unauthorized absence from their military unit (Article 337 of the Criminal Code of the Russian Federation) and are prosecuted for criminal offence.

31. The use of soldiers' labour continues to be a great source of enrichment for military commanders and civilians alike, and, as any other phenomenon of corruption, it cannot be eradicated simply by prohibitive measures. It is necessary for both the public and the state to combat this phenomenon. However, this is impeded by the closed nature of the Armed Forces and the inaccessibility of military units for public control.