



Conscience and Peace Tax International

Internacional de Conciencia e Impuestos para la Paz

NGO in Special Consultative Status with the Economic and Social Council of the UN

International non-profit organization (Belgium 15.075/96)

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UPR SUBMISSION

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Executive summary:

CPTI (Conscience and Peace Tax International) is concerned at the widespread persecution of conscientious objectors to military service in Israel.

Among specific issues are:

the refusal to acknowledge the right of conscientious objection to military service

repeated imprisonment of conscientious objectors

discriminatory treatment of those who have not performed military service.

Non-recognition of the right of conscientious objection to military service

1. Military service in Israel is in principle obligatory for all Jewish and Druze men, and for all Jewish women. It should be noted that it is exclusively members of these groups who suffer violations to the freedom of thought, conscience and religion as a result of the lack of any legislative or constitutional recognition of the right of conscientious objection to military service. Arab Israelis are excluded from military service.

2. The violation bears on convinced and absolute pacifists as heavily as upon those who have moral or legal objections to specific aspects of Israeli policy or actions eg. the occupation of the Palestinian territories or the 2006 invasion of Lebanon.

3. Although military service is theoretically universal for the groups affected, there are a number of grounds for exemption, and in fact a large proportion of potential conscripts do not perform military service for one reason or another. An article in Ha'aretz on 1st July 2008 quoted Israeli Defence Force (IDF) figures showing that that figure was 27.7% of "draft age" males. Notable is the estimate from the same source that 24% of those reaching draft age in 2009 will be in ultra-orthodox Haredi schools, up from 9% in 1992. Students from such schools are exempt, but on the grounds of religious study; it most emphatically does not reflect any actual or assumed conscientious objection on their part to the activities of the military.

4. Those who do not enter military service must be clearly distinguished from those who seek formal recognition of their conscientious objection to such service as a ground on which to be released from the obligation. It is a feature of the Israeli system that in so far as there is any opportunity whatsoever of a conscript bringing

forward a claim of conscientious objection to military service this must be done from within the military itself. This is because, despite the lack of legislative recognition, a “conscience committee” set up within the Israeli Defence Force examines on an individual basis claims of conscientious objection, and although very restrictive in its approach has been known to permit the discharge of conscientious objectors, initially and principally women. There was considerable reluctance to punish young women for refusing military service, although the “conscientious objections” which the committee was prepared to accept from women related to the traditional role of the woman within the household rather than to any pacifist standpoint..

5. It is obvious that such arrangements are far from an adequate response to the issue. A committee set up within the military establishment and answerable only under military regulations could not with the best will in the world be the impartial arbiter necessary to uphold the freedom of thought conscience and religion guaranteed in Article 18 of the ICCPR and similar clauses in other international instruments.

Repeated imprisonment of conscientious objectors

6. In Operative Paragraph 5 of Resolution 1998/77, the Commission on Human Rights, “Emphasizes that States should take the necessary measures to refrain from subjecting conscientious objectors to imprisonment and to repeated punishment for failure to perform military service, and recalls that no one shall be liable or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country;”

7. In an opinion published in 2003,¹ the Working Group on Arbitrary Detention criticised Israel for its repeated conviction of four conscientious objectors on charges of military disobedience, and observed “repeated penalties for refusing to serve in the military would be tantamount to compelling a person to change his/her mind for fear of being deprived of liberty if not for life, then at least until the age at which citizens cease to be liable for military service.”

8. In 2007, this approach was endorsed by the Human Rights Committee, which in General Comment 32 (para 55) indicates that repeated punishment for refusal to perform military service, when the refusal is based on the same constant resolve grounded in reasons of conscience, constitutes a breach of the principle of *ne bis in idem*.

9. Even since the finding of the the Working Group on Arbitrary Detention, Israel has continued to subject conscientious objectors to repeated terms of imprisonment.

10. In the most celebrated case, Jonathan (Yoni) Ben Artzi, a complete pacifist, was repeatedly sentenced over an eight-year period to terms of imprisonment which totalled some eight months. In January 2007, the Israeli Supreme Court agreed that the appeal of Ben Artzi was within its competence, and in October 2007 the military prosecutor was persuaded before the supreme court to cease pressing further charges. Unfortunately, the nature of this decision has not been such as to create a clear precedent for future cases, and there have still been no commitments by the Israeli

¹ E/CN.4/2005/6/Add.1, para 30.

government to provide for the exemption of conscientious objectors from military service, with or without any requirement to perform an alternative civilian service, nor any undertakings to cease the incarceration of conscientious objectors, or their repeated punishment for the same offence.

11. The IDF has also, faced since 2003 with an increasing number of young women who have argued pacifist, feminist and anti-militarist grounds for conscientious objection, overcome its earlier reluctance to sentence female conscientious objectors to military detention. Most recently, between 18th December 2006 and 18th February 2007, 19-year-old woman conscientious objector Hadas Amit received five consecutive sentences of imprisonment in military prison, being incarcerated in total for 73 days before finally being discharged as unsuited to military life.

Discriminatory treatment of those who have not performed military service

12. A separate concern is the considerable amount of discrimination, much of it informal, within Israeli society against those who have for any reason not performed military service.

13. A vivid, if banal, example was the decision by the Israeli Broadcasting Corporation in April 2008 to institute a requirement that anyone representing Israel in the Eurovision Song Contest must have actually performed military service. Ironically, this ruling would have excluded the transsexual singer, Dana International, who was the last Israeli winner of the competition, as well as any others who were for one reason or another precluded from offering military service.

14. Section 2 of the 1988 Equal Opportunity for Employment Law, specifies that it is unlawful for an employer to ask an employment seeker or current employee whether or not he or she has served in the military. Notwithstanding that, anecdotal evidence is that it is practically impossible for anyone to obtain employment in the public sector who has not completed military service, and populist calls for further discriminatory measures are frequently heard.

15. The Israeli government should be encouraged to enforce both the letter and the spirit of its anti-discrimination legislation with more vigour.