

WRITTEN STATEMENT ON ARMENIA
BY THE OFFICE OF GENERAL COUNSEL OF JEHOVAH'S WITNESSES
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Abuses of Religious Freedom

Imprisonment of Conscientious Objectors

Armenia continues to arrest and imprison male Jehovah's Witnesses of military age for their conscientious objection to military service on religious grounds. During the past 12 years, 288 young men who are Jehovah's Witnesses have been imprisoned as conscientious objectors to military service. Jehovah's Witnesses also conscientiously object to the alternative service offered in Armenia because it is performed under military administration and supervision.

As of September 1, 2007, there are 82 Jehovah's Witnesses who are in prison for their conscientious refusal of military service on religious grounds. Of these 73 have been tried and convicted and 9 have been charged and are in pre-trial detention.

Jehovah's Witnesses who conscientiously objected to military service in Armenia were usually convicted under Article 327 I of the Criminal Code and sentenced to prison for one to two years. Modifications to the Criminal Code, which came into force on January 26, 2006, provided for harsher punishment. Now Article 327 I of the Criminal Code states: "Evading a recurring call to emergency military or alternative service, or educational or military training, without an order defined by legislation of the Republic of Armenia as basis for being relieved of this service, shall be liable to arrest for up to two months or imprisonment for up to three years." When courts do not impose the maximum sentence, the prosecutors at times have appealed for a harsher sentence. Thirty-two Witnesses have now been sentenced to more than two- years in prison.

- There have been at least six cases in which the prosecutor has appealed for a harsher sentence and the Appeal Court has granted this appeal.
- David Gyozyan had been living in Russia but decided to return to Armenia. Upon his return, he applied for exemption from military service because of a back problem. However, he was found to be healthy and fit for military service. When he was taken to the military unit, he refused to put on a uniform, stating that he is one of Jehovah's Witnesses and conscientiously refused military service. On January 12, 2007, he was arrested and charged under Article 364 I of the Criminal Code with "refusal of performing one's military duties," a charge that carries a maximum sentence of two years. He was convicted and sentenced to one-and-a-half years in prison.
- On January 16, 2007, Aghesi Yeghiazaryan was sentenced to 24 months imprisonment as a conscientious objector to military service. He was released on his own recognizance pending an appeal by the Prosecutor for a stricter sentence. Yeghiazaryan has a physical disability (stuttering) that should exempt him from military service. Additionally, his mother and sister are invalids. The Appeal Court heard the case on February 23, 2007. During the proceedings Yeghiazaryan gave testimony and his physical disability was evident. As a result the judge postponed the case until February 26, 2007, when a lengthy debate between the judge and the prosecutor took place during the proceedings. Finally the judge rendered the decision that Yeghiazaryan be sent to the military physician again for examination. On May 7, 2007, the Court of Appeal listened to this case and sentenced Yeghiazaryan to two years probation as provided for by Article 70 of the Criminal Code.

- On January 23, 2007, the Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution 1532. In part the Resolution states: “The Assembly urges the Armenian authorities to revise the law on alternative service in accordance with the recommendations made by the Council of Europe experts currently studying this issue and, in the meantime, to pardon the young conscientious objectors currently serving prison sentences.”

Conscientious Objection to Unacceptable Alternative Service

On July 1, 2004, the Law on Alternative Service took effect. Some of Jehovah's Witnesses may conscientiously accept alternative nonmilitary service if the service itself is civilian in nature and the administration and supervision of the service is civilian. Twenty-two of Jehovah's Witnesses who refused military service on religious grounds applied to serve under the new alternative service law in Armenia, believing that the service would be civilian in nature. Shortly after starting their service, the Witnesses performing alternative service realized, much to their disappointment, that the alternative service was under military administration. Between May and June 2005, all 22 of Jehovah's Witnesses who had previously accepted alternative service left their assignments, after they personally experienced the military involvement in the administration and supervision of their assignments, and that involvement violated their consciences. All were arrested and held in pretrial detention in prison, except for three who were allowed to remain free after signing a document not to leave the country.

By February 2006, ten trials (involving 13 Witnesses) had concluded and all defendants were found guilty and convicted for either desertion (Article 362 I) or absence with leave by agreement (Article 361 IV). (During one trial, the Sevan prosecutor lowered the charges against four Witnesses—from Article 362 II, “desertion by agreement,” which carries a stiff penalty of four to ten years, to Article 361 V, “leave by agreement.”) Two of the conscientious objectors did not appeal their convictions and began serving their sentences in the Nubarashen Penal Institution. The other 11 convicted Witnesses appealed their cases. The other eight trials were still at the court of first instance level.

It finally became evident to all that there was no law in Armenia that made leaving alternative service a crime. Starting on February 21, 2006, prosecutors in all 16 trials presented motions asking the courts to suspend the hearings and return the cases for further investigation because of “serious violation of criminal procedures,” which were granted.

Appeals were filed in all these cases, requesting the immediate termination of the criminal cases and the release of those held in detention. While one defendant was released on the order of the prosecutor; the others were released by decisions from the Court of Appeal and the Court of Cassation.

- The Criminal Procedural Code of Armenia was amended on June 14, 2006, so that cases of individuals accused of evading alternative service will now be investigated by the civil prosecutor's office. Additionally, the Criminal Code was amended on June 14, 2006, in order to provide four new articles that simplify the process of establishing criminal responsibility for a person sent to perform alternative service. In spite of all this legislative activity relative to alternative service, the Law on Alternative Service itself has not been amended to provide a genuinely civilian administration, control, and supervision for alternative service. According to the available information, no individual is at present performing alternative service under the current law in Armenia.

- In mid-September 2006, letters were sent to all these defendants informing them of the decision by the General Prosecutor to terminate all criminal proceedings against them, based on Article 35

(1.2) of the Criminal Procedure Code. The defendants were informed of the guidelines to restore their rights and to seek compensation.

- The Witness defendants applied to court seeking compensation. The court denied their claim for compensation for mental distress for wrongful imprisonment, stating that only lost wages can be claimed. To date 18 of the 21 cases have been heard in the court of first instance, and all claims for compensation have been rejected for groundless reasons. Also the case of Tigran Abrahamyan has been heard in the Court of Appeal, and he too was refused compensation.

Nagorno-Karabakh

Areg Avanesyan is a 21-year-old Armenian conscientious objector from Nagorno-Karabakh, a highly disputed region. He has attended religious meetings since his childhood and was baptized as one of Jehovah's Witnesses. Because of Avanesyan's refusal to serve in the military, a criminal case was instituted against him under Article 327 III, which provides for prison sentences of from four to eight years if a person refuses military service during a state of war. On February 16, 2005, Avanesyan was found guilty of evading military service and was sentenced to four years in prison. He did not appeal the sentence.

- Areg Avanesyan is currently serving his sentence in the Shushi Penal Institution in Nagorno-Karabakh.

Denial of Documentation

The military commissariat refused to issue a certificate of registration with its office to at least 50 Jehovah's Witnesses who had completed their prison sentences for conscientious objection to military service. The military commissariat said that it would not give them this certificate until they served their time in the military. The passport desk will not issue a passport without this certificate. Following complaints to higher officials, most of these young men have now been issued this certificate of registration from the military commissariat and have obtained passports.

- On June 29, 2006, a complete list of conscientious objectors, who are Jehovah's Witnesses and who are having problems with obtaining passports or residential registration cards, was sent to the Armenian government.
- On July 27, 2006, Jehovah's Witnesses received a request from the Armenian government for more detailed information concerning these individuals. Witnesses are hopeful that this problem will soon be resolved.

Applications Before the European Court of Human Rights

Jehovah's Witnesses have now filed four applications against Armenia in the European Court of Human Rights (ECHR). The applications are *Bayatyan v. Armenia*, *Bukharatyan v. Armenia*, *Tsaturyan v. Armenia*, and the most recent, *Khachatryan and 18 Others v. Armenia*. Jehovah's Witnesses have turned to the ECHR in hopes of resolving the problems in Armenia regarding conscientious objection.

Vahan Sanasari Bayatyan filed his application on October 3, 2003, after he was sentenced to two and half years in prison for his conscientious objection to military service. At the appeal hearing, both the prosecutor and one of the judges offered to terminate Bayatyan's case if he abandoned his conscientious objection and served his term in the military.

Haik Sargsi Bukharatyan and Ashot Tsaturyan filed their applications with the ECHR on February 10, 2004, after each of them was sentenced to two years of imprisonment. Both appealed their sentences; during his appeal hearing, Bukharatyan was severely rebuked by the court for holding to his religious beliefs. Justice J. Hovsepyan angrily told him: "What kind of a man are you to refuse to serve! And moreover, you stand with your head raised and you look us in the eye." Prosecutor Boshnagyan added: "People like you should be destroyed. Hitler was right when he tried to exterminate you!"

The ECHR has sent letters to the government of Armenia regarding three of the conscientious objector cases (*Bayatyan, Bukharatyan, and Tsaturyan*). The government of Armenia has supplied the Court with its observations on all three cases, and the applicants have replied to the government's observations. The ECHR has chosen not to join these cases since they have different fact scenarios. Jehovah's Witnesses await a decision by the Court on each of these cases.

On May 31, 2006, Hayk Khachatryan and 18 others, who were wrongly convicted for leaving their alternative service assignments, filed an application with the ECHR.

- On December 12, 2006, the ECHR issued an Admissibility Decision in the case of *Bayatyan v. Armenia*, admitting the case for consideration on its merits based on the issue of religious freedom. The Court posed further questions to the parties probing the relationship of conscientious objection and religious freedom, and Armenia's obligations regarding its admittance to the Council of Europe. It is notable that the Court will scrutinize the issue of conscientious objection directly under the Article 9 of the Convention right of religious freedom and not under another side issue.

Difficulties Receiving Religious Literature

Until March 2007, there had been no problems receiving regular shipments of religious literature. Then, on March 29, 2007, a shipment of literature from Georgia arrived at the Yerevan Ararat Customs House. Customs officials re-evaluated this literature (periodicals) at a higher rate, from \$0.05 U.S. to \$1.00 U.S. per journal. This was done despite the fact that all necessary documentation proving the actual value of these periodicals had been provided to customs officials as required by Article 87 of the Custom's Code. This increase in customs-value means that the Value Added Tax for this shipment increased from \$4,580 U.S. to \$65,150 U.S. Such an adjustment of the customs-value has created considerable hardship for the Religious Organization of Jehovah's Witnesses in Armenia as its activity is solely financed by voluntary donations. Efforts were made to have the regional customs house evaluate this literature according to the regulations of the Customs Code but without success. Therefore, the shipment was sent back to Georgia. In addition, while trying to carry out the customs clearance of this shipment from Georgia, a shipment of literature was received from Germany. Customs clearance was started, but customs officials have again re-evaluated the periodicals to \$1.00 U.S. per journal.