



This article was published by F18News on: 18 April 2012

TURKMENISTAN: Maximum prison sentence for latest conscientious objector

By Felix Corley, Forum 18 News Service <<http://www.forum18.org>>

Zafar Abdullaev, a 24-year-old Jehovah's Witness conscientious objector, is the latest prisoner of conscience to be given a prison sentence for refusing Turkmenistan's military service, which is compulsory for all young men. He was given the maximum two-year prison term on 6 March at Dashoguz City Court, the court chancellery told Forum 18 News Service. He had already served a two-year suspended sentence on the same charges. Four other Jehovah's Witness conscientious objector prisoners of conscience are serving prison sentences, while a sixth objector is serving a suspended sentence. Another Jehovah's Witness prisoner of conscience is in jail for charges unrelated to compulsory military service. Abdullaev's imprisonment came the same month that the UN Human Rights Committee called on Turkmenistan to free imprisoned conscientious objectors, end their prosecution and introduce an alternative service. It also called among other things for an end to restrictions on unregistered religious activity, religious education and the import of religious literature.

In the second known trial so far in 2012, a court has convicted a conscientious objector for refusing to undergo Turkmenistan's compulsory military service for young men. Unlike the previous conviction, which led to a one-year suspended sentence, the latest Jehovah's Witness conscientious objector Zafar Abdullaev received the maximum prison sentence of two years, Forum 18 News Service has learnt. It is Abdullaev's second sentence on the same charges. Four other Jehovah's Witness prisoners of conscience are currently serving jail terms for refusing compulsory military service. All five say they would be willing to perform a civilian alternative service, but none exists.

A sixth Jehovah's Witness prisoner of conscience is imprisoned on charges not related to conscientious objection, which his community insists were fabricated. Meanwhile, two Protestant former prisoners of conscience imprisoned for their faith have made no progress in overturning their bans from leaving Turkmenistan.

No alternative service

Turkmenistan's January 2010 report to the United Nations (UN) Human Rights Committee under the International Covenant on Civil and Political Rights (ICCPR) contains just one sentence on alternative service, only to dismiss it. "Turkmen law does not provide for unarmed service," the sentence in Paragraph 337 declares bluntly (CCPR/C/TKM1). It gives no explanation or amplification (see F18News 3 February 2010 <http://www.forum18.org/Archive.php?article_id=1404>).

Military service is compulsory for men between the ages of 18 and 27 and generally lasts two years. Conscientious objectors face trial under Article 219, Part 1 of the Criminal Code, which punishes refusal to serve in the armed forces with a maximum penalty of two years' imprisonment.

Young Jehovah's Witnesses insist they would be willing to do any form of alternative, non-military service, were it to be introduced. The current lack of any alternative service means that male Jehovah's Witnesses of draft age who have not served in the military can be arrested at any time.

Government officials' private statements to foreign counterparts that some form of alternative service might be introduced have not, to date, resulted in any verifiable specific action. Indeed, speaking at the UN Human Rights Council in Geneva in March 2009, Shirin Akhmedova, Director of the government's National Institute for Democracy and Human Rights in the capital Ashgabat [Ashgabat], rejected the recommendations from numerous international organisations - including the then UN Special Rapporteur on Freedom of Religion and Belief, Asma Jahangir - that Turkmenistan introduce a civilian alternative service. Akhmedova instead pointed to Article 37 of the Constitution, which describes defence as a "sacred duty" of everyone and then states that military service is compulsory for men (see F18News 20 April 2009 <http://www.forum18.org/Archive.php?article_id=1285>).

The right to refuse military service is part of the right to freedom of thought, conscience and religion guaranteed by Article 18 of the ICCPR, to which Turkmenistan acceded in 1997. It is also part of Turkmenistan's Organisation for Security and Co-operation in Europe (OSCE) human dimension commitments.

UN call for prisoners' release and alternative service

The UN Human Rights Committee reviewed Turkmenistan's record under the ICCPR on 15 and 16 March, including its failure to introduce an alternative civilian service (see F18News 27 March 2012 <http://www.forum18.org/Archive.php?article_id=1684>).

"The Committee is concerned that the Conscription and Military Service Act, as amended on 25 September 2010, does not recognize a person's right to exercise conscientious objection to military service and does not provide for any alternative military service," the Human Rights Committee declared in its Concluding Observations (CCPR/C/TKM/CO/1), adopted on 28 March (see <<http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.TKM.CO.1.doc>>).

The Committee also expressed "regrets" that Jehovah's Witness conscientious objectors "have been repeatedly prosecuted and imprisoned for refusing to perform compulsory military service", in violation of ICCPR Article 18, which guarantees freedom of religion or belief.

"The State party should take all necessary measures to review its legislation with a view to providing for alternative military service," the Committee urged Turkmenistan. "The State party should also ensure that the law clearly stipulates that individuals have the right to conscientious objection to military service. Furthermore, the State party should halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those individuals who are currently serving prison sentences."

Turkmen delegation leader Deputy Foreign Minister Vepa Hadjiyev had been asked during the 16 March session about the Jehovah's Witness prisoners. However, he had merely responded that they were not being kept in isolation and promised to look into their situation and report back to the Committee (see F18News 27 March 2012 <http://www.forum18.org/Archive.php?article_id=1684>).

UN also calls for end to religious restrictions

The 28 March UN Human Rights Committee Concluding Observations also expressed concern about the Religion Law's requirement that religious organisations be registered in order to function and about the administrative punishments for unregistered religious activity. Similarly, the Committee expressed concern that the Religion Law "prohibits private religious education at all levels, and that the State party strictly regulates the number of copies of religious texts that religious organizations may import".

"The State party should ensure that its laws and practices relating to the registration of religious organizations respect the rights of persons to freely practise and manifest their religious beliefs as provided for under the Covenant," the Human Rights Committee insists. "The State party should amend its law to ensure that individuals can freely provide religious education in private at all levels and can import religious texts in quantities they consider appropriate."

Members of a wide range of religious communities in Turkmenistan have long complained to Forum 18 about these and other restrictions (see Forum 18 Religious freedom survey <http://www.forum18.org/Archive.php?article_id=1676>).

No response to Abdullaev's imprisonment or UN calls

No official was prepared to discuss why conscientious objectors - and Abdullaev in particular - cannot undertake an alternative civilian service, as various UN agencies have repeatedly stressed.

Pirnazar Hudainazarov, the Chair of the Mejlis (Parliament) Committee on the Protection of Human Rights and Freedoms, refused to answer any questions about Abdullaev's imprisonment or the UN Human Rights Committee's call for Turkmenistan's conscientious objectors to be freed and alternative civilian service to be introduced. "I've told you before, you have to speak to our Foreign Ministry," he told Forum 18 on 18 April. He then put the phone down.

Forum 18 was unable to reach anyone the same day at the Foreign Ministry in the capital Ashgabad.

The man who on 18 April answered the phone of Gurbanberdy Nursakhatov, Deputy Chair of the government's Gengesh (Council) for Religious Affairs in Ashgabad, refused to identify himself. As soon as Forum 18 introduced itself he put down the phone.

Forum 18 was unable to reach Ambassador Aksoltan Atayeva, Turkmenistan's Permanent Representative to the United Nations in New York, who had been part of its delegation during the Human Rights Committee review. Turkmenistan's Mission to the UN told Forum 18 on 18 April she would be out in meetings all day and suggested Forum 18 should submit questions in writing.

Forum 18 asked Ambassador Atayeva in writing mid-morning in New York on 18 April when Turkmenistan would implement the Human Rights Committee calls to free conscientious objectors from prison, introduce an alternative civilian service and end restrictions on religious practice. No immediate response was received.

Two-year prison sentence

The 24-year-old Abdullaev, who is from the northern city of Dashoguz [Dashhowuz], was again called up for military service soon after his previous suspended sentence was completed in April 2011. He once again refused military service, and was brought to trial at Dashoguz City Court under Criminal Court Article 219, Part 1. Judge Geldimurat Roziev handed down the two year prison sentence on 6 March 2012, the Court chancellery told Forum 18 from Dashoguz on 18 April.

It remains unclear if Abdullaev has appealed against the sentence. "He could appeal to the Regional Court, but didn't," the chancellery official - who did not give her name - told Forum 18. She referred all other questions to Judge Roziev. However, his telephone went unanswered each time Forum 18 called the same day.

However, Jehovah's Witnesses told Forum 18 that Abdullaev was intending to appeal, though they say it is not yet known if he did so. They added that Abdullaev was being held in the Detention Centre in Dashoguz and it is not yet known if he has been or will be transferred to the ordinary regime labour camp in the desert near the town of Seydi, in the eastern Lebap Region, where other conscientious objectors are normally held.

Abdullaev had served a two-year suspended sentence from 8 April 2009 to 8 April 2011. He had been convicted by the same Dashoguz City Court under the same Article 219, Part 1 (see F18News 20 April 2009 <http://www.forum18.org/Archive.php?article_id=1285>).

Four other imprisoned conscientious objectors

All the four other current known conscientious objector prisoners - all Jehovah's Witnesses - are being held in the labour camp in Seydi. The prisoners are: Sunet Japbarov, 18 months, Turkmenabad Court, December 2010; Matkarim Aminov, 18 months, Dashoguz Court, December 2010; Dovran Matyakubov, 18 months, Dashoguz Court, December 2010; and Mahmud Hudaybergenov, 2 years, Dashoguz Court, August 2011. The three who were sentenced in December 2010 are due to complete their sentences in June 2012.

Another Jehovah's Witness conscientious objector, Ahmet Hudaybergenov, was freed from Seydi labour camp on 20 March after completing his full 18-month prison sentence, Jehovah's Witnesses told Forum 18. He had been sentenced by Turkmenabad Court in September 2010 (see F18News 21 October 2010 <http://www.forum18.org/Archive.php?article_id=1501>).

Restrictions

One conscientious objector is known to be serving a suspended prison sentence for refusing compulsory military service. Ashgabad-based Jehovah's Witness Akmurad Nurjanov was given a one-year suspended sentence in February 2012 under Article 219, Part 1. Senior school students were taken to Azatlyk District Court to witness his conviction, in what Jehovah's Witnesses described to Forum 18 as a "show trial". However, they speculated that the presence of many school students might have led the authorities to choose a non-custodial sentence (see F18News 16 February 2012 <http://www.forum18.org/Archive.php?article_id=1668>).

As part of his sentence conditions, Nurjanov has to report to a local police station on a weekly basis and has to be at home after 11 pm, Jehovah's Witnesses told Forum 18.

Another conscientious objector, Denis Petrenko, completed his two-year suspended sentence on 6 April 2012, Forum 18 notes. He had attended some Jehovah's Witness meetings, but later stopped attending. He was sentenced under Article 219, Part 1 in Ashgabad on 6 April 2010 (see F18News 24 May 2010 <http://www.forum18.org/Archive.php?article_id=1448>).

Other prisoners

Another Ashgabad Jehovah's Witness Vladimir Nuryllayev is serving a four-year sentence on charges of spreading pornography which his fellow Jehovah's Witnesses insist were fabricated to punish him for his faith. Arrested in November 2011, he was convicted at a closed trial in Ashgabad in January 2012. His appeal was dismissed in February at a ten-minute hearing. He was transferred in late February to the isolated top-security prison at Ovadan-Depe in the Karakum desert 70 kms (45 miles) north of Ashgabad. He is not being held in the top-security section, but works in the prison's manual labour section (see F18News 27 March 2012 <http://www.forum18.org/Archive.php?article_id=1684>).

Like all prisoners at Ovadan-Depe, Nuryllayev has been refused permission to have religious literature. "Volodya very much needs the Bible, but he understands that they won't allow him," Jehovah's Witnesses told Forum 18.

On 5 April, a supervisory appeal was lodged on Nuryllayev's behalf to the Supreme Court. The Court later wrote that the appeal had been handed to Guvanchmurad Ussanepesov, head of the City Court (which is located in the same building as the Supreme Court). Forum 18 was unable to reach Ussanepesov on 18 April, as the City Court's telephones went unanswered.

Jehovah's Witnesses note the peculiarities of the proceedings. Neither of the two men Nuryllayev was alleged to have passed pornographic films to was present at his trial. Of the two copies of the first verdict, one given to Nuryllayev said that the trial was closed, while the other given to his lawyer claimed that the trial had been open and that Nuryllayev had been defended by a lawyer named K. Nedirov (no such lawyer had defended him).

On his release under amnesty in February, Pastor Ilmurad Nurliev from Mary expressed concern over several Muslim prisoners in Seydi labour camp who might have been imprisoned to punish them for exercising their freedom of religion or belief. He particularly highlighted the case of Musa (last name unknown), a young Muslim from Ashgabad who seems to have been imprisoned for teaching the Koran to children (see F18News 20 February 2012 <http://www.forum18.org/Archive.php?article_id=1669>).

Rights not restored

Pastor Nurliev still has not been able to get back his religious education diploma and certificate of ordination as a pastor. Both were confiscated from him at his arrest in August 2010. "I went to the court to ask for the return of the diploma and certificate, as these are important to me," he told Forum 18 from Mary on 18 April. "They said they'll decide whether to give them back, but they didn't say when."

Pastor Nurliev also said he visited the Migration Service in Ashgabad on 12 April to find out if he is still on the exit blacklist. Officials there told him he had to hand a photocopy of his passport to his local Migration Service office and they will inform him. He told Forum 18 he intends to lodge the photocopy at Mary Migration Service on 19 April.

Like a number of other active religious believers, Pastor Nurliev was barred from leaving Turkmenistan without explanation. He found out that he had been blacklisted only when he was taken off an aeroplane at Ashgabad airport just before departure in October 2007 (see F18News 2 February 2010 <http://www.forum18.org/Archive.php?article_id=1403>).

Also still on the blacklist are former Baptist religious prisoner of conscience Shageldy Atakov, his wife, their children, and his brother Hoshgeldi Atakov, also a Baptist. "My brother wrote to the Migration Service in Ashgabad asking if and why we are all on the blacklist, and they replied on 24 May 2011 that the 'necessary agencies' - which they didn't identify - would have to say," Shageldy Atakov told Forum 18 from his home in the village of Kaakhka near Ashgabad on 18 April. "Then more than eight months later, on 14 February, they wrote again to Hoshgeldi merely saying they have examined our case and we are still 'non-travelling'. They gave no explanation."

Atakov learnt he had been blacklisted for foreign travel when the secret police took him off an aeroplane at Ashgabad airport in May 2006. His wife Artygul and some of their children were barred from travelling abroad in June 2008. His brother was also later banned from leaving (see F18News 2 February 2010 <http://www.forum18.org/Archive.php?article_id=1403>).

Atakov, who leads a small independent Baptist congregation in Kaakhka, told Forum 18 local police had summoned him and other family members in February and questioned them about the church's activity. "We told them we are Christians and will continue to be, and they wrote down what we said." He added that the police keep the church under surveillance, but have not raided the congregation, which functions without state registration. (END)

For a personal commentary by a Protestant within Turkmenistan, on the fiction - despite government claims - of religious freedom in the country, and how religious communities and the international community should respond to this, see <http://www.forum18.org/Archive.php?article_id=728>.

For a personal commentary by another Turkmen Protestant, arguing that "without freedom to meet for worship it is impossible to claim that we have freedom of religion or belief," see <http://www.forum18.org/Archive.php?article_id=1128>.

More reports on freedom of thought, conscience and belief in Turkmenistan can be found at <<http://www.forum18.org/Archive.php?query=&religion=all&country=32>>.

For more background information see Forum 18's religious freedom survey of Turkmenistan at <http://www.forum18.org/Archive.php?article_id=1676>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at <http://www.forum18.org/Archive.php?article_id=1351>.

A printer-friendly map of Turkmenistan is available at <<http://education.nationalgeographic.com/education/mapping/outline-map/?map=Turkmenistan>>.

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