

SUBMISSION

TO THE 134th SESSION OF THE HUMAN RIGHTS COMMITTEE

ISRAEL

Conscientious objection to military service and related issues

Updated January 2022

Content Index

- Issues of concern
 - a. Non-recognition of the right to conscientious objection to military service in accordance with the international human rights standards.
 - b. Non-independence of the body examining applications for exemption for reasons of conscience:
 - c. Trials of conscientious objectors by military courts.
 - d. Imprisonment of conscientious objectors.
 - e. repeated imprisonment of conscientious objectors in violation of the *ne bis in idem* principle (art. 14(7)) and article 18(2).
- Recommendations
- Appendix

A) Non-recognition of the right to conscientious objection to military service according to international human rights standards

Israel applies conscription to male and female citizens with the exception of certain minorities. The right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if such service cannot be reconciled with that individual's religion or beliefs. The right must not be impaired by coercion.¹

Despite the above, as well previous concluding observations by the Human Rights Committee,² Israel still fails to recognise the right to conscientious objection to military service, in accordance with the international human rights standards.

In its 5th periodic report,³ Israel claims that:

“271. Since its inception, the IDF has respected the freedom of conscience as a fundamental human right. In this regard, Section 36 of the Israeli *Defense Service Law* provides the Minister of Defense with the authority to exempt a person eligible for conscription, or a person who is a member of the IDF reserves forces, on the grounds of conscience.

272. Persons eligible for conscription under the *Defense Service Law* may submit a request for an exemption to the regional military conscription bureau.

273. Request which show *prima facie* substantial grounds for an exemption for reasons of conscience are brought before the Special Military Committee. [...]

274. The committee examines the requests in accordance with the law and the jurisprudence of the HCJ. [...]

However, in the Annex II, the State Party cites two cases of female applicants, where the “Committee determined that the reasons for [...] exemption request do not constitute general conscientious objection to military service and therefore her request was denied.”⁴

In order to understand the term “general conscientious objection” which is not described in this document, one needs to examine previous reports of the State Party to UN treaty bodies. For example, in previous written replies to CAT the State Party, referring to the High Court of Justice decision H.C.J. 7622/02 *David Zonsien v. Military Advocate General*, cites:

“the Court in *Zonsien* distinguishes between a general conscientious objection and a selective conscientious objection. The former is unrelated either to the circumstances of time and place or to the army's policy, but rather stems from the lack of correlation between the nature of the individual and that of army service (and is therefore acceptable). Oppositely, the selective objection is a result of ideological and political beliefs and is directly linked to the prevailing circumstances under which duties need to be performed by the army. Inherent in the army system is the fact that individuals do not choose what

¹ See, Min-Kyu Jeong et al. v. Republic of Korea (CCPR/C/101/D/1642-1741/2007), para. 7.3; Jong-nam Kim et al. v. Republic of Korea, para. 7.4; Abdullayev v. Turkmenistan, para. 7.7; Mahmud Hudaybergenov v. Turkmenistan, para. 7.5; Ahmet Hudaybergenov v. Turkmenistan, para. 7.5; Sunnet Japparow v. Turkmenistan, para. 7.6; Akmurad Nurjanov v. Turkmenistan, para. 9.3; Shadurdy Uchetov v. Turkmenistan, para. 7.6; Dawletow v. Turkmenistan, para. 6.3 and others.

² CCPR/CO/78/ISR, para. 24; CCPR/C/ISR/CO/3, para. 19; CCPR/C/ISR/CO/4, para. 23.

³ Available at: <https://undocs.org/CCPR/C/ISR/5>

⁴ Annex II, paras. 164, 165. Available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fADR%2fISR%2f37480&Lang=en

orders to fulfil or not. Selective objection signals discrimination and consequently dismantles the unity needed in every army.” (para. 264).⁵

This interpretation is the core of Israel’s non-recognition of the right to conscientious objection to military service in accordance with the international human rights standards. In practice, Israel does not recognise someone as a conscientious objector unless he/she is considered by the Special Military Committee as “clearly pacifistic”. In the much more detailed previous (4th) report,⁶ the State Party cites:

“423. If the Committee is satisfied that the applicant is clearly pacifistic, it recommends the competent authorities to exempt the applicant from security service on the basis of reasons of conscience.”

Worth noting that even conscientious objectors with explicit pacifistic views are not recognised and are punished in case they cite anything that can be perceived by the Special Military Committee as “ideological and political beliefs”, for example any opposition to the occupation of Palestinian territories, or the treatment of the Palestinians by Israel.

The practice of Israel clearly contravenes international human rights standards and results in flagrant violations of article 18 of ICCPR.

International human rights standards about selective conscientious objection

The UN General Assembly has already, since 1978, implicitly recognized one type of selective objection in its resolution 33/165, in which it recognised the right of all persons to refuse service in military or police forces which are used to enforce apartheid, and called upon Member States to grant asylum or safe transit to another State to persons compelled to leave their country of nationality solely because of a conscientious objection to assisting in the enforcement of apartheid through service in military or police forces.⁷

In this regard, worth noting that nowadays there is a broad consensus among human rights organisations, including prominent Israeli organisations such as Yesh Din⁸ and B’ Tselem⁹, and prominent international organisations such as the International Federation for Human Rights (FIDH)¹⁰ and Human Rights Watch¹¹, that Israel is committing the crime of apartheid against the Palestinians.

As highlighted by the OHCHR, “The **Working Group on Arbitrary Detention** and the **Special**

⁵ Written replies by the Government of Israel to the list of issues (CAT/C/ISR/Q/4) to be taken up in connection with the consideration of the fourth periodic report of Israel (CAT/C/ISR/4), available at:

<https://www.un.org/unispal/document/auto-insert-180587/>

See also previous submission of IFOR and CPTI, September 2012, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCSS%2fISR%2f18241&Lang=en. The submission refers to similar text in the Written Replies of Israel to the Human Rights Committee.

⁶ Available at: <https://undocs.org/CCPR/C/ISR/4>

⁷ Available at: <https://undocs.org/pdf?symbol=en/A/RES/33/165>

⁸ Yesh Din, *The Occupation of the West Bank and the Crime of Apartheid: Legal Opinion*, June 2020, available at: <https://www.yesh-din.org/en/the-occupation-of-the-west-bank-and-the-crime-of-apartheid-legal-opinion/>

⁹ B’ Tselem, *A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is apartheid*, 12 January 2021, available at: https://www.btselem.org/publications/fulltext/202101_this_is_apartheid

¹⁰ See “Canada : résolution sur la position du Canada à l’égard de la Palestine, Résolution adoptée par le 38e Congrès de la FIDH”, published on 25 May 2013, available at: <https://www.fidh.org/fr/regions/ameriques/canada/canada-resolution-sur-la-position-du-canada-a-l-egard-de-la-palestine-13779>

See also: FIDH Statement, “The international community must hold Israel responsible for its crimes of apartheid”, 28 April 2021, available at: <https://www.fidh.org/en/region/north-africa-middle-east/israel-palestine/the-international-community-must-hold-israel-responsible-for-its>

¹¹ HRW, *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution*, 27 April 2021, available at: <https://www.hrw.org/news/2021/04/27/abusive-israeli-policies-constitute-crimes-apartheid-persecution> Full report at: <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>

Rapporteur on freedom of religion or belief have also taken up cases of selective conscientious objectors (E/CN.4/2005/6/Add.1, opinion No. 24/2003; A/HRC/23/51, case No. USA 34/2012).¹² [emphasis added]

As cited by the **UNHCR**: “Conscientious objection to military service refers to an objection to such service which “derives from principles and reasons of conscience, including profound convictions, arising from religious, moral, ethical, humanitarian or similar motives.”¹³ Such an objection is not confined to **absolute conscientious objectors** [pacifists], that is, those who object to all use of armed force or participation in all wars. It also encompasses those who believe that “the use of force is justified in some circumstances but not in others, and that therefore it is necessary to object in those other cases” [**partial or selective** objection to military service].¹⁴ A conscientious objection may develop over time, and thus volunteers may at some stage also raise claims based on conscientious objection, whether absolute or partial.”¹⁵

The **OHCHR** has explicitly stated that “States should ensure that the right to object applies both to pacifists and to selective objectors who believe that the use of force is justified in some circumstances but not in others”¹⁶ and has included among the minimum criteria for application procedures to comply with international human rights norms and standards, the:

“Recognition of selective conscientious objection.

The right to object also applies to selective objectors who believe that the use of force is justified in some circumstances but not in others”.¹⁷

B) Non-independence of the body examining applications for exemption for reasons of conscience

In its 5th report, Israel states:

“273. Request which show *prima facie* substantial grounds for an exemption for reasons of conscience are brought before the Special Military Committee. The committee is headed by the IDF’s Chief Enlistment Officer at a rank of a lieutenant colonel or higher and comprised of a representative of the human resources branch, an officer at a rank of captain or higher with psychological training from the behaviour science branch, a legal advisor from the Military Advocate General’s Corps, and a civilian representative, usually from the Academia. All of the committee members are independent in formulating their recommendation.

¹² OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, (A/HRC/41/23), 24 May 2019, para. 26. Available at: <https://undocs.org/A/HRC/41/23>

¹³ See, UN Commission on Human Rights, Resolution 1998/77, “Conscientious Objection to Military Service”, E/CN.4/RES/1998/77, 22 April 1998, available at: <http://www.refworld.org/docid/3b00f0be10.html>. The Commission was replaced by the UN Human Rights Council in 2006.

¹⁴ See, UN Conscientious Objection to Military Service, E/CN.4/Sub.2/1983/30/Rev.1, 1985 (the “Eide and Mubanga-Chipoya report”), available at: <http://www.refworld.org/pdfid/5107cd132.pdf>, para. 21. See also, paras. 128-135 regarding persecution in the context of conscientious objection to conflicts which violate basic rules of human conduct.

¹⁵ UNHCR, *Guidelines on International Protection No. 10*, HCR/GIP/13/10/Corr. 1, 12 November 2014, p. 1, available at: <https://www.unhcr.org/publications/legal/529efd2e9/guidelines-international-protection-10-claims-refugee-status-related-military.html>

¹⁶ Analytical report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/35/4, 1 May 2017, para. 63. Available at: <https://undocs.org/A/HRC/35/4>

¹⁷ OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, (A/HRC/41/23), 24 May 2019, para. 60(d). Available at: <https://undocs.org/A/HRC/41/23>

274. The committee examines the requests in accordance with the law and the jurisprudence of the HCJ. The applicant may present evidence and call upon witnesses before the committee, in order to support his/her request and has the right to be represented by an attorney throughout the proceedings.

275. The committee is authorized to grant an exemption or to deny the request. The committee is also authorized, in certain cases, to recommend certain leniencies and adjustments to the applicant's service, such as permission not to carry arms or to wear uniforms during his/her service, or assignment to a non-combat unit, so as to ensure the applicant's military service will meet, to the extent possible, the requirements of their conscience and personal beliefs."

Despite previous *Concluding Observations*, Israel continues to have a "Special Military Committee" examining the applications, with military members, with the exception of a civilian member. This contravenes all international human rights standards, (as well regional standards, e.g., of the Council of Europe), that the examination procedures should be placed under the full control of civilian authorities (i.e., be transferred from the military / the Ministry of National Defence) by a panel with a wholly civilian composition.¹⁸ And results in violation of Article 18 and other articles of the Covenant.

International human rights standards on the procedures and the body examining applications for conscientious objector status

- The then **UN Special Rapporteur on religious intolerance**, since many years had set the relevant standards: "The decision concerning their status should be made, when possible, by an impartial tribunal set up for that purpose or by a regular civilian court, with the application of all the legal safeguards provided for in international human rights instruments. There should always be a right to appeal to an independent, civilian judicial body. The decision-making body should be entirely separate from the military authorities and the conscientious objector should be granted a hearing and be entitled to legal representation and to call relevant witnesses."¹⁹

The same standards continue to be cited by the **UN Special Rapporteur on freedom of religion or belief**²⁰ and the **Office of the United Nations High Commissioner for Human Rights (OHCHR)**.²¹

- The **OHCHR** has determined that "Independent and impartial decision-making bodies should determine whether a conscientious objection to military service is genuinely held in a specific case. Such bodies should be placed under the full control of civilian authorities".²² In the same report, the

¹⁸ In this regard see also the Joint Public Statement of Amnesty International, Connection e.V., EBCO, IFOR, and WRI about Greece where there is also military participation in the equivalent Committee: "Greece: Charis Vasileiou should have a fair examination of his grounds for conscientious objection under an amended legislative framework in line with international law and standards", 2 September 2021, available at: <https://www.amnesty.org/en/documents/eur25/4670/2021/en/>

¹⁹ Report submitted by Mr. Angelo Vidal d Almeida Ribeiro, Special Rapporteur appointed in accordance with Commission on Human Rights resolution 1986/20 of 10 March 1986 (E/CN.4/1992/52), 18 December 1991, para. 185. (page 178). Available at: <https://undocs.org/E/CN.4/1992/52>

²⁰ A/HRC/6/5, para. 22, available at: <https://undocs.org/A/HRC/6/5>, A/HRC/19/60/Add.1, para. 56, available at: <https://undocs.org/A/HRC/19/60/Add.1>,

A/HRC/22/51/Add.1, para. 69, available at: <https://undocs.org/A/HRC/22/51/Add.1>

²¹ OHCHR, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/35/4), 1 May 2017, para. 17. Available at: <http://undocs.org/A/HRC/35/4>

²² OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious

OHCHR has set up several minimum criteria so that application procedures are in line with international human rights norms and standards.²³ The **OHCHR** has also cited acceptance of applications without inquiry as a best practice.²⁴

- Since 1998, the then **UN Commission on Human Rights** has welcomed the fact that some States accept claims of conscientious objection as valid without inquiry.²⁵ The same has been repeated by its successor, the **UN Human Rights Council**.²⁶

- The **Human Rights Committee** has repeatedly stated in the case of Israel that “the special Committee making recommendations to the competent authorities on conscientious objection applications be made fully independent, and proceedings before it include hearings and provide for a right to appeal against negative decisions”.²⁷ Similarly, in the case of Greece the Committee has recommended to “consider placing the assessment of applications for conscientious objector status under the full control of civilian authorities”.²⁸

Worth noting also that the **Parliamentary Assembly of the Council of Europe**, to which Israel is an Observer,²⁹ has set specific basic principles as for the procedure: Where the decision regarding the recognition of the right to conscientious objection is taken in the first instance by an administrative authority, the decision-taking body shall be entirely separate from the military authorities and its composition shall guarantee maximum independence and impartiality; the decision shall be subject to control by at least one other administrative body, composed likewise in the manner prescribed above, and subsequently to the control of at least one independent judicial body; it should be ensured that objections and judicial appeals have the effect of suspending the armed service call-up order until the decision regarding the claim has been rendered; applicants should be granted a hearing and should also be entitled to be represented and to call relevant witnesses.³⁰

C) Trials of conscientious objectors by military courts

In its 5th Report Israel cites:

“277. In the event that such a person continues to disregard the orders given to him/her by his/her commander to complete the enlistment process, the military authorities may order disciplinary proceedings and even file a criminal indictment **in a military court**

objector to military service in accordance with human rights standards, (A/HRC/41/23), 24 May 2019, para. 60 (g). Available at: <https://undocs.org/A/HRC/41/23>

²³ OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, (A/HRC/41/23), 24 May 2019, pp. 14 and 15. Available at: <https://undocs.org/A/HRC/41/23>

²⁴ OHCHR, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/35/4), 1 May 2017, para. 34. Available at: <http://undocs.org/A/HRC/35/4>
See also [A/HRC/23/22](https://undocs.org/A/HRC/23/22), para. 48 and [E/CN.4/2006/51](https://undocs.org/E/CN.4/2006/51), para. 36.

²⁵ UN Commission on Human Rights, [Resolution 1998/77](https://undocs.org/E/CN.4/RES/1998/77), Conscientious objection to military service, 22 April 1998, (E/CN.4/RES/1998/77), para. 2.

²⁶ UN Human Rights Council, Resolution 24/17 (A/HRC/RES/24/17), 8 October 2013, para. 7. Available at <https://undocs.org/A/HRC/RES/24/17>

²⁷ CCPR/C/ISR/CO/4, para. 23.

²⁸ UN Human Rights Committee, Concluding observations on the second periodic report of Greece, (CCPR/C/GRC/CO/2), 3 December 2015, paras. 37-38.

Available at <https://undocs.org/CCPR/C/GRC/CO/2>

²⁹ <https://www.coe.int/en/web/portal/47-members-states>

³⁰ Council of Europe, Parliamentary Assembly, [Resolution 337 \(1967\)](https://www.coe.int/t/e/resolutions/1967/337/337_1967.htm), Right of conscientious objection, paras. b2, b3, b4 and b5.

against him/her. Criminal proceedings are, of course, filed based on the person's disobedience of a lawful order, rather than on the basis of their particular political views."

[emphasis added]

Trials of conscientious objectors by military courts constitute a violation of the right to fair trial, and therefore of **article 14(1) of the ICCPR**.

International and regional human rights standards about trials of conscientious objectors by military courts

- The **Human Rights Committee** has already stated, specifically in the case of conscientious objectors that it "deplores [...] their punishment by military courts".³¹
- In the "**Draft principles governing the administration of justice through military tribunals**", it is explicitly stated that: "Conscientious objectors are civilians who should be tried in **civil courts**, under the supervision of **ordinary judges**".³²
- The **European Court of Human Rights** has repeatedly ruled against the trials of conscientious objectors by military courts, finding a **violation of article 6(1) of the ECHR, equivalent to Article 14(1) of the ICCPR**.³³

D) Imprisonment of conscientious objectors

Not only does Israel not recognise the right to conscientious objection to military service in accordance with the international human rights standards, but it also punishes conscientious objectors with imprisonment. Recently, conscientious objectors have been imprisoned for several days or weeks, but the overall imprisonment is of several months, as in the cases cited in Annex II submitted by the State Party.

Apart from the two cases cited in the Annex II of the State Party's report, IFOR has compiled a non-exhaustive list of further 22 cases of conscientious objectors imprisoned since 2016.³⁴ According to the information provided by media, regarding these cases, the maximum number of prison terms for a conscientious objector has been 8, and the maximum total time spent in prison by a conscientious objector has been 150 days.

Regardless of the disciplinary or criminal character of the imprisonment, and regardless of the period of imprisonment, the imprisonment of conscientious objectors to military service, apart from a violation of art. 18(1) of ICCPR, also constitutes a **violation of art. 9(1) of ICCPR**. The Human Rights Committee has repeatedly stated in recent years "that just as detention as punishment for the legitimate exercise of the right to freedom of expression, as guaranteed by article 19 of the Covenant is

³¹ Human Rights Committee, *Concluding Observations* on the initial report of Armenia (CCPR/C/79/Add.100), 19 November 1998, para. 18. Available at: <https://undocs.org/CCPR/C/79/Add.100>

³² UN Economic and Social Council, Commission on Human Rights, (E/CN.4/2006/58), 13 January 2006, Draft principles governing the administration of justice through military tribunals, Principle No. 6 "Conscientious objection to military service", para. 22. Available at: <https://undocs.org/E/CN.4/2006/58>

³³ ECtHR, *Ercep v Turkey* (43965/04), 22 November 2011, para. 70; *Savda v Turkey* (42730/05), 12 June 2012, para. 111; *Feti Demirtas v Turkey* (5260/07), 17 January 2012, para. 125; *Bouldu and others v. Turkey*, (14017/08), 3 June 2014, para. 99.

³⁴ See the Appendix to the present report.

arbitrary, so too is detention as punishment for legitimate exercise of freedom of religion and conscience, as guaranteed by article 18 of the Covenant.”³⁵

E) Repeated imprisonment of conscientious objectors in violation of the *ne bis in idem* principle (art. 14(7)) and article 18(2)

In Israel, punishment for failure to perform military service does not entail exemption from military duties. Conscientious objectors are thus repeatedly imprisoned.

The Human Rights Committee has repeatedly stated that “repeated punishment of conscientious objectors for not obeying a renewed order to serve in the military may amount to punishment for the same crime if such subsequent refusal is based on the same constant resolve grounded in reasons of conscience”³⁶ and has found a violation of Article 14 (7) of ICCPR in various cases of conscientious objectors in other countries.³⁷

In the case of Israel, the Human Rights Committee in its previous *Concluding Observations* reiterated “its concern that individuals whose conscientious objection applications are rejected may be repeatedly imprisoned for their refusal to serve in the armed forces (arts. 14 and 18)” and concluded that “The State party should also refrain from repeated imprisonment for refusal to serve in the armed forces that may constitute a violation of the principle of *ne bis in idem*.”³⁸

In 2010 the Human Rights Committee had also noted that “persons whose conscientious objection is not accepted by the Committee may be repeatedly imprisoned for their refusal to serve in the armed forces (arts. 14 and 18)” and had concluded that “Repeated imprisonment for refusal to serve in the armed forces may constitute a violation of the principle of *ne bis in idem* and should therefore be ceased”.³⁹

However, the practice of repeated imprisonment of conscientious objectors does not constitute only a violation of art. 14(7) of the ICCPR, but **also a violation of art. 18(2)**, as pointed out by the Working Group on Arbitrary Detention:

“Notwithstanding the above, repeated incarceration in cases of conscientious objectors is directed towards changing their conviction and opinion, under threat of penalty. The Working Group considers that this is incompatible with article 18, paragraph 2, of the International Covenant on Civil and Political Rights, under which no one shall be subject to coercion which would impair his freedom to have or adopt a belief of his choice”.⁴⁰

The concept of repeated punishment “tantamount to compelling a person to change his or her convictions and beliefs” can be found also in opinions of the UN Working Group on Arbitrary Detention on individual cases of conscientious objectors, including in Israel.⁴¹

³⁵ See Young-kwan Kim et al. v. Republic of Korea, para. 7.5, Petromelidis v. Greece, para. 9.8.

³⁶ See the Committee’s general comment No. 32 (2007) on article 14: right to equality before courts and tribunals and to a fair trial, para. 55. Available at: <https://undocs.org/en/CCPR/C/GC/32>

³⁷ See communication *Zafar Abdullayev v Turkmenistan* para 7.4 and 7.5. See also *Nasyrlayev v. Turkmenistan*, para. 8.5, *Nurjanov v. Turkmenistan*, para. 9.7, *Aminov v. Turkmenistan*, para. 9.5, *Matyakubov v. Turkmenistan*, para. 7.5, *Petromelidis v. Greece*, para. 9.11.

³⁸ CCPR/C/ISR/CO/4, para. 23.

³⁹ CCPR/C/ISR/CO/3, para. 19.

⁴⁰ Report of the Working Group on Arbitrary Detention, E/CN.4/2001/14 (Recommendation 2: detention of conscientious objectors), para. 93. Available at: <https://undocs.org/E/CN.4/2001/14>

⁴¹ Working Group on Arbitrary Detention, Opinion 16/2008 (Turkey), para. 39. Available at:

<http://undocs.org/A/HRC/10/21/Add.1>

See also: Opinion No. 24/2003 (Israel), para. 30. Available at: <http://undocs.org/E/CN.4/2005/6/Add.1>

Opinion No. 36/1999 (Turkey) para. 9. Available at: <http://undocs.org/E/Cn.4/2001/14/add.1>

Worth noting also that the Committee has referred to such opinions of the UN Working Group on Arbitrary Detention on individual cases, and the exact paragraphs, when it commented on the issue of repeated punishment of conscientious objectors.⁴²

⁴² See General Comment No. 32 of the Human Rights Committee, 23 August 2007, CCPR/C/GC/32, para. 55, referring with the note 113 exactly to the United Nations Working Group on Arbitrary Detention, Opinion No. 36/1999 (Turkey), E./CN.4/2001/14/Add. 1, para. 9 and Opinion No. 24/2003 (Israel), E/CN.4/2005/6/Add. 1, para. 30.

RECOMMENDATIONS

IFOR kindly requests the Human Rights Committee to examine the issue of conscientious objectors to military service in Israel under the articles **9(1), 18(1), 18(2), 14(1), 14(7)** and to form its *Concluding Observations* in accordance with the following recommendations towards the State Party under review:

- The special Committee deciding on conscientious objection applications should be made fully independent, including being separate by the military authorities and entirely civilian, and proceedings should provide for a right to appeal against negative decisions to independent administrative and judicial bodies.
- Recognise in law and practice the right to conscientious objection, including selective objection, in accordance with international law and human rights standards.
- Immediately cease the imprisonment of conscientious objectors, including repeated imprisonment in violation of the *ne bis in idem* principle (art. 14(7)) and of the right not to be subject to coercion which would impair one's freedom to have or to adopt a religion or belief of his choice (art. 18(2)).
- Prohibit in law trials of conscientious objectors by military courts.
- Provide full reparation to conscientious objectors whose Covenant rights have been violated.

APPENDIX

Known cases of imprisoned conscientious objectors since 2016

Apart from the two cases cited in Annex II of the report of the State Party (**Tair Kaminer** and **Atalya Ben-Abba**) public information are available for several other cases such as:

1. **Shahar Peretz**, served 3 prison terms and a total of 58 days in 2021. Sentenced to a 4th term of 30 days in December 2021.⁴³
2. **Eran Aviv**, received an exemption from military service after spending a total of 114 days in military jail for refusing to enlist to the Israeli military and not be complicit in the occupation of the Palestinian territories.⁴⁴
3. **Oren Feld**, released in November 2021 after 14 days of imprisonment for refusing reservist service.⁴⁵
4. **Shlomo (pseudonym)**, recognized as a conscientious objector in the summer of 2021 and released from military service after 4 prison terms and 49 days in jail.⁴⁶
5. **Hallel Rabin** was released by December 2020, after 56 days in Military Prison.⁴⁷
6. **Yasmin Ricci-Yahav**, released in 2020 after a total of 74 days in prison.⁴⁸
7. **Roman Levin** released in August 2019, after 4 prison terms and a total of 82 days, mostly in solitary confinement.⁴⁹
8. **Maya Brand-Feigenbaum**, exempted and released in August 2019, after 2 prison terms and a total of 25 days in prison.⁵⁰
9. **Kamal Zidan**, an Arab-Druze citizen of Israel, sentenced to 5 days in prison in April 2019.⁵¹
10. **Adam Rafaelov**, discharged in January 2019 after 8 prison terms and a total of 104 days in prison.⁵²
11. **Hillel Garmi**, discharged in December 2019, after 7 prison terms and a total of 107 days in prison.⁵³
12. **Luhar Altman**, imprisoned for 10 days in August 2018.⁵⁴
13. **Ayelet Brachfeld**, recognized as a conscientious objector in July 2018, after 4 prison terms and a total of 100 days in prison.⁵⁵
14. **Matan Helman**, discharged in April 2018, after 6 prison terms and a total of 110 days in prison.⁵⁶
15. **Ophir Averbuch**, discharged and released by November 2017, after 8 prison terms and a total of 150 days in prison.⁵⁷

⁴³ <https://www.refuser.org/refuser-updates/2021/12/7/-act-now-israeli-refusers-need-your-support>

⁴⁴ <https://wri-irg.org/en/story/2021/israel-refuser-eran-aviv-released-after-spending-114-days-military-prison>

See also: <https://www.refuser.org/refuser-updates/eranisfree>

⁴⁵ <https://www.refuser.org/refuser-updates>

⁴⁶ <https://www.refuser.org/refuser-updates/shlomo-released>

⁴⁷ <https://www.refuser.org/refuser-updates/hallel-out-of-jail>

⁴⁸ <https://www.refuser.org/refuser-updates/2020/7/12/finally-released-after-74-days-in-israeli-prison>

⁴⁹ <https://wri-irg.org/en/story/2019/israel-conscientious-objector-released-after-82-days-solitary-confinement>

⁵⁰ <https://www.jpost.com/israel-news/idf-releases-teen-imprisoned-for-refusing-to-enlist-599802>

⁵¹ <https://www.972mag.com/druze-draft-refuser-sent-israeli-military-prison/>

⁵² <https://www.972mag.com/conscientious-objector-released-military-prison-104-days/>

⁵³ <https://www.972mag.com/conscientious-objector-released-107-days-military-prison/>

⁵⁴ <https://wri-irg.org/en/programmes/rtrk/co-action-alert/2018/israel-refusers-hilel-garmi-and-luhar-altman-imprisoned>

⁵⁵ <https://www.972mag.com/idf-releases-conscientious-objector-after-100-days-in-military-prison/>

⁵⁶ <https://www.972mag.com/with-my-head-held-high-conscientious-objector-freed-after-110-days-in-prison/>

⁵⁷ <https://www.972mag.com/conscientious-objector-freed-after-150-days-in-idf-prison/>

See also: <https://tv.social.org.il/en/contribute-to-society-without-weapons>

16. **Hadas Tal**, spent at least 60 days in prison by November 2017.⁵⁸
17. **Noa Gur Golan**, discharged and released in October 2017, after a total of 98 days in prison.⁵⁹
18. **Tamar Alon**, discharged and released in April 2017, after 6 prison terms and a total of 130 days in prison.⁶⁰
19. **Tamar Ze'evi**, recognized as a conscientious objector and released in March 2017, after a total of 115 days in prison.⁶¹
20. **Omri Baranes**, recognized as a pacifist and released in August 2016 after 67 days in prison.⁶²
21. **Kai Hen**, released after 30 days in prison in July 2016.⁶³
22. **Aiden Katri**, imprisoned for 7 days in March 2016.⁶⁴

The above list is not exhaustive.

⁵⁸ <https://www.972mag.com/conscientious-objector-sentenced-to-10-days-behind-bars/>

See also: <https://www.972mag.com/conscientious-objector-freed-after-150-days-in-idf-prison/>

⁵⁹ <https://www.972mag.com/after-98-days-in-prison-idf-releases-conscientious-objector/>

⁶⁰ <https://www.972mag.com/after-130-days-in-prison-idf-frees-conscientious-objector-tamar-alon/>

⁶¹ <https://www.972mag.com/for-first-time-in-13-years-idf-recognizes-female-refuser-as-conscientious-objector/>

⁶² <https://www.972mag.com/idf-released-conscientious-objector-after-67-days-in-prison/>

⁶³ <https://www.972mag.com/idf-releases-longest-serving-female-conscientious-objector/>

See also: <https://www.972mag.com/israeli-conscientious-objector-released-from-military-prison-after-160-days/>

⁶⁴ <https://www.972mag.com/transgender-conscientious-objector-is-sent-to-israeli-military-prison/>

<https://wri-irg.org/en/node/26279>