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NAGORNO-KARABAKH: No guarantees for religious conscientious objectors

By Felix Corley, Forum 18

The proposed Nagorno-Karabakh Constitution may have little practical impact. However, human rights activists and religious believers are concerned, they have told Forum 18 News Service, about the absence of any guarantee of alternative non-military service. "If alternative service is not there in the constitution, it doesn't make it impossible for it to be introduced later - the Constitution is not dogma. But it does make it more difficult," Albert Voskanyan of the Centre for Civilian Initiatives told Forum 18. "It is bad that such a provision is not there, just as it is bad it is not there in the Armenian Constitution," Jehovah's Witness lawyer Lyova Markaryan told Forum 18. Two Jehovah's Witnesses and one Baptist have been jailed in recent years for refusing military service on grounds of conscience. Some have also expressed concern about the draft Constitution's recognition of the Armenian Apostolic Church's "exclusive mission" as the "national church."

Human rights activists and religious believers have told Forum 18 News Service of their concern about the absence of a guarantee of alternative non-military service in the draft Constitution. This was approved almost unanimously by the Nagorno-Karabakh parliament on 1 November and is due to be voted on in a referendum on 10 December.

If approved, the Constitution will be the first for the unrecognised entity of Nagorno-Karabakh in the South Caucasus. As with constitutions in other parts of the region, this constitution is unlikely to be more than a decorative document.

Despite this, it may still cause problems. The proposed article 57 requires all to take part in the entity's defence and makes no mention of any alternative service. "Society and the authorities here are not ready for this," Albert Voskanyan of the Centre for Civilian Initiatives told Forum 18 from the capital Stepanakert on 2 November. "If alternative service is not there in the constitution, it doesn't make it impossible for it to be introduced later - the Constitution is not dogma. But it does make it more difficult."

Hoping for the introduction of alternative service were the Jehovah's Witnesses, two of whom have been sentenced in Nagorno-Karabakh in recent years for refusing military service on grounds of conscience. One, Areg Hovhanesyan, is still serving his four-year sentence in the prison in Shusha (see F18News 22 February 2005 http://www.forum18.org/Archive.php?article_id=517). "It is bad that such a provision is not there, just as it is bad it is not there in the Armenian Constitution," Jehovah's Witness lawyer Lyova Markaryan told Forum 18 from the Armenian capital Yerevan on 6 November. "It would be better if it were there. This would enhance the rights of individuals to confess their religion."

A Baptist conscript, Gagik Mirzoyan, has also been jailed in Nagorno-Karabakh for refusing to swear the military oath and bear arms on grounds of conscience. Although now out of prison and back in a military unit, it is unclear whether the authorities will take further action against him (see F18News 18 September 2006 http://www.forum18.org/Archive.php?article_id=841). Fellow Baptist Garnik Abreyan told Forum 18, from Stepanakert on 6 November, that Mirzoyan is "well" and "has no complaints" in his unit.

Voskanyan of the Centre for Civilian Initiatives told Forum 18 that Mirzoyan was visited twice in his unit by the military prosecutor's office since being freed from prison, but is now being left to serve without swearing the military oath and without weapons. "The authorities don't want any fuss about his case right now, but we don't know what will happen to Gagik in future."

Voskanyan said his group wrote to the entity's parliament on 30 October, calling for the provision of an alternative non-military service to be introduced in the draft constitution. "Fully realising the complexity of the situation of 'neither war, nor peace'," his group told parliament, "we are sure that the given measure would not pose a threat to national security, as international practice shows that those who take up alternative civilian service comprise an insignificant percentage of the total number of those called up."

However, Ashot Gulyan, the speaker of the Nagorno-Karabakh parliament, told Forum 18 from Stepanakert on 6 November that, given the absence of a final peace agreement, "we can't allow other forms of service". He dismissed suggestions that only a handful of people would opt for alternative service were it to be introduced, even if such service were for example in medical facilities along the frontline. But he claimed the Nagorno-Karabakh authorities would consider such alternative service "in the future".

Nagorno-Karabakh has adopted Armenia's Criminal Code, which also punishes conscientious objection – see eg. F18News 23 February 2006 http://www.forum18.org/Archive.php?article_id=733. With backing from Armenia, Nagorno-Karabakh fought a bitter war with Azerbaijan in the late 1980s and early 1990s. One Armenian citizen, Jehovah's Witness conscientious objector Armen Grigoryan, who was illegally deported from Armenia to Nagorno-Karabakh, was given a two-year prison term in Karabakh and sent back to Armenia to serve the sentence (see F18News 7 July 2005 http://www.forum18.org/Archive.php?article_id=600 and 17 May 2005 http://www.forum18.org/Archive.php?article_id=563).

Voskanyan of the Centre for Civilian Initiatives – who has campaigned for the release of imprisoned conscientious objectors - stressed to Forum 18 that his group will continue to lobby for alternative service to be included both in the constitution and in other laws and practice.

Some human rights activists and religious minorities have also expressed concern about a provision in the draft Constitution recognising the Armenian Apostolic Church's "exclusive mission" as the "national church in the spiritual life of the people of Artsakh [Nagorno-Karabakh] and in the cause of the development of its national culture and preservation of national identity". Markaryan of the Jehovah's Witnesses described the provision to Forum 18 as "a sign of no tolerance".

But parliamentary speaker Gulyan dismissed any concerns. "The word 'exclusive' does not exclude anything," he told Forum 18. "This will have no negative impact on other faiths."

Asked why, if the provision will have no impact, it was included in the draft, Gulyan responded: "It is to show we come from a long Christian tradition over many centuries and that we respect the role of the Armenian Apostolic Church." Asked whether this provision referred solely to the past, he replied: "It applies to the past, to today and to the future."

The controversial provision – which is lifted almost word-for-word from the 2005 constitution of neighbouring Armenia – comes in Article 10 part 2 of the draft constitution.

Parliamentary speaker Gulyan stressed to Forum 18 that part 1 of Article 10 guarantees that religion is separate from the state. "For us, part 1 is more important. The state doesn't interfere in religious issues." He also pointed out that Article 26 guarantees freedom of thought, religion and belief and the free functioning of religious communities "functioning in the order prescribed by law". Asked to explain this phrase, Gulyan said that this refers to religious communities which have state registration. Asked what this means for religious communities that do not have or do not want legal status he gave contradictory replies. "Religious communities can't function without registration," he declared first. He then mentioned Baptists and others who function without legal status. "They meet, don't they? That's OK."

The Jehovah's Witnesses – who claim more than 200 adherents in Nagorno-Karabakh, mostly in Stepanakert – are one of the more visible religious minorities. Markaryan said they are not obstructed in holding meetings in private homes. He said the community has not sought legal status in Karabakh as no religion law exists setting out such rights to such status. He said partly for that reason the community has not tried to build a Kingdom Hall for meetings in Stepanakert.

Abreyan, a leader of the Council of Churches Baptist congregation in Stepanakert, who refuse on principle to register with the authorities, said he had not studied the draft of the constitution. "Maybe this provision would be a minus," he told Forum 18, "but I don't have time to devote to politics." He said his church can currently meet for worship. In the past, his and other small Protestant congregations have been obstructed in trying to meet for worship (see F18News 27 September 2004 http://www.forum18.org/Archive.php?article_id=420).

Members of other Protestant denominations with small groups in Nagorno-Karabakh declined to comment on the draft constitution or on the life of their communities.

Voskanyan of the Centre for Civilian Initiatives rejected the idea of giving the Armenian Church any exclusive mission in the new constitution. "I believe this is not right," he told Forum 18. "There should be no monopoly for any one Church. Our people have just copied this from the Armenian Constitution." (END)

A printer-friendly map of the disputed enclave of Nagorno-Karabakh is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=azerba> within the map titled 'Azerbaijan'.

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