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22 December 2014

Submission to the UN Human Rights Committee

Prior to the Adoption of the List of Issues

(113th Session – 16 March – 2 April 2015)

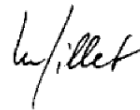
Fourth periodic report pursuant to article 40 of the Covenant

Republic of Korea

(115th Session of the Human Rights Committee, 19 October – 6 November 2015)



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APPENDICES

Appendix 1 – Brochure entitled Conscientious Objection to Military Service in Korea

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SUMMARY OF THE SUBMISSION

This submission to the Human Rights Committee (CCPR) on the Republic of Korea highlights violations of the provisions of the International Covenant on Civil and Political Rights (“ICCPR”) prior to the adoption of the *List of issues to be taken up in connection with the consideration of the fourth report of the Republic of Korea* (CCPR/C/KOR/4).

Jehovah’s Witnesses have been active in Korea for more than 100 years and generally enjoy freedom of worship. One significant issue is the government of South Korea’s relentless prosecution of conscientious objectors to military service. Since 1950, more than 18,000 of Jehovah’s Witnesses have been sentenced to almost 35,000 years in prison for refusing to perform military service. Since the CCPR first ruled regarding Korean conscientious objectors on November 3, 2006, Korea has imprisoned 4,880 Witnesses on this issue through October 2014. (see appendix 1)

The significant number of Witnesses in South Korea incarcerated for their faith has produced an ongoing stigmatization of Jehovah’s Witnesses in Korea, with weighty repercussions. The decades-long discrimination in South Korea seems to have no precedent elsewhere in regard to the issue of conscientious objection to military service.

Jehovah’s Witnesses are known in South Korea and worldwide as peaceful, law-abiding citizens willing to serve their community, yet in South Korea young Witness men are treated by the government as criminals deserving to be imprisoned for their refusal to serve in the military. These are brave young men who respond to the government’s call-up knowing that they will be convicted and sent to prison. They are model citizens before imprisonment and they are model prisoners.

Once released from prison, they face a lifetime of discrimination because they have a criminal record that makes it nearly impossible for them to find employment in the public sector or with larger corporations. This constitutes a gross human rights violation of the rights protected by the ICCPR.

Jehovah’s Witnesses in South Korea and as a worldwide organization respectfully request the government of the Republic of Korea to:

- (1) Recognize the legal right of conscientious objection to military service as protected by article 18 of the ICCPR and found in General Comment No. 22;
- (2) Prevent future violations by adopting legislative measures guaranteeing the right to conscientious objection and that are in line with international standards and obligations which South Korea accepted as a State party to the ICCPR;
- (3) Grant amnesty for conscientious objectors currently imprisoned;
- (4) Expunge the criminal record of those convicted for conscientious objection to military service and provide for rehabilitation of their civil rights; and
- (5) Educate civil society to stop discrimination of Jehovah’s Witnesses over their firm stand as conscientious objectors (see appendix 2).

I. Introduction

1. The European Association of Jehovah's Christian Witnesses (EAJCW) is a charity registered in the United Kingdom. It is assisting the adherents of the faith of Jehovah's Witnesses in various areas of the world.
2. Jehovah's Witnesses have been present in Korea since 1912. There are now more than 100,000 Jehovah's Witnesses living in Korea. They have enjoyed freedom to worship since receiving national registration in 1952. However, South Korea has a long history of imprisoning Jehovah's Witnesses for their scripturally-based refusal to bear arms. At present, approximately 600 Witnesses are being held for conscientious objection (Please see appendix 1).
3. Jehovah's Witnesses have been stigmatized for decades as criminals for their firm stand regarding their refusal to enrol in the army as conscientious objectors. It is noteworthy that young Jehovah's Witnesses are still facing the same issue since the CCPR adopted its concluding observations on South Korea (CCPR/C/KOR/CO/3) at its 2422nd meeting (CCPR/C/SR.2422), held on 3 November 2006, and numerous Views of the CCPR that find violations in the position of Korean authorities.
4. This submission focuses on the blatant violations of the rights protected under articles 18, 21, 22, and 27 of the ICCPR.

II. Alleged Violations of the International Covenant on Civil and Political Rights (ICCPR – Articles 18, 21, 22, and 27)

Freedom of thought, conscience and religion and right to non-discrimination (ICCPR – Articles 18 and 27)

No option for conscientious objectors to military service

5. The government of South Korea has no legislative provision for alternative civilian service. Conscientious objectors cannot decline military training or choose alternative civilian service. Young Witness men suffer imprisonment rather than violate their Bible-trained conscience and personally held religious convictions. The inaction of the government to provide a solution has perpetuated this situation for more than 60 years.
6. The South Korean authorities refuse to follow the Committee's clear recommendations that they take all necessary measures to recognize the right of conscientious objectors to be exempted from military service and to bring legislation in line with article 18 of the Covenant (CCPR/C/KOR/CO/3). The Ministry of Defence has been conducting research for years on introducing an alternative service system without concrete results. Several concerns, such as how to correctly identify conscientious objectors and how to maintain national security without universal conscription, have been raised by the authorities and have caused them to postpone the introduction of alternative service.
7. Young Witnesses in South Korea have undeniably proved over the decades that their refusal to serve in the army is motivated by genuinely held religious beliefs. They do not try to escape military service for self-serving reasons. Rather, without an alternative that respects their conscience, they suffer as criminals. The Grand Chamber of the European Court of Human Rights (ECHR) reached this conclusion in its landmark judgment *Bayatyan v. Armenia*, issued on **7 July 2011**:

“The Court...considers that opposition to military service, where it is motivated by a serious and insurmountable conflict between the obligation to serve in the army and a person's conscience or his deeply and genuinely held religious or other beliefs, constitutes a conviction or belief of sufficient cogency, seriousness, cohesion and importance to attract the guarantees of Article 9.”

“The applicant in the present case is a member of Jehovah's Witnesses...The applicant's objection to military service was motivated by his religious beliefs, which were genuinely held and were in serious and insurmountable conflict with his obligation to perform military service.”—*Bayatyan v. Armenia* [GC], no. 23459/03, §§ 110, 111, ECHR 2011 (see appendix 3).

8. South Korea argues that the restriction on conscientious objectors is necessary for public safety, in order to maintain its national defence capacities. The Committee has consistently rejected this argument in its Views, emphasizing that South Korea has failed to show how it would be disadvantaged if the rights of the authors under article 18 were to be fully respected. An increasing number of domestic court magistrates expressed similar thoughts, as found in rulings that referred the criminal cases to the Constitutional Court of Korea for review:

“There is no substantial and specific evidence or data available that the adoption of the system of alternative service would undermine national security and equality of imposing the burden of military duty.”—*Judge Gwan-gu Kim, Changwon Masan District Court, August 9, 2012, 2012Chogi8*.

“There is no sufficient reason to claim that national security will be severely endangered to the extent that it would be impossible to protect human dignity and [the] value of all citizens when a minority, including Jehovah's Witnesses,...refuses to take up arms and perform military training. In fact, the defendant...has already refused to perform military duty despite punishment. If the claim [were] sufficiently grounded, national security and human dignity and the value of all citizens would already be in serious danger.”—*Judge Seung-yeop Lee, Ulsan District Court, August 27, 2013, 2013Godan601*.

9. Korea indicated in its fourth periodic report that between 2005 and 2010 among the 3,975 persons refusing to enlist and to join manual exercise for religious reasons, **3,974 were Jehovah's Witnesses** (CCPR/C/KOR/4 – Para. 271).
10. Some in the Korean legal community would also prefer to have an option other than imprisonment for cases involving conscientious objection. In his editorial, “*Dilemma Surrounding Conscientious Objection to Military Service*,” Han In-seop, a professor at the Seoul National University, School of Law, stated: “*There is hardly a judge that would categorize these objectors with committing an ethical or social offense. A detention order is not even issued to conscientious objectors as there is no worry that they will flee. With each guilty verdict that is decided, the judges are left feeling uneasy and apologetic.*”
11. Those imprisoned for conscientious objection to military service continue to suffer after their release due to the criminalization of their conscientious position, e.g., employment discrimination. Prisoners who are incarcerated for conscientious objection to military service should not be given a criminal record. The issue affects every family of Jehovah's Witnesses, and has for generations.

Ongoing criminalization of Jehovah's Witnesses due to their conscientious objection to military service

	2013												2014											
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT		
Imprisoned	634	627	612	604	626	602	580	579	599	603	607	603	513	580	602	657	649	618	581	561	576	597		
Imprisoned this month	53	49	37	62	44	21	18	20	38	56	41	40	44	73	40	91	62	16	16	10	25	38		
Sentenced prisoners	629	623	607	594	610	590	567	563	581	586	585	583	494	555	587	630	624	594	559	544	560	580		
Sentenced this month	55	50	36	57	37	24	17	16	36	57	36	41	44	67	50	80	64	17	19	15	25	37		
Trial with detention	5	4	5	10	16	12	13	16	18	17	22	20	19	25	15	27	25	24	22	17	16	17		
Trial Court	0	0	0	0	1	0	0	0	2	1	4	3	4	11	0	13	9	7	9	6	4	6		
Appellate Court	2	3	5	7	8	5	9	10	8	8	11	10	11	7	7	10	13	11	6	5	8	7		
Supreme Court	3	1	0	3	7	7	4	6	8	8	7	7	4	7	8	4	3	6	7	6	4	4		
Trial without detention	134	127	149	128	105	105	104	115	137	136	143	142	201	223	259	212	171	169	173	183	197	213		
Trial Court	100	90	110	85	67	62	61	76	100	98	101	99	151	171	203	137	93	92	95	107	119	136		
Appellate Court	21	27	31	37	29	31	28	21	24	28	33	35	41	41	45	65	67	63	65	63	63	52		
Supreme Court	13	10	8	6	9	12	15	18	13	10	9	8	9	11	11	10	11	14	13	13	15	25		
Investigated	88	75	46	31	33	29	37	56	55	48	64	72	115	100	53	35	30	34	35	41	45	57		
Appeal to Supreme Court	6	1	1	4	8	7	4	6	3	4	0	2	2	7	3	2	3	8	5	3	2	14		
Accumulative total	219	220	221	225	233	240	244	250	253	257	257	259	261	268	271	273	276	284	289	292	294	309		

Repeated punishments of conscientious objectors to reserve forces training

12. Conscientious objectors called up as reservists face multiple prosecutions and repeated punishments over an eight-year period. A reservist is not exempt from being repeatedly called up for the very training that he failed to perform, even after paying fines or serving a prison term. When a conscientious objector refuses basic reservist training, the military requires supplementary training in addition to the basic training. If he refuses the basic and the supplemental training, the military subjects him to criminal prosecution. Further refusals of basic and supplementary training bring repeated prosecution, subjecting a conscientious objector to reservist training to “multiple jeopardy.” For example, according to the 2011 Human Rights Report by the Korea Bar Association, Mr. Shin, a young Witness man, was prosecuted 37 times in the span of 6 years.
13. Currently, over 80 Jehovah’s Witnesses are caught in the cycle of repeated prosecutions, fines, and possible prison terms because of their conscientious objection to reservist training based on beliefs that coalesced after serving in the military. This treatment continues until the 8-year term of reserve forces training expires. The fines vary according to jurisdiction and timing but fines are generally KRW 200,000 (approximately USD 180) for the first conviction, KRW 300,000 (approximately USD 270) for the second conviction, KRW 500,000 (approximately USD 450) for the third conviction, and so on. Fines have been as much as KRW 3,000,000 (approximately USD 2,700).
14. Some conscientious objectors are incapable of paying their fines, which may amount to thousands of dollars each year, which will induce them to undertake labour in a “work-house” (lock-up facilities inside a prison) instead of paying the fines. The length of such labour arrangements varies from one day to three years, depending on the amount of the unpaid fine (usually calculated at one day’s labour for KRW 50,000 [approximately USD 50]). Those who can pay their fine often find their job in jeopardy because of the repeated time away from work to attend court proceedings.

Freedoms of thought, conscience and religion, rights to peaceful assembly, freedom of association, and to non-discrimination. (ICCPR – Articles 18, 21, 22 and 27)

Rejection of request to allow prisoners to attend a three-day religious convention

15. Jehovah’s Witnesses throughout South Korea held a special religious convention on the first weekend of **September 2014**. The over 100,000 Witnesses in the country attended along with thousands of international delegates. Because this was a special program for Jehovah’s Witnesses and a historic event, representatives of the Korea Branch office of Jehovah’s Witnesses met with officials of the Ministry of Justice and the Correctional Service to request that imprisoned Witness conscientious objectors attend. The legal provisions allow leave for prisoners for special occasions as stipulated in the Administration and Treatment of Correctional Institution Inmates Act.
16. By letter dated **24 June 2014**, the Ministry of Justice rejected the request stating “prison leave for the attendance of a special event of a religious group would not be appropriate.”
17. According to the law, each prison warden has authority to approve a leave in special circumstances. In **June 2014** contact was made with 35 correctional facilities, but none of the facilities allowed Witness prisoners to attend the convention.

III. Implementation of Views against the Korean Government

18. The UN Human Rights Committee (CCPR) has ruled on 4 occasions, in communications involving 501 men, that South Korea violated its ICCPR commitments by prosecuting and imprisoning conscientious objectors.
 - *Yoon and Choi v. The Republic of Korea*, communications nos. 1321 and 1322/2004, Views adopted by the Committee on 3 November 2006; p. 1. (involving 2 Witness men)
 - *Jung et al. v. the Republic of Korea*, communications nos. 1593-1603/2007, Views adopted by the Committee on 23 March 2010; p. 1. (involving 11 men who are not Jehovah's Witnesses)
 - *Min-Kyu Jeong et al. v. The Republic of Korea*, communications nos. 1642-1741/2007, Views adopted by the Committee on 24 March 2011; p. 2. (involving 100 Witness men)
 - *Jong-nam Kim et al. v. The Republic of Korea*, communication no. 1786/2008, Views adopted by the Committee on 25 October 2012; p. 2. (involving 388 Witness men)
19. Korea satisfied its obligation to publish the Committee's Views. However, the government has officially refused to implement the CCPR rulings by its response to the complaints filed by conscientious objectors who have received a favourable decision from the CCPR.
20. The Supreme Court has consistently rejected appeals from sentenced conscientious objectors who have presented Article 18 of the ICCPR and CCPR rulings as the justifiable reason to object to the military service now in excess of 284 appeals.
21. On **30 August 2011**, the Constitutional Court ignored the CCPR rulings when they rendered unfavourable decisions regarding the requests of local courts to review the constitutionality of law and appeals of conscientious objectors regarding the active military service.
22. Following the unfavourable Constitutional Court decision of **30 August 2011** regarding the constitutionality of punishing conscientious objectors to reservist training, these objectors began to face repeated trials, fines, and even prison terms. They undergo 8-year-long cycles of call-ups and prosecutions, over and over again.
23. A petition was submitted to the Presidential Transition Committee on **5 February 2013**. The newly inaugurated government forwarded the petition to the Minister of Justice and the Minister of National Defence. Both ministers were unwilling to address the issue of conscientious objectors and to implement the Views of the CCPR. The argument of the Minister of National Defence was that “due to current security situations and the lack of public consensus, it is too early to consider granting alternative service.”
24. A constitutional complaint was filed on **18 June 2013**, and petitions were submitted to the National Commission on Human Rights and to President Park Geun-hye in **August 2013** which produced no favourable responses or advancements
25. On **31 December 2013**, a complaint was filed with the Seoul Central District Court seeking compensation on behalf of 50 individuals who were imprisoned as conscientious objectors. As parties in the CCPR rulings mentioned above(*Jong-nam Kim et al. v. The Republic of Korea*, communication no. 1786/2008), the CCPR found that these men had suffered infringement of their right to freedom of conscience, in breach of Article 18, paragraph 1 of

the Covenant. The Human Rights Committee determined that South Korea was under obligation to provide an effective remedy, including expunging their criminal records and providing them with adequate compensation.

26. On **11 June 2014**, the court rejected the complaint. An appeal was filed with the Seoul High Court on **20 August 2014**, and the Court opened the first hearing on **3 December 2014**. The next hearing is scheduled for **4 February 2015**.

IV. Conclusions and Recommendations

27. Jehovah's Witnesses in South Korea and as a worldwide organization respectfully suggest that the Committee make the following recommendations to the South Korean government to:
- (1) Recognize the legal right of conscientious objection to military service, as protected by article 18 of the ICCPR and found in General Comment No. 22;
 - (2) Prevent future violations by adopting legislative measures guaranteeing the right to conscientious objection and that are in line with international standards and obligations which South Korea accepted as a State party to the ICCPR;
 - (3) Grant amnesty for conscientious objectors currently imprisoned;
 - (4) Expunge the criminal record of those convicted for conscientious objection to military service and provide for rehabilitation of their civil rights; and
 - (5) Educate civil society to stop discrimination toward Jehovah's Witnesses over their firm stand as conscientious objectors.
28. The EAJCW will consider submitting an additional complementary report with the CCPR following the adoption of the *List of issues to be taken up in connection with the consideration of the fourth report of the Republic of Korea* (CCPR/C/KOR/4).



Conscientious Objection to Military Service in Korea

International Standard



Statistics

Conscientious Objectors who Received
a Favorable Decision from the CCPR

501

United Nations

Since the 1980's, the UN Commission on Human Rights has taken the position that conscientious objectors to military service must be protected under Article 18 of the ICCPR*, which has the same effect as the domestic laws of Korea. In 2012, the UN Human Rights Committee(CCPR) released its Views regarding 388 individual petitioners indicating Korea's clear violation of the ICCPR. This is the fourth time the CCPR has made such a decision on Korea.

*ICCPR: International Covenant on Civil and Political Rights

2012 UN Human Rights Committee (CCPR) Views

"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 this cannot be reconciled with that individual's religion or beliefs. The right must not be impaired by coercion."

§ 7.4 *Jong-nam Kim et al. Republic of Korea, UN Doc CCPR/C/106/D/1786/2008* (25 Oct 2012)

Recommendations by Individual States

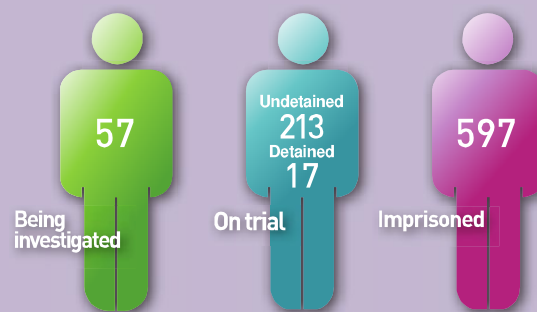
United States of America - "We are concerned that the Republic of Korea does not provide alternatives to military service for conscientious objectors. More than 700 conscientious objectors are currently serving jail terms waiting for another option to become available. Bearing in mind these concerns the United States makes the following recommendations... immediately introduce an alternative military service option." **2012 Universal Periodic Review, UN Human Rights Council**

Germany - "Germany is concerned about the long sentences handed down against conscientious objectors to military service. Germany recommends abolishing imprisonment and establishing a non-military service for conscientious objectors." **2012 Universal Periodic Review, UN Human Rights Council**

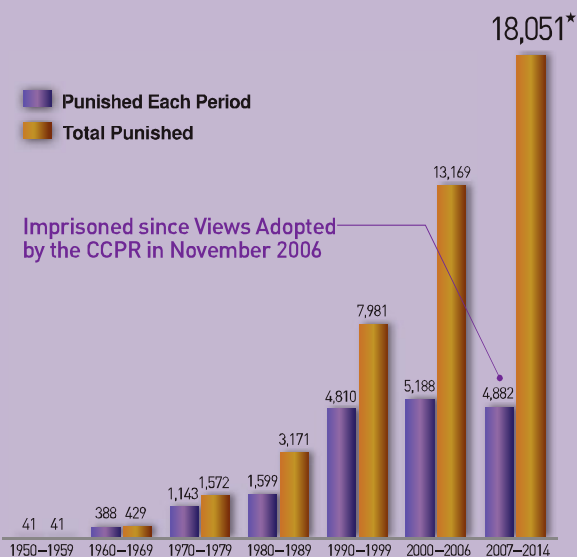
Currently Imprisoned

597

Current Situation as of October 31, 2014



Criminally Punished since 1950



*Excluding 47 persons whose prison period is uncertain

History of Conscientious Objection



Alternative Ways to Serve the Community

Criminally Punished since 1950 **18,098**

Conscientious Objection in Korea

During the Japanese rule in Korea (1910~1945), Jehovah's Witnesses suffered opposition and imprisonment for rejecting shrine worship and for allegedly preaching anti-war ideas. At the start of the Korean War in 1950, interrogation and imprisonment of conscientious objectors to military service began to develop. In the 1970's, the maximum length of imprisonment for conscientious objectors was drastically increased from 3 years to 10 years. Witnesses were illegally dragged into military camps and were pressured to take up arms. During that time, at least five lost their lives by torture and beating.

Conscientious objection to military service based on religious conviction is not an avoiding of civil duties through draft evasion. Conscientious objectors have asked for purely civilian ways to serve their community. With no available alternative, they are imprisoned for maintaining their conscientious objection, a strong testament to the depth of their personal religious conviction. Each year, some 600 young men are criminalized. Despite this issue being highlighted by major media outlets starting in 2001, more than 8,000 conscientious objectors have been imprisoned since then. The current total number of conscientious objectors punished in Korea has reached 17,492.

Christians and Conscientious Objection

Jehovah's Witnesses have a history of abstaining from any form of warfare between nations. Participating in such conflicts would violate their Christian conscience which has been shaped by Jesus' example. When Jesus was illegally arrested, he refrained from using physical force while stating, "Return your sword to its place. All those who take the sword will perish by the sword."—Matthew 26:52.

Following this command, the early Christians refused military service, which led to hatred and persecution by the Roman Empire. In modern times, Jehovah's Witnesses endured intense persecution under the Nazi regime. According to the book *Sterben für den Frieden* (Dying for Peace), by Eberhard Röhm, "It is estimated that in Germany alone some 6,000 to 7,000 of Jehovah's Witnesses refused to do military service during World War II." In Nazi Germany, at least 270 Witnesses were executed by state order for their refusal to take up arms.

Imprisoned since Views Adopted by the CCPR in November 2006 **4,882**

Ensuring Cohesion in Society

"As to the issue of social cohesion and equitability, the Committee considers that respect on the part of the State for conscientious beliefs and manifestations thereof is itself an important factor in ensuring cohesive and stable pluralism in society. It likewise observes that it is in principle possible, and in practice common, to conceive alternatives to compulsory military service that do not erode the basis of the principle of universal conscription but render equivalent social good and make equivalent demands on the individual, eliminating unfair disparities between those engaged in compulsory military service and those in alternative service." § 8.4 *Yoon and Choi v. Republic of Korea*, UN Doc CCPR/C/88/D/1321-1322/2004 (3 Nov 2006)

Service to the Community

"A State may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights." § 7.3 *Min-Kyu Jeong et al. v. Republic of Korea*, UN Doc CCPR/C/101/D/1642-1741/2007 (24 Mar 2011)

Korea's Obligation to Provide Effective Remedy

"In accordance with [...] the Covenant, the State party is under an obligation to provide the authors with an effective remedy, including expunging their criminal records and providing them with adequate compensation. The State party is under an obligation to avoid similar violations of the Covenant in the future, which includes the adoption of legislative measures guaranteeing the right to conscientious objection." § 9 *Jong-nam Kim et al. Republic of Korea*, UN Doc CCPR/C/106/D/1786/2008 (25 Oct 2012)



Imprisoned for Their Faith

Jehovah's Witnesses have been present in South Korea for more than 100 years and enjoy freedom of worship—except for those who are conscientious objectors to military service. From the Korean War period to the present, South Korea has relentlessly prosecuted young Witness men who refuse military service, and the government has not provided any alternative to resolve the issue. The result? South Korea has sentenced over 18,000 Witnesses to a combined total of more than 34,800 years in prison for refusing to perform military service.

Improved Prison Conditions

Though in the past imprisoned Witnesses endured harsh conditions and long prison sentences, conditions have improved and the sentences have been reduced to 18 months. Prison authorities allow most Witnesses to hold religious meetings in prison. Additionally, more than 70 percent of Witness inmates are separated from the general prison population and placed in cells with fellow Witnesses.¹

The International View of the Right to Conscientious Objection

The UN Human Rights Committee (CCPR), which reviews the implementation of the International Covenant on Civil and Political Rights (ICCPR), has consistently ruled that South Korea² is violating the rights of conscientious objectors by convicting and imprisoning them. For example, in its views adopted on October 25, 2012, the CCPR found that, according to Article 18, South Korea violated the rights of 388 conscientious objectors, all Jehovah's Witnesses. The CCPR stated that "the right to conscientious objection to military service is inherent to the right to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if the latter cannot be reconciled with the individual's religion or beliefs." The South Korean government continues to deny the right to freedom of thought, conscience and religion to the hundreds of young Witness men it imprisons and thus fails to implement the CCPR rulings.

¹ For more information, see [South Korea Separates Hundreds of Conscientious Objectors from Criminals](#)

² South Korea is a party to the International Covenant on Civil and Political Rights (ICCPR) and a party to the first optional protocol to the ICCPR, allowing individuals within South Korea to submit written communications to the CCPR for violations of the ICCPR.

Time Line

August 31, 2014

Total of 562 Witness men are in prison for conscientious objection to military service.

June 30, 2014

Twenty-eight cases pending with Constitutional Court on issue of conscientious objection to military service; 618 men imprisoned.

January 28, 2014

President grants a special amnesty and release on parole that shortens by a month or two the prison terms of about 100 Witness men incarcerated for conscientious objection to military service; 513 are imprisoned as of January 31.

November 2013

Total of 599 Witnesses detained for conscientious objection to military service.

April 2013

Seventy percent of Witness inmates are separated from the general prison population and placed in cells with fellow Witnesses.

October 25, 2012

UN Human Rights Committee (CCPR) adopts views finding South Korea violated Article 18 (right to freedom of thought, conscience and religion) of the ICCPR by denying 388 Witnesses the right to conscientiously object to military service.

August 30, 2011

Constitutional Court decision finds that the laws that penalize conscientious objectors who refuse military service do not violate Korea's Constitution.

March 24, 2011

CCPR adopts views finding South Korea violated Article 18 of the ICCPR by denying 100 Witnesses the right to conscientiously object to military service.

January 15, 2009

Presidential Commission on Suspicious Deaths in the Military releases a report confirming the South Korean government was responsible for the death of five young Witnesses from 1975 to 1985 who were imprisoned for conscientious objection.

December 2008

South Korea overturns plan to introduce alternative service for conscientious objectors.

September 18, 2007

South Korea's Ministry of Defense announces plan to allow conscientious objectors who refuse military service on religious grounds to perform alternative service, promising to revise the military service law and army reserve law.

November 3, 2006

CCPR adopts views finding South Korea violated Article 18 of the ICCPR by denying two Witnesses the right to conscientiously object to military service.

August 26, 2004

Constitutional Court upholds the constitutionality of the law that punishes conscientious objectors.

2001

Office of Military Manpower Administration discontinues forced enrollment, and prison sentences are reduced from a mandatory three-year sentence to a year and a half.

December 1, 1985

Kim, Young-geun dies as a result of the inhuman acts of violence by the military during his imprisonment for conscientious objection.

August 17, 1981

Kim, Sun-tae dies as a result of the inhuman acts of violence by the military during his imprisonment for conscientious objection to military service.

March 28, 1976

Jeong, Sang-bok dies after severe beatings and harsh treatment by the military in response to his conscientious objection to military service.

March 19, 1976

Lee, Choon-gil dies after severe beatings by military policemen resulted in a ruptured spleen during his imprisonment for conscientious objection.

November 14, 1975

Kim, Jong-sik dies after severe blows and torture by military officers in response to his conscientious objection to military service.

1975

President Park Jeong-hee institutes coercive military conscription, demanding 100% participation. Witness men are forcibly taken to military recruitment centers.

January 30, 1973

Enforcement of Special Act on Criminal Punishment for Violation of Military Service Act, increasing maximum length of imprisonment for conscientious objectors from three years to ten years. Subjects some to repeated conscription.

1953

Imprisonment of conscientious objectors to military service by South Korea begins.



June 16, 2014

Judges Struggle With Their Own Conscience When Required to Ignore Conscience of Others

The presiding judge of the Suwon District Court wept as she read the prison sentence for 21-year-old Chang-jo Im, a conscientious objector to military service. Although the judge had handed down verdicts that day in five other criminal cases without any signs of distress, the injustice of this case moved her to tears. Having no other option, she sentenced this young man, one of Jehovah's Witnesses, to 18 months' imprisonment.

Every month, judges in South Korea face the same scenario. A young man identifies himself in court as a conscientious objector, and regardless of his personal circumstances, the judge pronounces the expected sentence of 18 months' imprisonment. In his decision regarding one conscientious objector, Judge Young-sik Kim states: "The justices hardly believe that they are 'punishing criminals' when they deal with conscientious objectors." The conflict he felt caused him to question the validity of the draft evasion statute as a sentencing guideline for conscientious objectors.³

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- Witnesses sentenced to prison each month for conscientious objection: 40-50
 - Witnesses now imprisoned for conscientious objection: 602
 - Total of Witnesses imprisoned for conscientious objection since 1950: 17,840
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South Korea refuses to recognize the right of conscientious objection to military service and has made no provision for alternative civilian service. Judges in South Korea cannot avoid this recurring dilemma and must convict conscientious objectors as criminals. Judges are also aware that the UN Human Rights Committee has ruled in several cases—involving 501 young men—that South Korea is violating its international commitments to respect fundamental human rights by prosecuting and imprisoning conscientious objectors. As a result, a growing number of judges grapple with their own

³ Article 88 (Evasion of Enlistment), paragraph 1, subparagraph 1 of the Military Service Act

conscience as they impose prison sentences on young Christian men whose conscience does not allow them to engage in military service.

At this time, six district court judges have referred conscientious objection cases to the Constitutional Court of South Korea, though the Constitutional Court ruled as recently as 2011 that the military service law is constitutional. The judges' decisions also address practical concerns.

What some judges have said about ...

The morality of imprisoning a person who objects to war for reasons of conscience

"The ultimate goal of protecting freedom of conscience by the Constitution as a fundamental right is to protect individuals' conscience, which form the basis for human worth and dignity. . . . Though their decision to reject military service does not harmonize with the majority's idea, it would be difficult to argue that their decision amounts to a serious antisocial or antinational crime that deserves strict sanction by directly invoking the criminal punishment."—Judge Hye-won Lim, Suwon District Court, February 21, 2013, 2012Chogi2381.

"Deciding the relationship between oneself and others . . . [and] giving serious consideration to the 'value of human existence' is an integral process of forming one's character. It also embraces the decision not to deprive anyone of his or her life, even under an armed conflict. If those [who have made] such decisions are forced to perform the military duty or compelled to take up arms and are invariably subjected to punishment if they refuse to perform such a duty, it would amount to denying their rights and their identity. Surely it violates human dignity."—Judge Young-hoon Kang, Seoul North District Court, January 14, 2013, 2012Chogi1554.

Whether recognizing the right of conscientious objection weakens national security

"There is no substantial and specific evidence or data available that the adoption of the system of alternative service would undermine national security and equality of imposing the burden of military duty."—Judge Gwan-gu Kim, Changwon Masan District Court, August 9, 2012, 2012Chogi8.

"There is no sufficient reason to claim that national security will be severely endangered to an extent that it would be impossible to protect human dignity and [the] value of all citizens when a minority, including Jehovah's Witnesses, . . . refuses to take up arms and perform military training. In fact, the defendant . . . has already refused to perform military duty despite punishment. If the claim [were] sufficiently grounded, national security and human dignity and the value of all citizens would already be in serious danger."—Judge Seung-yeop Lee, Ulsan District Court, August 27, 2013, 2013Godan601.

How this issue can be resolved

"The administrative branch and the National Assembly are capable and able, when the Constitutional Court holds that the provision of this case is against the Constitution, to take into consideration both national security and freedom of conscience and legislate laws that recognize conscientious objection to military service and at the same time strengthen national security."—Judge Young-sik Kim, Seoul South District Court, July 9, 2013, 2013Chogi641.

"There will be neither loss of military force nor significant effect on national security as long as the alternative service system is carefully designed and implemented to avoid draft evasion under the pretext of conscientious objection."—Judge Seong-bok Lee, Seoul East District Court, February 20, 2014, 2014Chogi30.

How will the Constitutional Court respond?

These judges ask the Constitutional Court to provide an answer for their troubling dilemma on the issue of conscientious objection. At present, the Court has granted admissibility in 29 cases, including two that involve 433 men.

What will the Constitutional Court determine in these cases? Will South Korea's highest court recognize the right of conscientious objection to military service, opening the way for new legislation? If it does, it will honor its international commitments, its own Constitution, and dignify the consciences of many—bringing relief to hundreds of young men unjustly imprisoned.



February 14, 2014

Gallup Poll Reveals Shift in Perception of Conscientious Objection in South Korea

SEOUL, Korea—According to a recent Gallup poll, an increasing number of Koreans now favor their government offering alternative service to those who conscientiously object to military conscription. From November 4-7, 2013, a total of 1,211 Korean men and women participated in the survey, which revealed that 68% preferred adopting alternative service over imprisoning conscientious objectors. These findings represent a substantial shift in public opinion, since a similar survey conducted in 2008 reported that only 29% favored alternative service.

It appears that some in the Korean legal community would also prefer to have an option other than imprisonment for cases involving conscientious objection. In his editorial, “Dilemma Surrounding Conscientious Objection to Military Service,” Han In-seop, a professor at the Seoul National University, School of Law, stated: “There is hardly a judge that would categorize these objectors with committing an ethical or social offense. A detention order is not even issued to conscientious objectors as there is no worry that they will flee. With each guilty verdict that is decided, the judges are left feeling uneasy and apologetic.”

This human rights issue was recently highlighted in an independent film produced by the National Human Rights Commission of Korea. The film included a segment entitled “Ice River,” which portrayed one of Jehovah’s Witnesses who refused to enter military service. The film’s director stated that he decided to make

the film after learning that hundreds of Witnesses are sent to prison for conscientious objection every year. According to a report by the United Nations Human Rights Council published in June 2013, 93% of Witnesses imprisoned around the world for conscientiously objecting to military service are held in South Korea.



December 9, 2013

South Korea Separates Hundreds of Conscientious Objectors From Criminals

The government of South Korea provided a measure of relief to hundreds of Jehovah's Witnesses who are imprisoned for conscientious objection to military service. How so? By separating Witness inmates from the general prison population.

This move is the positive outcome of a meeting in December 2012 between Korean representatives of Jehovah's Witnesses and a high-ranking official in the Korea Correctional Service. The Witness delegation, including a worried father whose son is currently serving a prison term, expressed their concern that the young Witness men are often incarcerated in the same cells with serious offenders. Within five months of that meeting, more than 70 percent of Witness inmates were separated from other inmates and placed in cells with fellow Witnesses.

A long history of imprisoning conscientious objectors. South Korea has a long history of imprisoning Jehovah's Witnesses for their Scripturally-based refusal to bear arms. At present, approximately 600 Witnesses are being held for conscientious objection. Over the past 60 years more than 17,000 Witnesses have served prison sentences for refusing compulsory military service—a requirement for males between 19 and 35 years of age.

It is not uncommon for several generations of a Witness family to share the same experience of conviction, sentencing, and imprisonment as criminals. "I was sentenced to the same prison that my father was sent to when he was young—and the conditions in that prison had not changed since my father's time" said Seungkuk Noh, a second-generation Witness who completed his three-year prison sentence in 2000. Today the average prison sentence for a conscientious objector is 18 months, and Korea has made no provision for non-military alternative service.

Ho Gyu Kang was 21 years old when sentenced to prison for refusing induction. This was the first time he had been separated from his family. “I was so scared and nervous,” recalls Mr. Kang. He and another young Witness were detained with a group of older inmates deemed incorrigible by the prison. Some of these inmates were convicted murderers and gang members.

From the start of detention to their release, Witness inmates—who are usually younger than most inmates—are exposed to physically and emotionally abusive behavior. Inmates often target and mistreat their Witness cell mates, creating an environment that hinders the Witnesses’ free practice of religion, such as prayer and personal Bible study. Year after year, decade after decade, many young Witnesses quietly suffered the indignities of confinement with convicted felons.

Separating prisoners conforms to international norms. By separating most Witness inmates from criminals, Korea’s efforts harmonize with the universal principles of treatment of prisoners such as those embodied in Article 8 of the UN Standard Minimum Rules for the Treatment of Prisoners. Korea follows the pattern set over 20 years ago by the European Union member nation of Greece when its Ministries of National Defense and Justice approved measures to completely separate Witness conscientious objectors from other prisoners. In 1992, the Ministry of National Defense transformed a military camp in Sindos, Thessalonica, into a prison exclusively for Jehovah’s Witnesses. An official report acknowledged that “the spirit of sensitivity being shown by the Ministry of National Defense, due to the extraordinary nature of the detainees [Jehovah’s Witnesses],” led to the decision to separate Witness prisoners and detain them in a single prison. Greece stopped imprisoning Witness conscientious objectors in 1998.

In separating the majority of Witness inmates from other inmates, Korea has likewise shown a spirit of sensitivity to young men who are imprisoned for adhering to personal, deep-seated religious convictions. Several detention centers and prisons with the highest number of Witnesses have successfully implemented the initiative, providing a safer environment for prisoners of conscience. Regarding the benefits the separation affords, a Witness inmate at Gunsan Prison says: “We are free from negative influences such as immorality and abusive speech. We can enjoy wholesome spiritual conversation with our Witness brothers.”

‘We are free from negative influences and can enjoy wholesome conversation’

The unresolved issue of respecting conscientious objection. While Korea’s recent initiative to separate Witness prisoners is commendable, Korea has not yet followed the pattern of other nations who have long ago resolved this issue. Greece, for example, has offered alternative civilian service for conscientious objectors since 1997. Germany previously offered alternative civilian service for conscientious objectors but now grants complete exemption since ending conscription in 2011. Taiwan enacted an alternative service law for conscientious objectors in 2000.

Young Witness men and their families in Korea hope that their country will also implement today’s international standards respecting the fundamental human right of freedom of conscience.



October 1, 2013

Injustice in South Korea Causes International Outcry

South Korea imprisons hundreds of young men who are not criminals. Why? They are Jehovah's Witnesses and have chosen to follow the dictates of their conscience by refusing to perform military service. Because Korea does not protect the rights of conscientious objectors, conscripted Witnesses are sentenced to prison. In fact, for the past 60 years more than 17,000 Jehovah's Witnesses have been imprisoned for their conscientious objection to military service.

To draw attention to this issue, the national office of Jehovah's Witnesses in South Korea prepared a brochure entitled *Conscientious Objection to Military Service in Korea*. The brochure highlights Korea's failure to apply international standards and protect conscientious objectors. It also provides a brief history of young Witness men who have endured imprisonment because they would not violate their conscience. Mr. Dae-il Hong, representative of the Korea office of Jehovah's Witnesses, and Philip Brumley, General Counsel for Jehovah's Witnesses in New York, give further insight into this long-running injustice.

How has the international community responded to the injustice evident in South Korea?

Philip Brumley: A number of countries have spoken out against Korea's failure to recognize the fundamental right of conscientious objection. During a recent UN Universal Periodic Review session, eight countries—Hungary, France, Germany, Poland, Slovakia, Spain, the United States, and Australia—urged Korea to end the prosecution of conscientious objectors and to establish non-military civilian service for them.

Dae-il Hong: In 4 cases involving a total of 501 conscientious objectors, the UN Human Rights Committee (CCPR) ruled that the Republic of Korea violated their rights when it convicted and imprisoned them. The Committee stated that "the right to conscientious objection to military service is inherent to the right to

freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if the latter cannot be reconciled with the individual's religion or beliefs. That right must not be impaired by coercion." The Human Rights Council, another UN body, likewise drew attention to this issue in its recently released report entitled "Analytical report on conscientious objection to military service." This document sets out the international legal framework that both recognizes the right of conscientious objection and prohibits coercion through repeated trial or punishment of conscientious objectors.

What has been the response of the Korean government to this international outcry?

Philip Brumley: The Korean government has not implemented the CCPR rulings. Therefore, it has failed to abide by its international treaty commitments and has refused to recognize the fundamental rights of conscientious objectors. Further, South Korea's Supreme Court and Constitutional Court ignored the CCPR rulings when they rejected the appeals of conscientious objectors. The Korean National Assembly has not implemented any alternative form of civilian service for conscientious objectors and has not adopted any provisions to protect them.

In general, how has imprisonment affected these young Jehovah's Witnesses?

Dae-il Hong: These are brave young men. They respond to the government's call-up, knowing they will be convicted and sent to prison under the current system. They do not hide. They are model citizens before imprisonment, and they are model prisoners. Sadly, when they are released they have a criminal record that makes it nearly impossible for them to find employment in the public sector or with larger corporations. They have been robbed of a year and a half of their life in prison. Their families have had to continue without them while they served their prison sentence. These hardships are unnecessary.

Do Jehovah's Witnesses in Korea deserve to be convicted and imprisoned as criminals for refusing compulsory military service?

Dae-il Hong: Absolutely not! These young men are not criminals. Jehovah's Witnesses are known in Korea and worldwide as peaceful law-abiding citizens willing to serve their community. They respect government authorities, obey the law, pay taxes, and cooperate with government initiatives for the public benefit. Recently, a Korean district court judge sentenced a young Witness to prison for conscientiously objecting to military service. After saying there was no other way to rule but render a guilty verdict, the judge read the decision. Suddenly, the judge covered her face with the papers and sobbed. It seems that the injustice of criminalizing the young man so distressed the judge that she momentarily lost her composure. Others in attendance also recognized the injustice and shed tears.

Philip Brumley: Truly, now is the time for the Korean authorities to resolve this long-standing issue and implement a system that respects the fundamental human rights of conscientious objectors.



Conscientious
Objection to
Military Service
in Korea

Links for information in PDF

http://www.ccprcentre.org/doc/2015/01/INT_CCPR_ICO_KOR_19189_E.pdf

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