



## 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.<sup>1</sup>

### **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 Korea<sup>2</sup> 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.

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

<sup>2</sup> 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.<sup>3</sup>

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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

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<sup>3</sup> 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.”

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

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**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.