



THE EUROPEAN ASSOCIATION OF
JEHOVAH'S CHRISTIAN WITNESSES

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From The European Association of Jehovah's Christian Witnesses

**Contribution to the Report of the U.N. High Commissioner for Human Rights
prepared pursuant to the new review mechanism of the Human Rights Council,
established by GA Resolution 60/251
and by the Human Rights Council in Resolution 5/1 of 18 June 2007
for the 28th session(Oct-Nov 2017) of the UPR.**

Republic of Korea

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EXECUTIVE SUMMARY

This submission to the Human Rights Council (HRC) on the Republic of Korea highlights ongoing human rights violations in the past 4½ years and its failure to implement recommendations made by Member States during the previous review.

As described below, serious issues of concern persist, namely, the situation of conscientious objectors. Jehovah's Witnesses in South Korea and as a worldwide organization respectfully request the government of South Korea to:

- (1) Recognize the right of conscientious objection to military service
- (2) Grant immediate amnesty for conscientious objectors now imprisoned
- (3) Provide a genuine alternative civilian service so that conscientious objectors may have the opportunity to serve their country in a way that respects their sincerely held beliefs
- (4) Expunge criminal record of those convicted for conscientious objection to military service and provide for rehabilitation of their civil rights
- (5) Discontinue the public exposure of personal information of conscientious objectors by the Military Manpower Administration Office
- (6) Abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of South Korea and the International Covenant on Civil and Political Rights for all citizens, including Jehovah's Witnesses.

I. INTRODUCTION

1. The European Association of Jehovah's Christian Witnesses (EAJCW) is a charity registered in the United Kingdom. It provides support to Jehovah's Witnesses facing fundamental human rights violations in various parts of the world. This submission is based on the reports submitted by victims to the national office of Jehovah's Witnesses in South Korea.
2. Jehovah's Witnesses have been present in Korea since 1912. There are more than 100,000 Jehovah's Witnesses living in the Republic of Korea. They have enjoyed freedom to worship since receiving national registration in 1952. However, since 1950, 19,082 Jehovah's Witnesses in the Republic of Korea have been sentenced to a combined total of 36,422 years in prison. As of 31 January 2017 there are 393 young Witnesses in Korean prisons. This is the largest number of conscientious objectors imprisoned in any country worldwide.
3. Jehovah's Witnesses have been stigmatized for decades as criminals for their firm stand regarding their refusal to enroll in the army as conscientious objectors. It is noteworthy that young Jehovah's Witnesses are still facing the same issue since the UPR review in 2012 and despite numerous Views adopted by the Human Rights Committee (CCPR) against the Republic of Korea over the years (*Yoon and Choi v. The Republic of Korea*, communications nos. 1321 and 1322/2004; *Jung et al. v. the Republic of Korea*, communications nos. 1593-1603/2007; *Min-Kyu Jeong et al. v. The Republic of Korea*, communications nos. 1642-1741/2007; *Jong-nam Kim et al. v. The Republic of Korea*, communication no. 1786/2008;

Young-kwan Kim et al. v. Republic of Korea, Communication no. 2179/2012, UN Doc. CCPR/C/112/D/2179/2012).

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Denial of Right to Conscientious Objection

4. In South Korea, courts sentence conscientious objectors to military service to 18 months' imprisonment. Every month, courts convict and sentence about 40 young men. The standard sentence given is 18 months, but the effect of their imprisonment as conscientious objectors greatly exceeds the prison term. After these individuals are released from prison, their criminal record follows them for five years, greatly curtailing employment and educational possibilities. They carry the stigma of their criminal conviction their entire lives.
5. The CCPR has repeatedly urged the government of South Korea to stop the unjust imprisonment of conscientious objectors. In its 2014 Views on the issue, the CCPR went a step further in determining that their imprisonment is "arbitrary detention." Based on that decision, to date, 806 Witness men have submitted complaints to the UN Working Group on Arbitrary Detention.
6. Conscientious objectors who are 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, but is then summoned for supplementary training in addition to basic training. If he refuses the basic and supplemental training, he is criminally prosecuted. He will continue to be prosecuted every time he refuses either training and is thus subject to "multiple jeopardy."
7. Dong-hyuk Shin, who served in the military before becoming one of Jehovah's Witnesses, was first summoned for reserve-forces military training in 2006. As a conscientious objector, he refused to serve and through 2013, he was summoned at least 118 times and prosecuted and convicted 49 times. Mr. Shin was compelled to appear in court 69 times, received a total of 35 court verdicts, and was fined over USD 13,000. During this period, he had to change employment seven times because of frequent absences from work.
8. Over 40 Witnesses are currently caught in the cycle of repeated prosecutions, fines, and possible prison terms. The fines vary according to jurisdiction and timing, but they are generally 200,000 won (approximately USD 180) for the first conviction, 300,000 won (approximately USD 270) for the second conviction, 500,000 won (approximately USD 450) for the third conviction, and so on. Fines have been issued for as much as 3,000,000 won (approximately USD 2,700). In October 2014, the maximum fine was increased to 10,000,000 won (approximately USD 8,715) for a violation.
9. The burden of many prosecutions for an ever-increasing number of summons means that many conscientious objectors are incapable of paying their fines, which may amount to thousands of dollars each year. As a result, some are now registered as "wanted" criminals. Others have chosen to undertake labor in a "work-house" (lock-up facilities inside a prison) instead of paying the fines. The length of such labor arrangements varies from one day to three years, depending on the amount of the unpaid fine. Those who can pay their fine often jeopardize their employment because of the repeated time away from work to attend investigation and court proceedings.

10. On **22 June 2016**, Mr. Shin filed a complaint with the CCPR for violation of rights guaranteed under the International Covenant on Civil and Political Rights.
11. Since December 2016, the Military Manpower Administration Office published on their official website personal information of conscientious objectors to military service who are undergoing prosecution and trial proceedings.
12. The Military Manpower Administration Office continues to send out notices to employers directing them to dismiss the conscientious objectors from employment. Although the National Human Rights Commission released its official opinion on 9 November 2015 that such notice should cease, the Ministry of National Defence officially rejected the recommendation.

B. Positive Developments With Respect to Religious Freedom

13. Since May 2015, the local district courts have given more thoughtful attention to the issue of conscientious objection and have rendered 19 “not-guilty” decisions. Prosecutors have appealed the decisions.

Court	Date	“Not Guilty” Decisions
Gwangju District Court	May 12, 2015	Three men
Gwangju District Court	August 11, 2015	One man
Suwon District Court	August 13, 2015	Two men
Bucheon of Incheon District Court	June 9, 2016	Two men
Cheongju District Court	August 9, 2016	One man
Gwangju Appellate Court	October 18, 2016	Three men
Busan District Court	December 27, 2016	One man
Jeonju District Court	January 5, 2017	One man
Cheongju District Court	January 10, 2017	Two men
Incheon District Court	February 6, 2017	Three men

14. On **3 November 2015** the CCPR adopted concluding observations after a detailed review of South Korea’s human rights record. The CCPR urged the government to release all conscientious objectors from prison immediately, expunge their criminal record, and provide adequate compensation.
15. On **18 October 2016** the appellate division of Gwangju District Court held that conscientious objectors Hye-min Kim, Lak-hoon Cho, and Hyeong-geun Kim are not guilty of evading military service. These three men, all of whom are Jehovah’s Witnesses, are the first to receive a not-guilty decision on this issue at the appellate court level in South Korea.
16. On **9 July 2015** the Constitutional Court of Korea held a public hearing on three cases of conscientious objection to military service. The complainants asked the Court to declare unconstitutional the provisions of the Military Service Act that block the possibility of alternative service and punish conscientious objectors.

The Court is yet deliberating on the issue.

17. On **6 January 2017** the Jeonju District Court referred to the Constitutional Court for adjudication on the constitutionality of law the case of a Witness man who was penalized for conscientiously objecting to reserve forces training. This means that there are now eight cases

(six on the Military Service Act, and two on the Homeland Reserve Forces Act) referred by the district courts for adjudication on constitutionality.

III. IMPLEMENTATION OF RECOMMENDATIONS

18. Following its previous review in October 2012 (2nd cycle, 14th session), several Member States of the Human Rights Council made specific recommendations in connection with the protection of conscientious objectors.

19. The report's recommendation No. 124.53 stated (A/HRC/22/10, page 22):

With regard to conscientious objection, adapt existing national legislation so that alternative services to military service effectively have a civil nature and that they are placed under the monitoring of civil authorities (France); Abolish imprisonment and establish a non-military service for conscientious objectors (Germany); Ensure that the right to conscientious objection to military service is observed (Poland); Recognize the right to conscientious objection to military service and introduce alternative service in line with international standards (Slovakia); Recognize conscientious objection as a right, guaranteeing an alternative community service to the military service of a truly civilian character, and free all conscientious objectors currently imprisoned (Spain); Immediately introduce an alternative military service option for conscientious objectors, ensuring it has a non-combatant or civilian character and is not of a punitive nature (United States of America); Introduce alternative service for conscientious objectors (Australia);

20. South Korea did not adopt a clear position regarding the above recommendations. However, in their mid-term report (page 39, para. 53), the Government relied once again on the security situation of the country and the lack of public consensus to justify their current position.

21. The CCPR has addressed these arguments in their views, indicating that the government's reasoning does not justify the violation of the rights of conscientious objectors. The Committee formulated specific recommendations in its two previous concluding observations and urged the authorities to:

- Take all necessary measures to recognize the right of conscientious objectors to be exempted from military service. It is encouraged to bring legislation into line with article 18 of the Covenant. In this regard, the Committee draws the attention of the State party to the paragraph 11 of its general comment No. 22 (1993) on article 18 (freedom of thought, conscience and religion). - (CCPR/C/KOR/CO/3 paragraph 17, adopted in 2006)
- Immediately release all conscientious objectors condemned to a prison sentence for exercising their right to be exempted from military service;
- Ensure that conscientious objectors' criminal records are expunged, that they are provided with adequate compensation, and that their personal information is not publicly disclosed; and
- Ensure the legal recognition of conscientious objection to military service, and provide conscientious objectors with the possibility of performing an alternative

service of civilian nature. (CCPR/C/KOR/CO/4 paragraphs 44 and 45, adopted in 2015).

IV. CONCLUSION

22. Jehovah's Witnesses in South Korea and as a worldwide organization express concern for the human rights violations as exposed in the present submission. They respectfully request the government of South Korea to take the necessary steps to:
- (1) Recognize the right to conscientious objection to military service
 - (2) Grant immediate amnesty for conscientious objectors now imprisoned
 - (3) Provide a genuine alternative civilian service so that conscientious objectors may have the opportunity to serve their country in a way that respects their sincerely held beliefs
 - (4) Expunge criminal record of those convicted for conscientious objection to military service and provide for rehabilitation of their civil rights
 - (5) Discontinue the public exposure of personal information of conscientious objectors by the Military Manpower Administration Office
 - (6) Abide by their commitment to uphold the fundamental freedoms guaranteed by the Constitution of South Korea and the ICCPR for all citizens, including Jehovah's Witnesses