

Imprisonment of JW conscientious objectors is arbitrary detention, according to the UN

Over 19,000 objectors sentenced to 36,300 years in prison in the last 60 years

By Willy Fautré, *Human Rights Without Frontiers**

HRWF (10.04.2017) - On 27 March 2017, attorney at law Chang Hwa Lee submitted individual complaints to the UN Working Group on Arbitrary Detention on behalf of 53 conscientious objectors to military service who are now serving an 18-month sentence.¹ The average age of the applicants is only 23, most of them living with their families at the time of their detention. Of the 53 applicants, 37 received only one oral hearing and their court proceedings were closed at the trial court, while seven were able to appeal to the appellate court and nine to the Supreme Court.

Furthermore, 23 of the applicants have had at least one family member imprisoned. For example, Mr. LEE, Gwan-yong has a father and two older brothers who have criminal records for their past conscientious objection to military service. Another example is the Jang brothers: Mr. JANG, Tae-yeong and Mr. TANG, Jae-yeong. They were detained in the same prison, Seoul Detention Center, on 27 June and 30 August 2016, respectively.

The same arbitrary and uniform sentences have been handed down for the past 60 years for conscientious objectors. **More than 19,000 have been imprisoned and the years of accumulated confinement amount to more than 36,300².**

The Working Group has repeatedly emphasized that the right to conscientious objection to military service is protected by the International Covenant on Civil and Political Rights (ICCPR)³. The UN Human Rights Committee (CCPR) has delivered the same conclusion that the right to conscientious objection is protected by article 18, paragraph 1 of the ICCPR, and repeatedly directed the Republic of Korea to stop prosecuting conscientious objectors to military service⁴.

¹ Attorney at law Dujin Oh submitted individual complaints to the Working Group on Arbitrary Detention

on behalf of 600 conscientious objectors to military service on 8 July 2015

on behalf of 50 conscientious objectors to military service on 21 April 2016

on behalf of 71 conscientious objectors to military service on 22 July 2016.

² <https://www.jw.org/en/news/legal/by-region/south-korea/jehovahs-witnesses-in-prison/>

³ Working Group on Arbitrary Detention Opinion Nos 36/1999 (Turkey), 24/2003 (Israel) and 16/2008 (Turkey).

⁴ Communications Nos 1321/2004 and 1322/2004, *Yeo-Bum Yoon and Myung-Jin Choi v. The Republic of Korea* (2006); Communication No 1642-1741/2007, *Min-Kyu Jeong et al. v. The Republic of Korea* (2011); Communication No 1786/2008, *Jong-nam Kim et al. v. The Republic of Korea* (2012); Communications Nos 1853/2008, 1854/2008, *Cenk Atasoy and Arda Sarkut v. Turkey* (2012); Communication No 2179/2012, *Kim, Young-kwan et al. v. The Republic of Korea* (2014); Communication No 2218/2012, *Zafar Abdullayev v. Turkmenistan* (2015).

The CCPR further emphasized in the *Min-Kyu Jeong et al. v. The Republic of Korea* case⁵, stating that **the right to conscientious objection is an inherent right within the right to freedom of conscience in Article 18 on the ICCPR.**

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. (para.7.3.)

The CCPR also concluded in the *Kim, Young-kwan et al. v. The Republic of Korea* case⁶ that imprisoning conscientious objectors for refusing military service constitutes arbitrary detention under Article 9 of the ICCPR. Furthermore, the CCPR stated in its General Comment No 35 that imprisonment for the legitimate exercise of the rights as guaranteed by the ICCPR constitutes arbitrary detention⁷:

Arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22), freedom of religion (art. 18) and the right to privacy (art. 17). (para. 17)

(*) The information contained in this article was provided by lawyers of Jehovah's Witnesses during a private meeting in Seoul on 27 March 2017

⁵ Communication No 1642-1741/2007, *Min-Kyu Jeong et al. v. The Republic of Korea* (2011). Views adopted on 24 March 2011, para. 7.3.

⁶ Communication No 2179/2012, *Kim, Young-kwan et al. v. The Republic of Korea*. Views adopted on 15 October 2014, para. 7.5.

⁷ The Human Rights Committee, General Comment No 35, Article 9 (CCPR/C/CG/35), adopted on its 112th session (7-31 October 2014).