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No more Jehovah's Witnesses in prison

Some years ago, Human Rights Without Frontiers (HRWF) carried out a mission in South Korea and published a 200-page report entitled "For a South Korea without prisoners of conscience". After 15 years of advocacy, HRWF welcomes this decision of Seoul and this victory. Since 1953, over 19,300 Jehovah's Witnesses have been sentenced to a combined total of over 36,700 years in prison.

HRWF (01.04.2019) - For the first time since 1953, no more Jehovah's Witness is in prison in South Korea.

On February 28, 2019, the last Jehovah's Witness imprisoned as conscientious objector was released.

At the beginning of this year, E.H. Jeong and K.S. Cha were the last two Jehovah's Witnesses that remained in prison after hundreds of their brothers were released last year. They should have respectively been released on 20 August 2019 and 23 January 2020 at the end of their normal 18-month prison term.

1. January 18, 2019

Total of two of Jehovah's Witnesses serving prison terms for conscientious objection to military service.

2. December 24, 2018

Six Witness conscientious objectors who have served at least one third of their sentence released.

3. November 30, 2018

57 Witness conscientious objectors who have served at least one third of their sentence released.

4. November 1, 2018

Supreme Court acknowledges the right to conscientious objection based on genuinely held religious beliefs as "justifiable grounds" for refusing military service.

5. August 20, 2018

UN Working Group on Arbitrary Detention renders a decision that the imprisonment of two Jehovah's Witness conscientious objectors is arbitrary since it is in violation of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

6. June 28, 2018

Constitutional Court rules that Article 5, paragraph 1, of the Military Service Act is unconstitutional, since it fails to provide alternative service.

7. **November 3, 2015**
CCPR adopts concluding observations, urging South Korea to provide an alternative civilian service program.
8. **July 9, 2015**
Constitutional Court considers whether certain provisions of the Military Service Act are constitutional.
9. **January 14, 2015**
CCPR adopts Views finding that South Korea violated Article 18 (right to freedom of thought, conscience and religion) and Article 9 (prohibiting arbitrary detention) of the ICCPR by denying 50 Witnesses the right to conscientious objection to military service and imprisoning them.
10. **June 30, 2014**
Twenty-eight cases pending with Constitutional Court on issue of conscientious objection to military service; 618 men imprisoned.
11. **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.
12. **November 2013**
Total of 599 Witnesses detained for conscientious objection to military service.
13. **April 2013**
Seventy percent of Witness inmates are separated from the general prison population and placed in cells with fellow Witnesses.
14. **October 25, 2012**
CCPR adopts Views finding that South Korea violated Article 18 (right to freedom of thought, conscience, and religion) of the ICCPR by denying 388 Witnesses the right to conscientious objection to military service.
15. **August 30, 2011**
Constitutional Court decision finds that the laws that penalize conscientious objectors who refuse military service do not violate Korea's Constitution.
16. **March 24, 2011**
CCPR adopts Views finding that South Korea violated Article 18 of the ICCPR by denying 100 Witnesses the right to conscientious objection to military service.
17. **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.
18. **December 2008**
South Korea overturns plan to introduce alternative service for conscientious objectors.
19. **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.
20. **November 3, 2006**
CCPR adopts Views finding that South Korea violated Article 18 of the ICCPR by denying two Witnesses the right to conscientious objection to military service.

21. August 26, 2004

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

22. 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.

23. 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.

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28. 1975

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

29. 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.

30. 1953

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

Only two Jehovah's Witnesses left in prison as conscientious objectors

JW.ORG (04.03.2019) - <https://bit.ly/2PHJrqw> - On November 30, 2018, authorities in South Korea released nearly all of Jehovah's Witnesses still imprisoned as conscientious objectors. With this historic event, the government has taken a monumental step toward ending its policy of prosecuting and imprisoning Jehovah's Witnesses for conscientious objection.

Since the end of the Korean War, South Korea has criminalized conscientious objectors and sentenced them to prison. However, the government has begun to alter its handling of these cases based on two landmark court decisions rendered in 2018.

On June 28, 2018, the Constitutional Court ruled that a portion of the Military Service Act (MSA) is unconstitutional because it fails to provide for alternative service for

conscientious objectors. Then, just two months later, the Supreme Court heard the case of a young Witness convicted by lower courts for refusing military service. On November 1, 2018, the Supreme Court ruled 9 to 4 in his favor, concluding that conscientious objection is not a crime.

Based on these rulings, lower courts in South Korea now have the legal basis to reconsider over 900 pending cases concerning Jehovah's Witnesses who have been prosecuted for refusing military service. With this legal groundwork in place, young Witness men hope that these courts will render "not guilty" verdicts in their cases.

A Growing Resolve to Reform the MSA

Prior to the ruling in June 2018, the Constitutional Court had ruled twice before, in 2004 and in 2011, that the MSA does *not* violate the constitution, even though the MSA does not recognize the right to conscientious objection. Yet, regardless of those rulings, some lower court judges still believed they were violating the constitution when they sentenced conscientious objectors to prison. Some courageously declared these young men innocent, recognizing they refused to join the military because of their sincere religious beliefs. In time, more judges adopted this view.

By the time the Supreme Court rendered its decision in November 2018, local courts had already delivered 118 not-guilty decisions concerning Witness conscientious objectors, and 12 of these decisions were rendered by appellate courts. As more judges saw the need to reform the MSA, they suspended hearings in many cases, preferring to wait on the decisions by the Constitutional Court and the Supreme Court rather than render an unjust verdict.

Landmark Ruling From the Constitutional Court

Beginning in 2012, lower courts referred six cases to the Constitutional Court, asking it to rule again on whether the MSA is constitutional. On July 9, 2015, the Constitutional Court held a hearing to examine the matter for the third time.

After deliberating for almost three years, on June 28, 2018, the Constitutional Court acknowledged the right to conscientious objection. The Court ruled that failure to provide alternative service for conscientious objectors is unconstitutional and that the government must change the MSA. Although the present law will remain in force for now, the government must amend it by December 31, 2019, and provide alternative service for conscientious objectors.

The Ministry of National Defense has stated that it will respect the Court's ruling. However, to abide by international standards, acceptable alternative service must not be punitive, it must be truly civilian in nature, and it must not be under military control or supervision. The government has yet to implement an alternative service, but Jehovah's Witnesses hope that the new program will be acceptable for all conscientious objectors.

The Court also ruled on whether it was constitutional to penalize conscientious objectors under the MSA. It determined that criminal courts have the right to imprison those who evade military service. However, it also determined that, depending on the circumstances of each case, a conscientious objector could be found "not guilty" of evading military service based on the provision in the law of "justifiable grounds."

Milestone Decision From the Supreme Court

On November 1, 2018, the Supreme Court recognized the right to conscientious objection for the first time in the country's history. In its ruling, the Court quashed the earlier

guilty verdict rendered by the Changwon District Court in June 2016 against a Witness who objected to military service. The Supreme Court stated that the original court had not fully examined whether the defendant had acted on a genuinely held religious conviction, and it returned the case back to the Changwon court for further review.

According to the new ruling, courts may accept conscientious objection based on genuinely held religious beliefs as “justifiable grounds” for refusing military service. In its majority opinion, the Court stated: “Forcing a military duty with criminal punishment or other punitive measures is an excessive restraint of freedom of conscience.”

The Supreme Court not only recognized conscientious objection as a lawful right but also vindicated the neutral stance of Witnesses who had been imprisoned in the past. Additionally, the Court stated that “the existence of alternative service is not a prerequisite for the recognition of conscientious objection as a ‘justifiable ground.’” Rather, according to the Court, if someone objects to military service because of deep, firm, genuinely held beliefs, this should be recognized as “justifiable grounds.”

Far-Reaching Effects of the Supreme Court Decision

Since the Supreme Court decision, nine trial courts and four appellate courts have already handed down not-guilty verdicts for Witnesses who are conscientious objectors. The Supreme Court has also rendered 161 favorable decisions recognizing the rights of conscientious objectors and has referred those cases back to the appellate courts. On December 28, 2018, the government announced its new alternative service program. If the Presidential Office approves it, the draft bill will then be submitted to the National Assembly for final review.

As previously stated, on November 30, 2018, Korean authorities released on parole 57 Witness conscientious objectors. They had served at least one third of their 18-month sentence. On December 24, 2018, six more Witness conscientious objectors were also released on parole. The remaining two Witnesses still in prison should be released once they have served at least six months of their sentence.

Jehovah’s Witnesses welcome this shift in the government’s policy. Over three generations, 19,350 Witnesses have been prosecuted and sentenced to a combined total of 36,824 years in prison for refusing to perform military service. Witnesses around the world rejoice at the prospect that South Korean conscientious objectors and their families may no longer have to endure unjust punishment for their sincere beliefs.

Paul Gillies, a spokesman for Jehovah’s Witnesses, stated: “With these two decisions, South Korea has finally chosen to respect the rights of conscientious objectors, upholding its own constitution and international standards. Jehovah’s Witnesses hope that all of their fellow believers imprisoned in South Korea for conscientious objection will soon be released. They are optimistic that the judges in pending cases will accept the decision these young men make in adhering to their Bible-trained conscience as ‘justifiable grounds’ to find them ‘not guilty.’ Jehovah’s Witnesses also hope that the government will expunge the records of the 19,350 Witnesses who have been labeled as criminals for refusing military service based on their strongly held religious beliefs.”

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