

AMNESTY INTERNATIONAL PUBLIC STATEMENT

Index: ASA 25/010/2011
2 September 2011

Constitutional court ruling runs counter to South Korea's obligations under international human rights law

Amnesty International said it was deeply disappointed by the South Korean Constitutional Court's decision to deny individuals the right to conscientious objection to military service on Tuesday.

In a six to two ruling, the Constitutional Court stated that the refusal to undertake military service is not covered by "right to freedom of conscience" protected in the Constitution.

This is a major setback for human rights in South Korea as it goes against the government's obligations under international human rights law to protect the right to freedom of thought, conscience and religion, which includes the right of conscientious objection to military service.

The Human Rights Committee has found South Korea's failure to provide for conscientious objection to be in breach of its obligations under Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which protects the right to freedom of thought, conscience and religion.

Hundreds of conscientious objectors are imprisoned in South Korea and many others will be imprisoned unless the South Korean government takes steps to remedy this situation.

The UN Human Rights Committee has stated that the South Korean government has an obligation to provide an effective remedy for violation of the rights of conscientious objectors, including compensation, and to avoid similar violations in the future.

Despite this ruling of South Korea's Constitutional Court, Amnesty International calls on the South Korean government to comply with their international obligations and end the practice of imprisoning conscientious objectors. The organization further urges the National Assembly to bring national legislation into line with international human rights law and standards by introducing provisions for conscientious objection to military service, including decriminalising conscientious objection and ensuring that alternative service is of a genuinely civilian character, non-punitive and under civilian control and of a length comparable to that of military service.

The rights to freedom of conscience and freedom of religion are enshrined in Articles 19 and 20 respectively of the Constitution of South Korea. On 11 November 2010 the Constitutional Court convened to hear the case which considered the constitutionality of Article 15(8) of the Establishment of the Homeland Reserve Force Act and Article 88(1)-1 of the Military Services Act (MSA) and whether these articles violate fundamental rights, including the right to freedom of conscience.

Amnesty International made a submission to the Court noting: "The weight of international standards and guidance from jurisprudence of the Human Rights Committee...support the protection of conscientious objection to military service under the right to freedom of thought, conscience and religion in particular as provided in Article 18 of the ICCPR".

ENDS/

Public Document

International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK www.amnesty.org
