

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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SOUTH KOREA MARKS INTERNATIONAL CONSCIENTIOUS OBJECTION DAY WITH ALTERNATIVE SERVICE PLAN THAT FALLS SHORT

Today, 15 May marks International Conscientious Objection Day. South Korean conscientious objectors have many reasons to celebrate after both the Constitutional Court and the Supreme Court ruled to recognize conscientious objection in landmark judgments in 2018.

However, the government bill for alternative service submitted to the National Assembly on 25 April raises major concerns that conscientious objectors will continue to face treatment that amounts to punishment.

After imprisoning nearly 20,000 conscientious objectors in the last 60 years, South Korea stands at an important juncture in its history. Amnesty International stated that, if adopted in its current punitive form, the government bill will violate the right to freedom of thought, conscience and religion or belief by imposing unreasonable and excessive burdens on conscientious objectors.

The bill as it stands falls short of international human rights law and standards, containing effectively punitive elements including a disproportionate length and type of service, and a lack of independence from military authorities. Lawmakers have until the end of 2019 to discuss the bill before it is adopted into law, and they must use that time to ensure that necessary revisions are made to bring it in line with Korea's international human rights obligations.

Conscientious objection is a right, not a crime, and Amnesty International urges the government to go further and erase the criminal records of all past conscientious objectors. Lawmakers must act now and bring the bill into line with international human rights law and standards and ensure that the punishment of conscientious objectors is consigned to the history books.

MAJOR CONCERNS

Under international human rights law, alternative service should be of a comparable length to military service and any additional length must be based on reasonable and objective criteria. However, the new bill contravenes all relevant international standards by setting the length of alternative service at 36 months – which is significantly longer than most branches and double the length of proposed Army service. The grounds given to justify the additional length are not sufficient or adequate. If adopted into law, this would make South Korea's alternative service the longest in the world and indicates a motivation to either deter or penalize conscientious objection.

Furthermore, decisions regarding the recognition of conscientious objectors should be taken by a wholly civilian body entirely separate from the military authorities, and its composition should guarantee maximum independence and impartiality. In contrast to this, the government bill establishes an "evaluation committee" for assessment of applications that would operate under the responsibility of the Ministry of National Defense. In addition, the Minister of National Defense would nominate almost a third of the committee members.

The only field of service explicitly indicated in the bill is work within correctional facilities. Amnesty International has already recommended that the government should instead prescribe different forms of alternative service that are of a

civilian character, in the public interest and not, due to its nature or conditions, punitive or discriminatory.¹ Restricting individuals to only one type of service runs the risk of being incompatible with their reasons for conscientious objection. Conscientious objectors and domestic civil society organizations have raised concerns over the fact that, after more than 60 years of sending conscientious objectors to prison, the new bill would continue to send young men to the same facilities, even if as workers and not as inmates.

In addition, the government bill does not allow those already serving in the military to apply for conscientious objector status. Conscientious objection may arise at any time and there should be no absolute restrictions on when one can apply for alternative service status. The possibility to apply for alternative service should therefore be accessible at any stage, including during and after military service.

BACKGROUND

After routinely imprisoning conscientious objectors for more than 60 years, two landmark rulings in 2018 recognized the right to conscientious objection in South Korea. The Constitutional Court ruled on 28 June 2018 that Article 5(1) of the Military Service Act did not conform to the Korean Constitution as it did not include provisions for alternative service for conscientious objectors to military service. Following this, the Supreme Court ruled on 1 November 2018 that conscientious objection was a “justifiable ground” for failing to enlist or comply with a call-up to military service. This Constitutional Court ruling gives the South Korean government until 31 December 2019 to introduce an alternative service of a civilian nature.

Under present law, hundreds of young South Korean men have been convicted and imprisoned each year for objecting to military service due to their beliefs, even if they are willing to serve the community. Typically, they received 18-month jail terms, but were saddled with criminal records and faced economic and social disadvantages that lasted far longer.

¹ Amnesty International, *South Korea: Alternatives to military service for conscientious objectors: Open letter*, 4 December 2018 (Index: ASA 25/9408/2018), www.amnesty.org/en/documents/asa25/9408/2018/en/.