

# Conscientious Objection in Korea: Past and Present

September 2016

Yong Seok / Activist for “World Without War”

## I . History of conscientious objection in Korea

### 1. Japanese occupation period

The first known and modern instance of conscientious objection in Korea took place during the Japanese occupation period, when the Japanese authorities rounded up 38 Jehovah’s Witnesses in 1939 for violation of the Security Maintenance Act and blasphemy. However, there were also Koreans who refused to join and serve the Japanese military on non-religious grounds. The majority of conscientious objectors during this era did so not in order to wage an active social movement against Japanese rule, but in order to save themselves by escaping into the mountains and the countryside. Accordingly, few records of them remain to this day. Seo Gyeong-shik, a man of the Korean descent who had emigrated to Japan, thus reports: “When my father was conscripted, his father and other relatives back in Joseon already knew of the fact. So my father eloped, knowing that, once he was dispatched to the Chishima (Kuril) Islands or the South Sea Islands, he would never make it back alive.”<sup>1</sup> We can only guess that there must have been many more in Joseon, aside from Seo’s father, who fled from conscription into the military or forced labor in similar manners at the time.

### 2. Under the Yushin Constitution (Fourth Republic period)

The 1970s marked the darkest time in the history of conscientious objection in Korea. The Park Chung-hee government, which came in power after a military coup d’état in 1961, tightened its dictatorial control over the Korean public all the more unabashedly in the 1970s. Having released the Guidelines for the Reform of Military Administration in 1973, with the ostensible goal of raising the conscription rate to 100 percent, the Park government perpetrated human rights violations of escalating intensity throughout the decade. Among the men who were arrested for conscientious objection, some, such as Jehovah’s Witnesses Lee Chun-gil and Kim Jong-shik, were tortured to death for their refusal to hold guns at the military training camp. Conscientious objectors were repeatedly punished for the same “crime” over and over. Conscientious objectors who were released from imprisonment would get warrants for military service again, the refusal to comply with which would land them back in the jail again. Jeong

---

<sup>1</sup> Seo, Gyeong-shik, et al. (2015), *Resistant Peace*, Without War ed., Owoloui-bom: Seoul.

Chun-guk, another Jehovah's Witness, served three terms in prison in this manner, amounting to the loss of good seven years and 10 months of his life.

People who were not Jehovah's Witnesses also objected to serve their military duty on religious grounds. Christianity was the motivating factor behind Pastor Kim Hong-sul. Monk Hyorim also objected out of Buddhist pacifism. Nevertheless, non-Jehovah's Witnesses who objected on religious grounds made up only a small number, and were not very publicized.

### **3. Democratization period**

The term "conscientious objection," however, became a household name in Korea only in the late 1980s and the early 1990s. Conscientious objectors during this period did not deny the legitimacy of all wars and military institutions. They would join the military as conscripted, but, once in the military, they would declare that they would not comply with the military commands from then onward due to various political and ideological reasons. They would demand the cessation of deploying secret undercover police agents (known as Baekgoldan) among student groups and also reveal the various forms of corruption plaguing the military. Although these activists did not recognize their acts as amounting to conscientious objection, they were explicitly political conscientious objectors

### **4. Beginning of conscientious objection proper in Korea**

Conscientious objection made headlines and came to be recognized as a major issue of human rights disputes in Korea in 2001 when Oh Tae-yang, a young Buddhist, openly declared his objection to military service due to the reasons of conscience. Oh's action inspired a series of chain reactions, leading to a growing number of young men to refuse to serve the military for the same reason. Since Oh, about four to five young men appear in Korean news every year as conscientious objectors. The number would increase explosively if we counted Jehovah's Witnesses who object to military service on religious grounds. Almost 700 young men are sentenced to jail terms as conscientious objectors on an annual basis. Since Korea's liberation, over 17,000 young Korean men have been sent to prison for their refusal to hold guns. In other words, an astounding 7,000 men have been imprisoned since 2000, when conscientious objection became a social issue.

The surge of conscientious objection movement in Korea has wrought certain changes. In the past, Jehovah's Witnesses would gather in the military training camp, refuse to hold guns, and wait until they were court-martialed. Most of them would then be sentenced to terms of two or three years for insubordination. After conscientious objection movement became a social movement, conscientious objectors would stand trials in civilian courts of law without ever entering the military training camp, and serve a term of 18 months or so each, necessary for them to avoid re-conscription.

## **II . Discrimination and punishments suffered by conscientious objectors in Korea today**

### **1. Conscientious objector statistics today**

As of April 2016, there were 540 or so young men serving time as conscientious objectors in Korean prisons. Almost 90 percent of all individuals worldwide who are imprisoned for conscientious objection are concentrated in Korea. The vast majority of these individuals are Jehovah's Witnesses. There are also conscientious objectors who are not included in these figures, such as those who are preparing to seek asylum abroad as not to serve military service. There are no official reports on the number of such asylum-seekers who have left Korea. Considering the growing number of young men in Korea who seriously consider conscientious objection and asylum abroad, it appears safe to surmise that there are at least more than 540 Koreans who refuse to serve military service. Almost all conscientious objectors who are arrested and indicted serve terms of 18 months each. The Korean Military Manpower Administration (MMA) regards all asylum-seeking Korean men abroad as conscientious objectors and is preparing a list of their names to be shared with the public.

### **2. Issues of punishment and discrimination**

The freedom of conscience enshrined in the Korean Constitution entails two dimensions: namely, the freedom of religion and the freedom of thought. The U.S. Embassy to Korea discusses the Korean government's persecution of conscientious objectors under the category of the freedom of religion in its annual report to U.S. Congress. As Jehovah's Witnesses who refuse to serve military terms due to religious reasons are imprisoned as conscientious objectors, the U.S. Embassy sees conscientious objection in Korea as a matter of religious persecution. Conscientious objectors who object out of pacifist grounds and who are sentenced to prison terms in consequence, even though they have not threatened anyone or caused any losses to society, can also be regarded as under the persecution of their freedom of thought.

Discrimination against religious and other conscientious objectors extends beyond the prison walls. Now with criminal records, conscientious objectors who are released from prison are deprived of the right to apply to, and write examinations for, any government positions for certain periods of time, and experience other restrictions on their voting rights. These penalties apply to all individuals with criminal records who have served prison sentences. Nevertheless, conscientious objectors have no legitimate reasons to suffer these discriminations other than for the fact that they were in prisons for wrong reasons in the first place. There are recent examples—rare, but certain—of conscientious objectors being unable to function normally on the Korean labor market. In 2007, a Jehovah's Witness who was hired by a securities company was served a notice, informing him of the cancellation of his hiring decision due to his imprisonment record.<sup>2</sup> Another Jehovah's Witness passed the examination for getting a

---

<sup>2</sup> "Former Conscientious Objector Gets His Job Revoked," The HankyorehShinmun, December 18, 2007.

technical job at a public corporation, but saw his employment revoked for the same reason. The National Human Rights Commission of Korea (NHRC) issued an official statement, condemning this last incident as a clear instance of discrimination.<sup>3</sup>

### **3. Acquittal after acquittal, and the Constitutional Court of Korea**

Since 2000, the Korean courts have been sentencing almost all conscientious objectors to terms of 18 months each without exception. The fixed amount of the sentence, however, has not freed the judiciary from additional burdens and considerations. More and more judges report concerns with the violation of the constitutional right implicit in the prison sentence, and the actual discriminatory effects faced by conscientious objectors afterward. Since Judge Lee Jeong-ryeol of the Seoul South District Court found a conscientious objector not guilty in 2004, six court rulings have acquitted 13 conscientious objectors as of August 2016. In 2015 alone, four court decisions were made, acquitting nine conscientious objectors. Although the Supreme Court found a conscientious objector to be guilty in 2004, and the Constitutional Court twice upheld, in 2004 and 2011, the constitutionality of the Military Service Act that does not allow conscientious objectors to serve alternative service, lower courts are raising their voice that conscientious objection should not be treated as a crime. A Seoul Bar Association opinion poll on lawyers, conducted in June and July, 2016, also reveals that conscientious objection is an issue that requires a major legal revision, with 74.3 percent of the polltakers seeing conscientious objection as constitutionally protected, and 63.4 percent rejecting the constitutionality of the Korean law that does not allow for the alternative service of conscientious objectors.

There is yet another constitutional petition challenging the Military Service Act and pending before the Constitutional Court today. The Court held an open hearing regarding this petition in July last year. Stakes are multiplying as to what decision the Constitutional Court will hand down this time, in the face of one acquittal after another and the actual discriminations conscientious objectors experience.

## **III. Other groups' positions on conscientious objection in Korea**

### **1. International community**

Conscientious objection is one of the universal rights recognized worldwide, as is the duty of the state to allow conscientious objectors to serve non-military and alternative service. The recognition and protection of conscientious objection and alternative service are even part of the membership requirements of the European Union. The United Nations also recommends

---

<sup>3</sup> "NHRC: It Is Clear Discrimination for Public Corporation to Revoke Hiring Decision Due to Conscientious Objection," The KyunghyangShinmun, December 21, 2012.

member states to recognize the right to conscientious objection and refrain from punishing conscientious objectors. Some of the UN's recommendations specifically targeting Korea in this regard include:

- 35th Resolution of the UN Commission on Human Rights (2004);
- Report by the Office of the UN High Commissioner for Human Rights (OHCHR) (2004);
- UN Human Rights Committee's final opinion on the Republic of Korea's report (2006);
- UN Human Rights Council's first advice regarding the Universal Periodic Review on Human Rights (UPR) (2008);
- UN Human Rights Council's second advice regarding the UPR (2012);
- OHCHR report (2013);
- Resolution of the UN Human Rights Council on Conscientious Objection (2013); and
- UN Human Rights Committee's advice (2015).

The UN Human Rights Committee's latest recommendation(2015), in particular, more than just expresses concerns and regrets regarding the imprisonment of conscientious objectors, and recommends the Korean government to release all conscientious objectors immediately. The recommendation also explicitly warns the MMA against preparing a public list of conscientious objectors.

A number of other international human rights organizations have also expressed concerns about and solidarity with conscientious objectors in Korea. The American Friends Service Committee and other Quaker-affiliated groups willingly provided help for the conscientious objection movement in Korea in the early stage. War Resisters' International (WRI) still continues to maintain strong ties to the Korean civil society, providing help and resources for diverse conscientious objection-related campaigns and activities. Amnesty International is also waging an international campaign of writing letters to imprisoned conscientious objectors in Korea as part of its effort to raise the public awareness of the situation worldwide. World Without War, an activist group in Korea, Amnesty International, WRI, and Connection e.V., a human rights group in Germany, co-organized a petition campaign in 2015 to broadcast the violation of conscientious objectors' human rights in Korea abroad. The petition, signed by over 8,000 citizens in 108 countries worldwide, was delivered to the Korean Ministry of National Defense.

## **2. Korean government**

Unfortunately, however, the Korean government's position runs directly contrary to the demand of the international community. The Korean government has not budged a bit on the issue of conscientious objection since the early 2000s. It repeatedly reminds the public of the continuing conflict between the two Koreas, and cites the public opinion for refusing to allow conscientious objectors to serve alternative duties. According to a recent opinion poll by Gallup Korea, commissioned by Amnesty International Korea, 72 percent of polltakers answered that

they could not understand conscientious objection, but also 70 percent agreed with letting conscientious objectors serve alternative service. The public opinion, in other words, contradicts the Korean government and already regards the punishment of conscientious objectors as a form of human rights violation. Considering the historical fact that numerous European states introduced alternative service for conscientious objectors during the World Wars and that conscientious objection reaches its peak when there is an actual open conflict, the decades-old tension between the two Koreas can no longer suffice as a legitimate reason for persecuting conscientious objectors.

Even within the government circle, there have been attempts to introduce alternative service for conscientious objectors. In December 2005, the NHRC, for instance, proposed to the Chairperson of the National Assembly and the Minister of National Defense to recognize the right to conscientious objection and allow for alternative service. The Ministry of National Defense announced its plan to reform the alternative social service scheme for conscientious objectors in 2007. The return of conservatives to power afterward, however, annulled this plan.

### **3. Korean government**

Without the efforts of the pacifist and human rights groups in Korea, conscientious objection would never have made headlines as an issue of rights violation, despite over 10,000 Korean men who had been unjustifiably persecuted prior to 2000.

The Solidarity for the Realization of the Right to Conscientious Objection and the Improvement of the Alternative Service System, co-organized by 46 activist groups in Korea, has been campaigning for the reform of the alternative service statutes and supporting conscientious objectors. World Without War, which began as a gathering of former and present conscientious objectors, has been leading the movement for conscientious objection, raising the public awareness of the human rights violations and discriminations faced by conscientious objectors, and organizing resistance against pervasive militarism in Korean society. Minbyun (Lawyers for a Democratic Society), Amnesty International Korea, Minkahyup (Association of Families for Democracy), and other groups are also actively advocating the rights of conscientious objectors.

## **IV. Alternative Service**

### **1. Possible hopes and issues**

There is already a well-established alternative to conscientious objection: namely, allowing conscientious objectors to serve alternative service outside the military. A sizable number of states have already adopted the alternative service system. The UN recommends that the total term of an alternative service not exceed 1.5 times that of the military duty. An alternative

service exceeding this limit would serve as a penalty against the conscientious objector and thereby amount to a denial of the right to conscientious objection in effect.

There are still many in Korea who dismiss the idea of alternative service for conscientious objectors, citing the security threats, the discouraging effect of the alternative service on the soldiers' morale, and the difficulty of distinguishing true conscientious objectors from false ones. Of course, we could counter these criticisms by questioning whether national defense consists in military means and the armed forces only. Without such fundamental reconceptualization of national defense, we could still learn much from the experiences of countries that have adopted alternative service systems. Taiwan, whose military conscription program will end officially as of 2017, introduced the alternative service program relatively early, in 2000. Taiwan was, and still is, in a hostile relationship with China, the world's largest military spender. Facing worries and concerns similar to those in Korea, the Taiwanese government at first introduced quite complex alternative service with lengthy terms. In the end, however, it had to make alternative duties more appealing and accessible because few volunteered to serve such lengthy and risky alternative terms. The introduction of the alternative service program did not create gaps in national security or significantly lower the rates of men entering the military as critics had worried.

Recall the fact that the Ministry of National Defense itself briefly considered adopting alternative service for conscientious objectors in 2007. The greatest obstacle to the introduction of alternative service in Korea is none of the reasons the critics are citing. Rather, it is the fact that the Korean government itself has lost the will to adopt alternative service.

## **2. Significance and social value of alternative service for conscientious objectors**

The experiences of states with alternative service programs for conscientious objectors tell us that the programs can bring about multiple social benefits. First, these programs help to strengthen the social security of the states involved. When the German government decided to bring its conscription program to a halt, it sparked a number of important debates. Many opposed the decision because the lack of the conscripted labor, provided by conscientious objectors and others who were exempted from serving military terms, would lead to significant gaps in social services. Second, alternative service also helps improve the treatment for soldiers. After the alternative service program was introduced in Taiwan, the Taiwanese military had to improve the treatment and working conditions for soldiers so as not to lose possible draftees to alternative service. Finally, alternative service strengthens peace- and human-rights-oriented approaches to national security. They have the effect of shifting the social paradigm on security from weapons and armed forces to human and social aspects of security. Disarmament, necessary to improving the relations between the two Koreas and to reducing military tension in Northeast Asia at large, can start with introducing alternative service for conscientious objectors.

## V. Conclusion

Korea enjoys the notoriety of the country with the largest number of conscientious objectors imprisoned, and faces growing criticisms from the international community and the domestic civil society alike for that reason. Instead of making valid efforts to address this problem, however, the Korean government has been neglecting it, citing the same reasons repeatedly for the past decade or so.

The Korean government should recognize that its current practice amounts to the violation of the rights of conscientious objectors. As a member state, Korea has the duty to put the UN's recommendation faithfully into action and to make active effort to improve the protection of the human rights of its citizens. Now that Korea sits on the UN Security Council, it should spearhead the effort to protect conscientious objectors' rights and introduce alternative service for them.

\* This essay is the second essay written for the 2016 English Contents Project of the Civil Peace Forum, under the sponsorship of Friedrich-Ebert-Stiftung, Korea Office.