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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement* submitted by MINBYUN-Lawyers for a Democratic Society, a non-
governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 January 2003]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Conscientious objection to military service

1. MINBYUN-Lawyers for a Democratic Society has been seriously concerned about the denial of the right of conscientious objection to military service in the Republic of Korea, and strongly urged the government of the Republic of Korea to immediately stop criminalizing conscientious objectors. As outlined in the written statement (E/CN.4/2002/NGO/126), which MINBYUN submitted to Fifty-eighth session of the UN Commission on Human Rights, it is estimated that every year about 600 young people eligible for the military draft are being sent to prison owing to their refusal to bear arms.

2. We welcome the continuous efforts of the UN Commission on Human Rights to lay emphasis on the recognition of the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion. We also take note of the resolution of the UN Commission on Human Rights in 2002/45 to call upon States to review their current laws and practices in relation to conscientious objection to military service in the light of its resolution 1998/77.

3. With regard to the compilation and analysis of the best practices called for in the Commission resolution 2000/34 and 2002/45, we regrettably found that the Office of the UN High Commissioner for Human Rights (OHCHR) has received only a few responses from the countries until now. In order not to make a fundamental human right only available on the paper, all the governments should make strenuous efforts to find the best way to comprehensively implement it. This is the very purpose of the decision by the Commission to request the OHCHR to prepare its compilation and analysis of best practices in relation to the recognition of the right to conscientious objection to military service and the provision of alternative forms of service.

4. While it has consented to the above-mentioned resolutions as a member of the UN Commission on Human Rights, the government of the Republic of Korea has been harshly punishing conscientious objectors as criminals. It has not yet provided the OHCHR with the information on the real situation where the rights of conscientious objectors are seriously violated. As a signatory to the International Covenant on Civil and Political Rights (ICCPR), the government of the Republic of Korea has never

mentioned the issue of conscientious objection on its periodical report to the Human Rights Committee.

5. In October 2002, in a regular meeting of the State Council, President Kim Dae-Jung described the objection to military service as the evasion of obligatory military service, and said that this act is not allowed on any account. This statement was made as a reaction against the development of student movement on conscientious objection, because some students who are not yet obliged to serve in the army declared that they would be conscientious objectors in the future. President Kim's remarks on the issue of conscientious objection were directly followed by the announcement of the Ministry of Defense that a person who has not performed military service would not be entitled to get an exit visa for going abroad. The Ministry of Justice even cancelled the plan of parole, which had been scheduled for some imprisoned conscientious objectors. Conscientious objectors have been arrested and detained even before trial. The National Human Rights Commission, which has a mandate to provide relief measures for the victims of human rights violations and to recommend the government to fully observe international human rights law, has been also taking a passive attitude on this issue.

6. In the meanwhile, since the summer of 2002, the number of conscientious objectors who have non-religious motives for the objection to military service has increased. Mr. Chi-Yun Lim, Mr. Ho-Geun Yoo and Mr. Dong-Hyuk Nah became conscientious objectors on account of their antiwar conviction and pacifism, not religious belief. Three of them had been arrested, but recently they were released on bail. The trials of Mr. Lim and Mr. Yoo were postponed to the decision of the Constitutional Court, which will determine the constitutionality of punishment against conscientious objectors under the Military Service Act, but in the case of Mr. Nah, he was sentenced to one year and six month imprisonment. Mr. Nah's case is now pending before the appellate court.

7. Under this situation, it is definitely clear that more and more young people will be victims of violations of human rights on conscientious objection. MINBYUN, therefore, strongly calls on the government of the Republic of Korea, which is also a member of the Commission on Human Rights, to:

- (a) immediately stop criminalizing conscientious objectors by providing various forms alternative services;

- (b) submit the report to the Office of the UN High Commissioner for Human Rights, after elaborating upon the current laws and practices in relation to conscientious objections to military service in the light of its resolution 1998/77;
- (c) invite the Special Rapporteur on Freedom of Religion or Belief in order to investigate the violations of human rights on conscientious objection in the Republic of Korea.

8. MINBYUN also calls on the Commission on Human Rights to:

- (a) pay sincere attention to the human rights violations committed in the countries which have not yet recognized the right to conscientious objection to military service;
- (b) urge all the governments to fully and substantively cooperate with the Office of the UN High Commissioner for Human Rights in the preparation of the compilation and analysis of best practices on conscientious objection in accordance with the resolution 2002/45.
