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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.

[15 February 2005]

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

Conscientious objectors in the Republic of Korea

1. In spite of the continued efforts of the Commission with regard to the recognition of the right of everyone to have conscientious objection to military service, we still remain in deep concern about the denial of the right to conscientious objection in the Republic of Korea. As outlined in our written statements to the previous sessions of the Commission [E/CN.4/2003/NGO/25, E/CN.4/2002/NGO/126], it is estimated that every year about 700 young people eligible for a military draft are sent to prison owing to their refusal to bear arms on grounds of their convictions. Most of conscientious objectors in the Republic of Korea are Jehovah's Witnesses while the number of conscientious objectors with non-religious motives has been continuously increasing. In 2004, *Seok-min Kim*, *Jin Choi*, *Won-pyo Lee* and *Jae-seong Lim* declared their conscientious objection on account of their antiwar conviction and pacifism.

2. As of 15 January 2005, total 817 conscientious objectors are imprisoned in the Republic of Korea. The number of conscientious objectors in prison is set to rise to over 1,000 considering the situation that the cases of subjecting conscientious objectors to imprisonment have been sharply increasing since the decision of the Constitutional Court was given in August 2004 that the provision of the Military Service Act, under which conscientious objectors have been punished, is not inconsistent with the right to freedom of thought, conscience and religion as laid down in the Constitution.

3. In its statement before the 60th session of the Commission under agenda item 11, the government of the Republic of Korea stated that it would continue to make efforts to explore various possible ways to address the issue of conscientious objection to military service. The position of the concerned authorities in the Republic of Korea, however, has been hardly improved. In July 2004, on the cases of *Myung-jin Choi* and *Yeo-bum Yoon*, the Supreme Court found them guilty under the Military Service Act stating that the freedom of conscience shall not precede the obligation of national defense in a divided situation of the Korean peninsula. The individual complaints of *Myung-jin Choi* and *Yeo-bum Yoon* are now under consideration of the Human Rights Committee, a monitoring body of the International Covenant on Civil and Political Rights (ICCPR). As mentioned above, in August 2004, the Constitutional Court ruled that Article 88(1) of the Military Service Act, under which conscientious objectors are punished as draft dodgers, is not in violation of the Constitution, while there were separate opinions recognizing the need of alternative services for conscientious objectors and advising lawmakers to adopt legislative measures as requested.

4. Meanwhile, in November 2004, twenty-two members of the National Assembly proposed a revised bill of the Military Service Act for the purpose of introducing an alternative for conscientious objectors, and ten members of Democratic Labor Party also suggested the related bill. The bills, however, have been stalled without any further constructive discussion. 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 also been silent over the situation where hundreds of people are criminalized due to the exercise of their legitimate right to conscientious objection, which is universally recognized in the international human rights instruments.

5. At this juncture, we want to recall that the Commission in its resolution 2004/35 called upon States that have not yet done so to review their current laws and practices in relation to conscientious objection to military service in the light of Commission resolution 1998/77. We

also note with concern that the government of the Republic of Korea, even as a member of the Commission, has not provided any related information to the Office of the UN High Commissioner for Human Rights (OHCHR) with regard to making a concerted efforts to address the issue by analyzing the existing practices.

6. It is clear that more and more young people will become victims of violations of human rights regarding conscientious objection. In light of this, we strongly urge the Government of the Republic of Korea, which is a member of the Commission and a party to the ICCPR, to:

- (a) Recognize the right to conscientious objection to military service at domestic level, not only at international level and immediately stop criminalizing conscientious objectors by providing various forms of alternative services;
- (b) Take further active initiatives in raising awareness among Korean society on the right to conscientious objection, not sitting and waiting as a bystander for a social consensus to be reached;
- (c) Fully and substantively cooperate with the OHCHR and submit relevant materials on the current laws and practices in relation to the recognition and implementation of the right to conscientious objection to military service;
- (d) Invite the Special Rapporteur on Freedom of Religion or Belief in order for him to investigate the violations of human rights on conscientious objection in the Republic of Korea, and extend a standing invitation to all thematic special procedures of the Commission.

7. Furthermore, we call on the Commission 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) Continuously work on the possible monitoring mechanisms, further to the preparation of the compilation and analytic report of best practices, to make sure the effective implementation of the right to conscientious objection to military service.
