

Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on freedom of religion or belief

Ref.: AL KOR 6/2025

(Please use this reference in your reply)

25 September 2025

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 51/8 and 58/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **regime of alternative service for conscientious objectors to mandatory military service in the Republic of Korea**. We are concerned that such a programme can be considered as punitive, which is contrary to international standards.

Special Procedures mandate holders have previously raised their concerns with your Excellency's Government regarding conscientious objectors, including in KOR 4/2015, KOR 2/2018, KOR 4/2018 and KOR 4/2019. We thank your Excellency's government for providing responses to KOR 4/2015, KOR 2/2018 and KOR 4/2019, and for your continued engagement with United Nations Special Procedures mechanisms.

According to the information received:

In 2004, the Constitutional Court of the Republic of Korea urged the national legislature to review alternatives to mandatory military service provisions, to balance the public interest of national security and the rights of conscientious objectors (COs). The following year, the National Human Rights Commission of South Korea made a formal recommendation to create a civil service system as an alternative to mandatory military service. A 2018 ruling by the Constitutional Court established that the mandatory military service regime as it stood was unconstitutional, because it did not offer an opportunity for alternative service for COs. Before the creation of the new Alternative Service (AS) category, those who objected to service on religious or belief grounds were committing a criminal offence and were highly likely to face jail time. The new AS scheme became law in 2020 (Presidential Decree No. 30807).

Nevertheless, the current structure of AS in the Republic of Korea appears to be both punitive and de-facto discriminatory for the following reasons:

First, the AS regime is excessive in duration, and the 36-month term is twice as long as the required term for non-CO active-duty citizens.

Second, the AS system is inappropriate in its location: all AS is conducted with prisons premises. These sites are often facilities in which previous COs were incarcerated, and AS personnel have frequent contact with incarcerated inmates.

Third, the conditions in which AS personnel are required to work is often in confinement under curfew, constant surveillance and with limitations on their freedom of movement without the option to commute from their respective homes.

The AS system in the Republic of Korea is therefore alleged to be de-facto discriminatory against certain religion or belief communities, such as Jehovah's Witnesses, who represent the majority of AS program applicants every year. For example, contrary to active-duty service members, the AS system does not account for personal circumstances, as individuals are not given the opportunity to commute from home. Further, those participating in the AS stream are asked to perform specific work, regardless of any physical or mental disabilities.

This contrasts sharply with the programme of Supplementary Service (SS), which is an option offered to those who have physical or mental limitations, are licenced professionals in certain fields of work, or have children. Through the SS program, individuals are often asked to serve for less time (between 18 and 36 months) than those granted AS and have access to certain professional flexibilities such as the opportunity to commute to service.

It is further alleged that there is stigmatization and retaliation against those who decline the AS stream. For example, the Military Manpower Administration is widely known for labelling COs as 'military evaders,' a label which carries significant social stigma. Further, there are reports of authorities pressurising employers to terminate the contract of those who reject AS.

Under the current law, even after serving an 18-month prison sentence for refusing AS, individuals may be subjected to conscription until the age of 38 and refusal to do so can result in re-prosecution and re-imprisonment. This appears to allow the State to impose repeated punishment for the same offence, to compel compliance raising serious concerns pertaining to the risk of placing an individual in double jeopardy.

While we do not wish to prejudge the accuracy of these allegations and wish to welcome the 2018 ruling by the Constitutional Court that paved the path for the establishment of the Alternative Service category, we remain concerned that the punitive and discriminatory manner in which the AS is applied will be in violation of certain rights. If confirmed, these allegations would likely contravene articles 2(1) (non-discrimination), article 9 (liberty and security of person and not be subject to arbitrary detention), article 14 (equality before the law and right to fair trial), article 18 (freedom of thought, conscience and religion) and article 17(7) (prohibition on double jeopardy) of the of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Republic of Korea on 10 April 1990.

We recall comments of the Commission on Human Rights, who reminds States with a system of compulsory military service, where such provision has not already been made, of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a

punitive nature ([E-CN_4-RES-1998-77.pdf](#)). The UN Working Group on Arbitrary Detention has consistently emphasized that punitive forms of alternative service violate ICCPR article 18 and constitute arbitrary detention.¹

We take note that the United Nations Human Rights Committee views on the AS system in the Republic of Korea in 2023, noting that it appeared to be both punitive and discriminatory, given the length and location of alternative service (CCPR/C/KOR/CO/5, para. 51). The Committee was also concerned that serving members of the armed forces are not permitted to express objections of conscience once they have begun their service (*Ibid.*). The Committee recommended the elimination of such a discriminatory system by changing the duration of service for COs, expanding the alternatives to service locations, and offering an opportunity to serving members of the armed forces to conscientiously object (CCPR/C/KOR/CO/5, para 52.). This was reaffirmed in its analytical report by the Office of the High Commissioner for Human Rights on Conscientious Objection to military service (A/HRC/50/43) asserted that “Any longer duration of alternative service in comparison to military service is permissible only if additional time for alternative service is based on reasonable and objective criteria” (para. 57).

We recall the Human Rights Committee’s conclusion in *Jeong et al v Republic of Korea* (2011) that “The right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if this cannot be reconciled with that individual’s religion or belief. The right must not be impaired by coercion. A State may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights.” (para. 7.3)

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on how the current alternative service system in the Republic of Korea complies with its obligations under article 18 of the ICCPR.
3. Please indicate what actions have been taken to protect the rights of conscientious objectors within the current alternative service system.

¹ Opinion Nos. 40/2019, 69/2018, 43/2017

4. Please provide information pertaining to the allegations of “double jeopardy”, where an individual can be tried multiple times for having evaded military service, despite having served a sentence.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We would also like to inform your Excellency’s Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

Matthew Gillett
Vice-Chair of the Working Group on Arbitrary Detention

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

Article 18 of the ICCPR, which South Korea ratified on 10 April 1990, states that “Everyone shall have the right to freedom of thought, conscience and religion. These rights shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

The Human Rights Committee, in general comment No. 22 (HRI/GEN/1/Rev.1) paragraph 3, notes that article 18 of ICCPR “distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19(1); the Committee has stated that “the freedom to manifest religion or belief may be exercised "either individually or in community with others and in public or private. The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts.” (paragraph 4).

Article 18 (2) states that “[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice, while the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981) reiterates the above provision in article 1 (2). The Human Rights Committee emphasised in general comment No. 22 (HRI/GEN/1/Rev.1) paragraph 5 that article 18 (2) “bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18(2). The same protection is enjoyed by holders of all beliefs of a non-religious nature.”

Article 22 of the ICCPR protects the right to freedom of association, under which everyone has the right to associate with others and pursue common interests. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly, and these rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose recognized by international standards and are necessary and proportionate for achieving that purpose.

The Human Rights Committee has stated that the freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship (see CCPR/C/21/Rev.1/Add.4 paragraph 4).

The 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) highlights in article 6 that the right to freedom of thought, conscience, religion or belief includes the freedom, "to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes". In article 2 (1) it states that: "[n]o one shall be subject to discrimination by any State, institution, group of persons, 6 or person on grounds of religion or other belief". Furthermore, we would like to refer your Excellency's Government to article 4(2), according to which: "All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs". In its general comment No. 35, the Human Rights Committee has found that the arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of religion (art. 18). It has also stated that arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary.

Human Rights Council resolution 6/37 para. 9 (e) urges States "To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction". Para. 9 (g) of the resolution urges States "To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes."

The former Special Rapporteur on freedom of religion or belief in his report to the General Assembly A/76/380 has noted that while article 18 (2) of the International Covenant on Civil and Political Rights protects against "coercion which would impair [the] freedom to have or to adopt a religion or belief [of choice]", the drafting history of the Covenant suggests that this protection includes freedom from certain forms of "psychological" influence, which legal scholars interpret to include coercive alteration of thought. There is no single definition of "coercion" within international human rights law. Across national jurisdictions, definitions vary but generally include use of force, or an express or implied threat that puts the victim in immediate and reasonable fear of the consequences, thereby compelling the victim to act contrary to their will. In examining coercion claims, the Human Rights Committee has affirmatively considered that threats of violence or penal sanction, as well as restrictions on access to education, medical care, employment or participation in public life, are coercive acts that contravene article 18 (1) and (2) of the Covenant. Importantly, architects of the Covenant reasoned that coercion "should not be construed as applying to moral or intellectual persuasion".

General comment No. 22 issued by the Human Rights Committee (CCPR/C/21/Rev.1/Add.4) notes: "Many individuals have claimed the right to refuse to perform military service on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived

from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief. (...) The Committee invites States parties to report on the conditions under which persons can be exempted from military service on the basis of their rights under article 18 and on the nature and length of alternative national service."

Article 19 of the ICCPR states that "everyone shall have the right to hold opinions without interference" and "everyone shall have the right of freedom of expression". Article 19 requires the States to guarantee the right to freedom of expression (Id.). It is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. The Human Rights Council Resolution 12/16 calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.