Alternative Civilian Service in South Korea — *2021*





Alternative Civilian Service (ACS) in South Korea

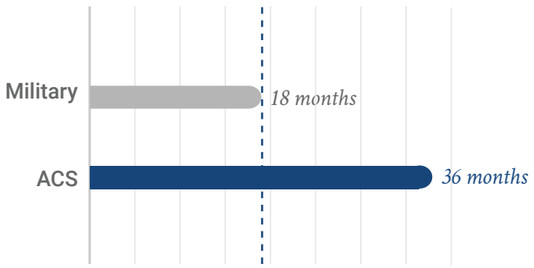
The Constitutional Court of Korea decided in 2018 that the Military Service Act was unconstitutional and set out the international standard for ACS.

Might conscientious objectors "find it difficult to choose such service"? Consider:

Duration and Severity of ACS - a form of punishment

ACS personnel serve at a prison for 36 months, twice the length of military service, under severe restrictions akin to imprisonment. The international community considers this punitive.

ACS personnel perform the same work as convicted prisoners did when they were punished as conscientious objectors – and under very similar conditions. However, they are effectively deprived of their liberty for almost three times as long, because they must serve for a full 36 months.



Duration of ACS - International Standards

- "Alternative service may not exceed one and a half times the length of armed military service." – *European Committee of Social Rights of the Council of Europe, Conclusions 2008 (Greece).*
- "The [Alternative Service Act] bill proposes that alternative service should be 36 months … There does not seem to be any objective justification for this distinction ... The failure to provide such a justification is not only contrary to Article 26 of the [ICCPR], but also considered a punitive measure." – *Special Rapporteur on Freedom of Religion or Belief, OL KOR 4/2019.*



Constitutional Court of South Korea

- "If the duration or severity of alternative service is excessive to the extent that conscientious objectors find it difficult to choose, this would defeat the purpose of the alternative service or degrade it to a mere form of punishment, causing violations of other fundamental rights."

  — *2011Hunba379, etc. of 28 June, 2018*

Severity of ACS

The severity of ACS, including the restrictions on freedom of movement, is contrary to international standards. Successful ACS should benefit the community and not punish individuals for refusing military service. It must not be performed in a quasi-military setting with curfews, confinement to barracks and uniforms; but it should be totally civilian: free of all military ties and resemblances.

ACS personnel are civilian workers, yet in Korea they are treated as prisoners and soldiers. Their fundamental human rights are severely restricted.

ACS personnel live in barracks-style facilities on the prison grounds, similar to imprisoned criminals. During their first two months of service, they cannot leave the facility at all. No exceptions are permitted.

ACS personnel are separated from their children, whom they cannot support either financially or emotionally.

When permitted to leave the prison, ACS personnel must return by 9:00 p.m., unreasonably curtailing social, educational and religious activities.

3,005

Because ACS is restricted to prison work, only 1,626 of the more than 3,005 applicants can be accommodated by 2023. The delay for others seriously affects their family life and career development.

Personal communication devices are locked away during working hours and from 9:00 p.m. to 7:00 a.m. the following day. Even in an emergency, there can be no direct contact with the personnel. There is no objective justification for this restriction.

International Standards

The UN Human Rights Committee made the following observations regarding the length and severity of the Russian ACS as it then existed:

- "The Committee notes with regret that the conditions for alternative service are punitive in nature, including the requirement to perform such services outside places of permanent residence, … and the restrictions in freedom of movement for the persons concerned."
- "The State party should recognise fully the right to conscientious objection, and ensure that the length and the nature of this alternative to military service do not have a punitive character." *(CCPR/C/RUS/CO/6, 24 November 2009)*

The European Court of Human Rights endorsed the international standard for ACS when it stated:

- "[T]he right to conscientious objection guaranteed by Article 9 of the Convention would be illusory if a State were allowed to organise and implement its system of alternative service in a way that would fail to offer – whether in law or in practice – an alternative to military service of a genuinely civilian nature and **one which was not deterrent or punitive** in character". *[Emphasis added.] (Adyan and Others v. Armenia, no. 75604/11 §67, 12 October 2017)*

Academic Opinion

- "The duration of service and limited fields of work fell short of international standards. The current ACS can be considered a form of 'alternative punishment' according to the United States Commission on International Religious Freedom. The current law may be subject to a constitutional challenge by an ACS personnel."

  — *Han In-seob, Head of the Korea Institute of Criminology, 20 November, 2020*

Challenges to the Family

Mr. Jang Kyung-jin, a father of three children, ages 4, 8 and 11, spent more than five years facing uncertainties and court trials before his conscientious objection was recognised. He is now in the ACS programme and faces the additional three-year challenge of raising his children as an absentee father.

Mr. Jang states: "Although I wish to serve my community to the best of my ability, I also realise that my children need me in their early stages of development. The restrictions of life in the prison grounds make that impossible."



ACS Programmes

Alternative service meets international standards set by the UN and other supranational bodies when it is not under the control or supervision of the military, is civilian in nature and is not punitive in duration or severity. Currently, in multiple countries the State, while not allowing exemption for ministers of religion, nevertheless acknowledges conscientious objectors and provides for a genuine civilian service.[1]

Taiwan

Jehovah's Witnesses have been collaborating with the authorities for more than 20 years,[2] systematically obtaining conscientious objector status and performing valuable ACS for Taiwanese citizens. The authorities have expressed their appreciation over the years for the effective cooperation of Jehovah's Witnesses.

- The duration of alternative service is six months, compared to the four months of mandatory military training.
- Those who conscientiously object to military service have been given the option to work in hospitals, in nursing homes, and in numerous other areas of the public sector.
- In defined circumstances, such as a wife's pregnancy, ACS personnel can apply for relocation closer to their registered place of abode, and may be assigned to live at home.[3]



> *"Alternative Civilian Service benefits the country and the community in many ways. This is very evident in the 16 different types of Alternative Civilian Service in the government and social welfare agencies."*
>
> *—Mr. Kou-Enn Lin, former Director General of the National Conscription Agency*

Finland



> *"One thing that I greatly appreciated during my civilian service [at the Finnish Supreme Court] was that I always felt as if I was treated like any other employee. The atmosphere was welcoming and supportive. After my service, I was offered employment at the Supreme Court, where I am still working."*
>
> *— Kevin Asplund, conscientious objector and one of Jehovah's Witnesses*

- The community endeavours to benefit from the professional skills of ACS personnel.
- Service locations include schools, universities, museums, hospitals, libraries, municipalities, courts, tax offices, retirement homes, theatres and foundations.
- ACS personnel are allowed to spend their leisure without restrictions on their freedoms and fundamental rights.

> *"[T]he benefit of the alternative civilian service is threefold: it benefits the person liable for civilian service, the service location, and the society. The overall idea has not been to make this punitive."*
>
> *— Mikko Reijonen, Director of the Centre for Non-Military Service, Finland*

[1] For example, Armenia, Cyprus, Denmark, Estonia, Finland, Greece, Switzerland, Taiwan.
[2] In Taiwan, the Alternative Service Law and the revised Military Service Law were enacted on 15 January 2000.
[3] Taiwan: *Ministry of the Interior Substitute Service Management Guidelines,* article 28; *Rules Governing Substitute Service Draftees' Work Prioritization and Reassignment Due to Special Difficulties,* article 1(2); see also *Alternative Service Draftees' Frequently Asked Questions.*

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