

Reconsidering Conscientious Objection to Military Service in South Korea: From the Aspect of Guaranteeing Human Rights to the Aspect of the Anti-War Peace Movement

February 17, 2026

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01 Conscientious Objection in South Korea: Scope and Limits

1. Primary Context: Refusal of Enlistment (Pre-enlistment)

- **Definition:** Refusing military service or training based on religious beliefs or moral conscience.
- **Current Status:** Recognized as a **legal right** following the 2018 Supreme Court and Constitutional Court rulings.
- **Remedy:** Performance of "**Alternative Service**" (**36 months of labor in correctional facilities**) instead of military duty.
- **Focus:** Centered on **Total Objection**
 - refusing to hold the status of a "soldier" from the start.

01 Conscientious Objection in South Korea: Scope and Limits

2. The Issue: "Selective Objection" After Enlistment

- **Definition:** An active-duty soldier refusing a specific war (**e.g., overseas deployment**) or a particular military order.
- **Legal Standing: Not recognized** as "Conscientious Objection" under South Korean law.
- **Consequences:** Strictly punished as "**Insubordination**" or "**Desertion**" under Military Criminal Law.
- **Limitation:** Unlike some international human rights standards, Korean law only protects the right to object at the **initial entry stage**.

01 Conscientious Objection in South Korea: Scope and Limits

3. Summary & Comparison

Category	Refusal to Enlist/Train	Refusal of Specific Orders
Perception	Standard "Conscientious Objection"	Insubordination / Breach of Discipline
Legal Outcome	Alternative Service Allowed	Criminal Prosecution (Prison)
Core Logic	"I cannot join the military."	"This specific war/order is unjust."

01 Conscientious Objection in South Korea: Scope and Limits

4. Conclusion

- In South Korea, "Conscientious Objection" is almost exclusively used for **Refusal of Entry (Gate-in)**.
- Moral objections or refusal of specific tasks arising *after* enlistment are still treated as **criminal violations of military law**.



02 The Nature of Military Service Objection: Controversies Regarding "Freedom of Conscience"

- **The "Conscience" Paradox: There is a common debate:**
"If those who refuse the military are 'conscientious,' are those who served 'unconscionable'?"
- **Two Meanings of Conscience:**
 1. **General:** A moral consciousness that distinguishes good from evil.
 2. **Constitutional:** Article 19 of the Constitution of the Republic of Korea states that **"all citizens shall enjoy freedom of conscience"**.

02 The Nature of Military Service Objection: Controversies Regarding "Freedom of Conscience"

- **Diversification of Motives:** While it began with religious groups (e.g., Jehovah's Witnesses), reasons have expanded to include:
 1. **Pacifism:** Following the 2001 objection by Buddhist activist Oh Tae-yang.
 2. **Feminism:** Rejecting military culture that reinforces gender discrimination.
 3. **Professional Ethics:** Teachers refusing to hold guns after teaching children.
 4. **Anti-war Activism:** Opposing specific conflicts (e.g., Iraq War) or state violence.

03 Resistance for Peace: Guaranteeing Objection as a Constitutional Peace Clause

- The Essence of Conscientious Objection: **The right not to kill.**
- The right not to become a "perpetrator," and the right not to become a "soldier."
 - ☞ This connects to the concept of the **"right to live in peace."**
- Conscientious Objection = A guarantee of individual human rights, as well as a rejection of war (**war deterrence**).

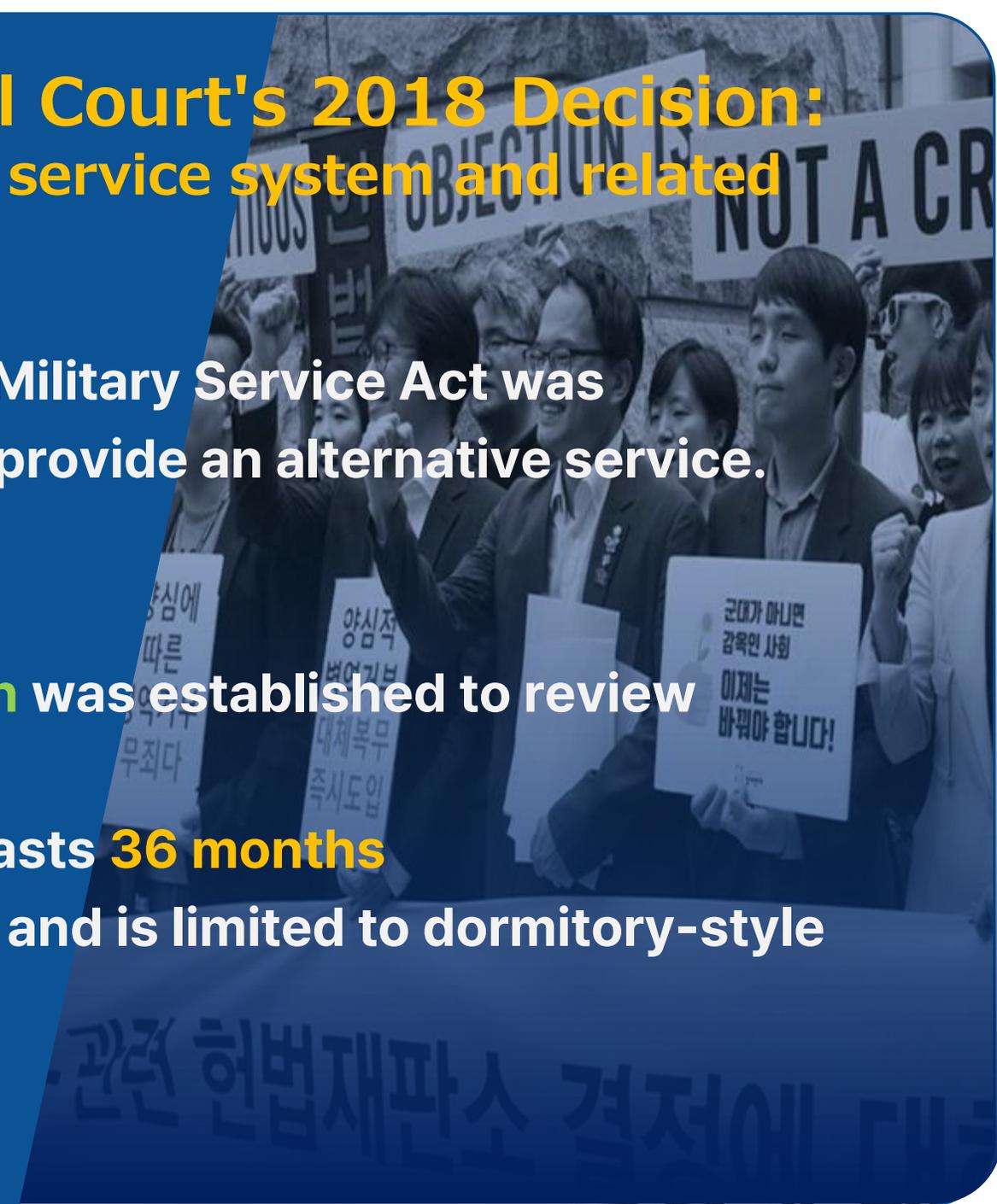
03 Resistance for Peace: Guaranteeing Objection as a Constitutional Peace Clause

- **Guaranteeing Conscientious Objection = Reducing war.**
- ✦ In other words, it serves to "deter" war in a direction that leads to its "elimination." While conscientious objection is a "guarantee of individual rights," it can also be understood as part of the "movement to eliminate war."
- ✦ Part of the movement to eliminate war.

04

The Korean Constitutional Court's 2018 Decision: Introduction of the alternative service system and related constitutional issues

- **The Ruling:** The Court ruled that the Military Service Act was unconstitutional because it failed to provide an alternative service.
- **Current System:**
 1. **An Alternative Service Commission** was established to review applicants.
 2. **Current Constraints:** The service lasts **36 months** (twice the duration of active duty) and is limited to dormitory-style work in correctional facilities.



04

The Korean Constitutional Court's 2018 Decision: Introduction of the alternative service system and related constitutional issues

- Constitutional Issues:

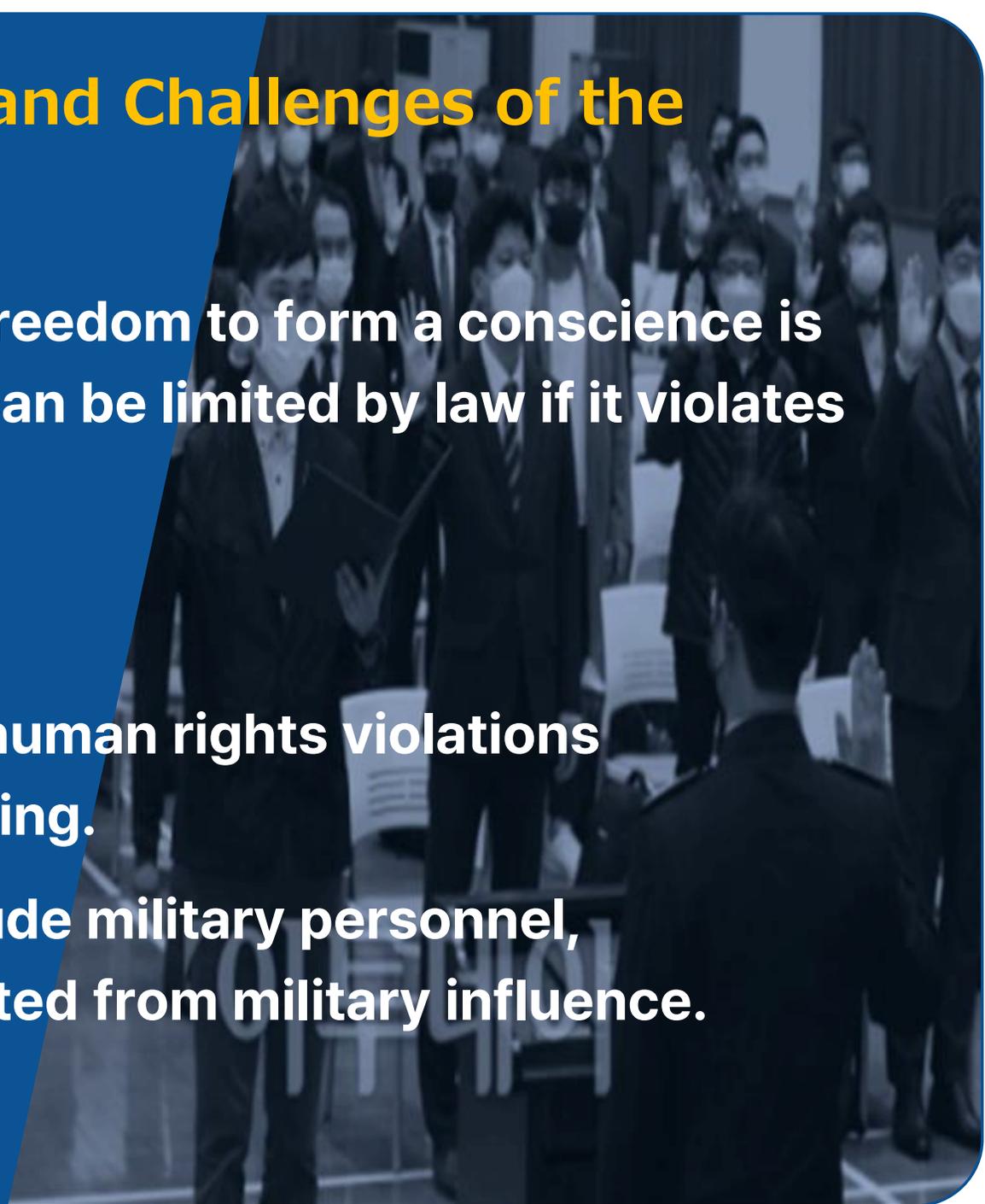
- ☞ The Court held that "conscience" must be "deep, certain, and true," placing the burden of proof on the individual.



05

Constitutional Significance and Challenges of the Alternative Service System

- **Freedom of Realization:** While the freedom to form a conscience is absolute, the freedom to realize it can be limited by law if it violates others' rights.
- **Issues in Review:**
 1. Current screenings may involve human rights violations through overly rigorous questioning.
 2. The Commission should not include military personnel, as the objector should be separated from military influence.



05

Constitutional Significance and Challenges of the Alternative Service System

- The goal should be to respect individual value judgments and guide them toward social service, rather than demanding a "justification" for the refusal.
- Introduction to the **Alternative Translation Review Committee** (English subtitles)

<https://www.youtube.com/watch?v=XiiW3qXeUng&t=153s>



06 Reconsidering South Korea's Military Service System: Conscientious objection from the aspects of human rights and peace

- **Human Rights Concerns:** Compulsory conscription often involves forced labor, low wages, and the deprivation of universal rights (labor, happiness, expression).
- **Structural Violence:** Military service should be viewed as a global issue of structural/cultural violence.
- **Shifting the Paradigm:** Discussion needs to move beyond a simple "conscription vs. volunteer" debate to address the "anti-peace" aspects of the military and the "military-first" mindset prevalent in national security.

07 Conclusion: Toward a Right to Live in Peace

▪ Scholarly Perspectives:

1. **Toshihiro Yamauchi (Hitotsubashi University):** Notes that while Germany explicitly guarantees this right in its Basic Law, **most other countries have not reached that stage.**
2. **Oh Dong-seok (Ajou University):** Criticizes the current alternative service for being controlled **by the Ministry of Defense** and calls for a **"human rights-based approach"** rather than a purely legalistic one.

07 Conclusion: Toward a Right to Live in Peace

- Future Tasks:

1. Re-evaluate the 36-month duration and the composition of the Review Commission.

2. Expand the scope from personal "freedom of conscience" to the "Right to Peace," including "selective conscientious objection" within the military to prevent war crimes.

- Regional Impact: Researching how conscientious objection in South Korea impacts military tensions and the guarantee of peace in East Asia. (e.g. A New Security Theory in East Asia: Early Warning Theory)

08

New Perspective: The December 2024 Martial Law & "Selective Objection"

- **Observation:** During the declared martial law on Dec 3, 2024, many soldiers showed "passive responses" despite being deployed to the National Assembly.
- **The Argument:** This behavior can be interpreted as a form of "Selective Conscientious Objection."

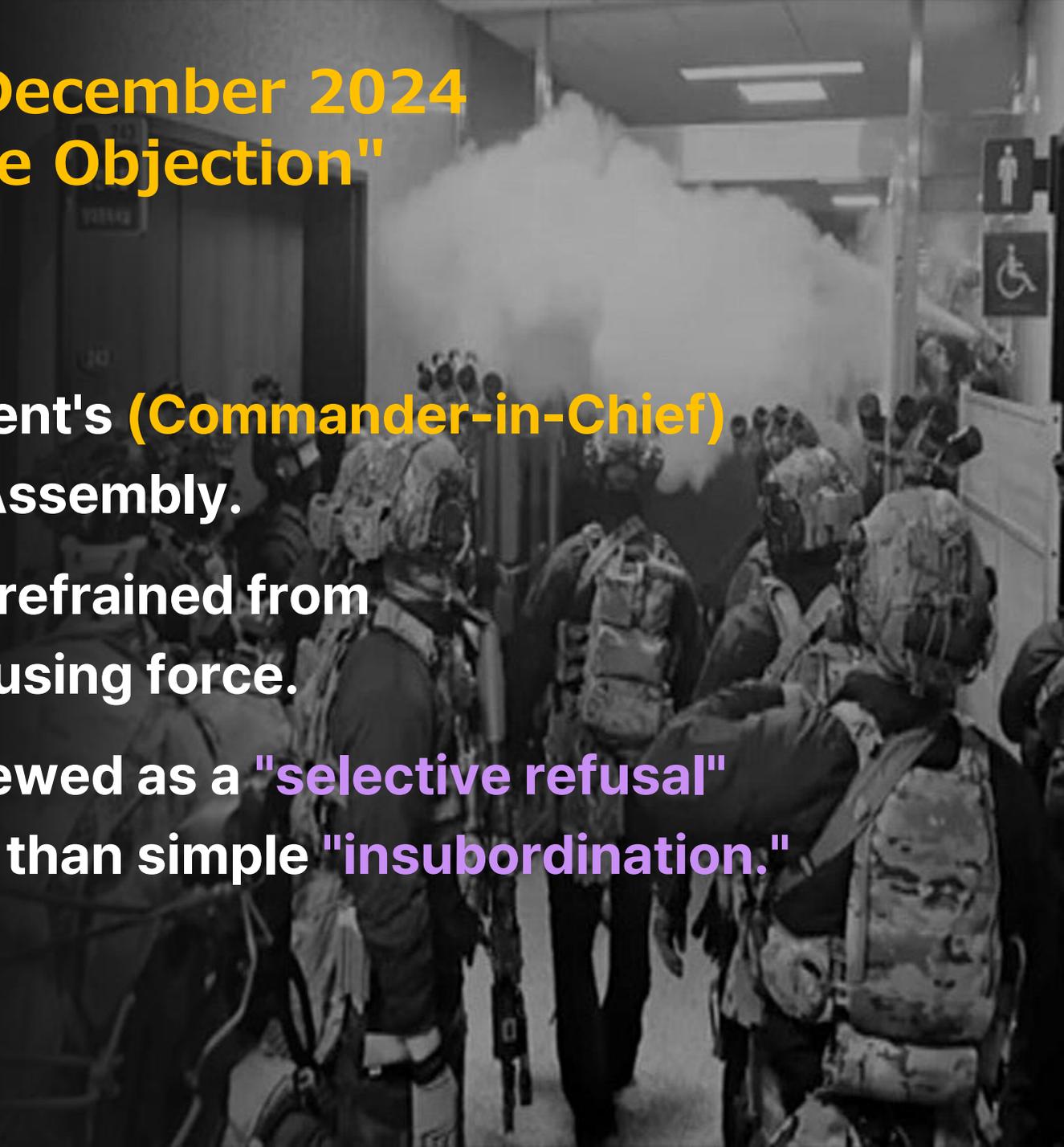


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New Perspective: The December 2024 Martial Law & "Selective Objection"

■ Key Logic:

1. Soldiers followed the President's **(Commander-in-Chief)** order to enter the National Assembly.
2. However, they intentionally refrained from taking aggressive action or using force.
3. Therefore, this should be viewed as a **"selective refusal"** based on conscience rather than simple **"insubordination."**





Thank you for your attention.

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ありがとうございました。