



# An overview of the Human Rights situation in the DPRK in light of the 70th anniversary of the Universal Declaration of Human Rights

Occasional Report of the People for Successful COrean REunification (PSCORE) and Lawyers for human rights and unification of Korea (Hanbyun) for the Third Committee of the General Assembly at its seventy-third session



People for Successful COrean REunification (PSCORE)



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- I. UDHR and DPRK's Human Rights
- II. Personal Liberty and Criminal Procedural Rights
- III. Status of Right to Life
- IV. Restriction on the Freedom of Movement
- V. Status of Right of Access to Information
- VI. Violations of Children's Rights
- VII. Conclusion and recommendations



**People for Successful COrean REunification (PSCORE)**  
**Lawyers for human rights and unification of Korea (Hanbyun)**

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## Preface

*“Oh my country, Oh United Nations  
Freedom – You are immortal  
Leaving our homeland behind  
An iron – curtained inferno  
We are dragged towards hellish death  
Oh my country, oh United Nations  
That you will deliver us from this hell,  
This death we have faith”*

This is a poem, of an unknown abductee, which was found on a wall inside the Pyongyang Prison in 1950 during the Korean War.

70 years ago, the Universal Declaration of Human Rights set out fundamental human rights commitments that all United Nations member states were, and are, expected to observe. Now the Declaration is the most translated document in the world, and has become a criterion by which we measure right and wrong. It has given people everywhere a powerful tool in the fight against oppression, impunity, and affronts to human rights.

In spite of the efforts in the last seven decades, however, the unfortunate truth is that there are numerous situations in which the aspirations of the founders of the United Nations has failed. The atrocities being committed in the Democratic People’s Republic of Korea (DPRK) are among

one of the worst cases. Nonetheless, the world has until recently ignored DPRK's appalling human rights record. Finally, in February 2014, the landmark Commission of Inquiry reported on a State which it found presumptively guilty of on-going crimes against humanity; The gravity, scale, and nature of the DPRK's infringements on human rights reveal a state that has no parallel in the contemporary world. And yet the situations in the DPRK have been void of improvement.

Nevertheless, throughout the three recent inter-Korean summit of April 27, May 26, September 18-20, and the first ever US-DPRK summit of June 12, 2018, Kim Jong-un is seen as the leader of a legitimate state by the international community, and it has been disregarded that previous UN resolutions designated him as a perpetrator of crimes against humanity. Furthermore, even though there is growing concern about whether the DPRK really wants nuclear disarmament and peace on the Korean peninsula, the issue of North Korean human rights was completely ignored, solely based on the assumption that denuclearization is so important that human rights issues should not become a precondition for negotiation.

However, in light of the 70<sup>th</sup> anniversary of the Declaration, the international community and the United Nations must acknowledge that the North Korean human rights abuses lie at the core of the denuclearization problem. It is for us to ensure that those people in the DPRK who are in dire need of human rights protection are made aware that this Declaration exist - and that it exists for them.

I sincerely hope that this report will contribute to garner greater interest in the DPRK's human rights issues amongst the international community, including the third Committee of the General Assembly at its seventy-third session, and will assist in the discussion and activities aimed at improving the DPRK's human rights situation.

October 2018

Kim Tae-Hoon

Chair, People for Successful COrean REunification (PSCORE)  
President, Lawyers for human rights and unification of Korea (Hanbyun)

# **I. Introduction**

## **1. The Universal Declaration of Human Rights**

The United Nations was created in the aftermath of the Second World War.<sup>1</sup> At that time when the world was recovering from the most shocking atrocities, the international community came together to create freedoms, rights, and entitlements for all humanity to claim. Similarly, a forum was created where countries could come together and resolve problems peacefully rather than through armed conflict. The international community committed to making progress in three core areas: peace and security, development, and human rights. These are known today as the three “pillars” of the United Nations. It was emphasized that peace, development and human rights are to be mutually reinforcing, and that lack of progress in one pillar would hinder sustainable progress in the other pillars. For example, without peace and security, it would be difficult for individuals and countries to ensure universal education or sufficient food and nutrition. Basic education and literacy would allow people to better access opportunities and to participate in politics in a meaningful way. And the right to freely express is irrefutably a necessary condition for a stable and just government, regardless of whether national laws are fair and applied equally to all or not, or whether governmental policies fail or not.

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<sup>1</sup> Parts of this introduction were taken from the speech of Signe Poulsen, the representative of the UN Human Rights Office in Seoul, given during the Seminar “Asking the World Youth Beyond the Cold War towards International Peace,” hosted by PSCORE on October 5<sup>th</sup>, 2018.



Thus, 70 years ago in 1948, the Universal Declaration for Human Rights (UDHR) set out fundamental human rights commitments that all United Nations member states were, and are, expected to adhere to. Over the past few decades, the Universal Declaration was complemented by legally binding international treaties that guaranteed economic, social, civil and political rights, that protected people from torture, and that ensured non-discrimination or gave particular protection to certain groups including women, children, migrants and persons with disabilities. The Office of the High Commissioner for Human Rights, or OHCHR, was designated as the main body of the United Nations to oversee implementation of human rights worldwide. Since its establishment, the Office of the High Commissioner for Human Rights has been working to raise awareness and to help member states implement their human rights commitments.

In spite of the efforts during the last seventy years, the unfortunate truth is that there are numerous situations in which the aspirations of the founders of the United Nations failed. The Democratic People's Republic of Korea (DPRK) is one of the worst cases. The landmark UN COI report on February 17, 2014 judged that human rights violations in the DPRK are systematic, widespread and gross, and that in many cases they constitute crimes against humanity, atrocities that should never be endorsed in contemporary society..

Human rights violations and lack of accountability for such violations are often at the root cause of conflict. Where fundamentally underlying problems are not addressed or are swept under the carpet, conflict is prone to reoccur as victims continue to feel ignored and those perpetrating human rights violations are seen to have gotten away with their acts. This is not a good starting point for building trust in institutions.

“Positive peace”, therefore, is considered to be something that is more than the absence of violence. It is the presence of factors associated with peaceful societies, such as the capacity of a society to meet the needs of its citizens and to resolve disagreements in a just manner, without the use of violence, and with equity for all members of society. It can also include things such as tolerance of ethnic, linguistic, and religious differences, as well as socio-economic fairness. These are all tenants that are linked to basic principles of human rights. As a result of the power vested in them, States have obligations towards people within their jurisdiction. They are obligated to respect, to protect and to fulfill fundamental human rights. They must refrain from committing human rights violations such as torture or unlawful killings. They must also take positive action to ensure that all people have access to the basic structures that allow them to exercise their rights – hospitals, schools, courts and employment, for example. States also have an obligation to provide remedies when individuals’ rights are violated, and to restore the dignity of victims.

During the last seven decades the UDHR has become an essential part of the UN core principles and values. Because of this, all 193 UN member-states are expected to follow it. The DPRK became a member of the UN in 1991. As such, the state is also expected to follow and adopt the values of the organization. However, DPRK has systematically abused the human rights of its citizens.

2018 has been a very important year in the development of the relations between DPRK and the rest of the international community. During this year there have been three summits between South and North Korea, along with the

first ever summit between the leaders of the DPRK and the US. Although, discussion with the DPRK has proceeded, the human rights issue in relation to the DPRK has been left in the shadow of the denuclearization issues. Because peace, development, and human rights are mutually reinforcing, the absence of the latter in discussions with the DPRK will hinder the progress towards peace. The authorities of DPRK, but also the international community, must abide by the UDHR and address human rights issues immediately.

## **2. DPRK's Human Rights Policy**

Since 2006 the Korean Bar Association (KBA) biennially publishes a *White Paper on Human Rights in North Korea (White Paper)*. It is based on a *Survey of North Korean refugees about human rights in North Korea* (the Survey), which is conducted by KBA White Paper committee once every two years. The seventh edition of the *White Paper*(English) is to be published at the end of 2018.<sup>2</sup>

The North Korean regime denies the universality of human rights and instead considers them to be a national issue. Human rights are seen from a class and collective viewpoint. Fortunately in recent years, North Korean residents' awareness of human rights seems to be growing rapidly. 88% of the respondents testified that the human rights situation for North Koreans has deteriorated since the Kim Jong-un regime began. This atmosphere was created by high-profile public executions of the North Korean leadership, the monitoring of subjects' movements, and the downfall of the North Korean economy.

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<sup>2</sup> Hereafter, parts of them were taken from the 2018 Survey. Kim Tae-Hoon chaired the KBA White Paper committee..

In addition, most interviewees did not feel that the increase in inter-Korean exchange and cooperation, such as Kaesong Industrial Complex and the development of tourism in North Korea, would be beneficial to the improvement of human rights in the country.

### **3. Types of Human Rights Violations**

#### **(1) Right to life**

According to Article 3 of the UDHR, the right to life is the most fundamental human right. North Koreans' right to life is threatened by the discrepancies in legality between the North Korean law and the international human rights' framework. Moreover, according to the results of the Survey, North Koreans' right to life is also threatened by the regime's repression of actions and expression, which are classified as crimes against the regime. Since Kim Jong Un came to power, we have confirmed continuous cases of purges of high-ranking officials such as Jang Sung-taek, Hyon Yong-chol, Ri Yong-ho, and Kim Yong Jin. In most cases, such purges are identified as extrajudicial, summary, or arbitrary executions. Furthermore, residents are virtually unprotected from life-threatening infringements by individuals who have money and power. Although public executions against ordinary people have seem to decreased in number, such executions are still continued in DPRK.

#### **(2) The right to liberty, and Criminal and Judicial Proceeding Rights**

The right to liberty (Article 3 of UDHR) and the right to not be subjected to arbitrary arrest, detention or exile (Article 9 of UDHR) are core liberties together with the right to life. They are covered to some extent in the DPRK's

Criminal Procedure Act, just like in other provisions that guarantee human rights. However, the Survey shows that there are human rights abuses in the arrest and detention procedures, as well as in the investigation and pretrial stages. The situation has worsened since the 2016 Survey. The right to counsel is almost non-existent and no improvement has been seen in the formal court system. Furthermore, there is still widespread assault and poor treatment within the detention facilities.

### **(3) Freedom of Thought, Conscience, and Religion and Freedom of Opinion and Expression**

The freedom of thought and conscience is a basic condition necessary to maintain the dignity of human beings and thus must be protected by any civilized country. Such freedom is not protected by the North Korean Constitution; but fortunately, the Survey shows that more people have started to doubt the North Korean official beliefs.

To illustrate, the majority of surveyed North Koreans were unaware of the fact that the freedom of religion is protected by DPRK's Constitution, but the Survey simultaneously reflects that religion is becoming more important in the lives of the North Koreans.

This year's interviewees felt that the freedom of expression is the most frequently violated human right in North Korea. This is so because of the constant state-led surveillance. It is almost impossible for North Koreans to use the internet and while they are generally free to use their cell phones, they can be inspected without notice by the authorities for indecent images or songs, or for the use of South Korean vocabulary.

#### **(4) Right to Vote**

Most respondents were aware that citizens over the age of 17 have the right to vote and run for election in DPRK. However, the Survey suggests that the electoral system in the DPRK is merely decorative in nature, because the North Korean authorities designate the representatives.

The North Korean Election Act also stipulates a secret voting system and the freedom of opposition. However, since there is always only one candidate, there are virtually no fair elections. Furthermore, everyone is obliged to vote, which means that the free election exists in name only.

#### **(5) Right to Privacy**

The right to privacy is protected by the North Korean Constitution in accordance to the UDHR and the International Covenant on Civil and Political Rights (ICCPR). However, this right exists only on paper.

The *Bowibu* (Ministry of State Security) undertakes arbitrary house searches without proper legal procedure. Moreover, much of the mail is censored. The violation of privacy in telephone communications is similarly serious because the North Korean authorities implant surveillance programs in the operating system when cell phones are manufactured to easily monitor their residents.

#### **(6) Freedom of Movement**

The North Korean Constitution protects freedom of movement and of occupation, but this is not the case in reality. The Survey does however, confirm that

the North Korean authorities' control over freedom of residence has weakened due to the emergence of markets, symbolized by the marketplace called *Jangmadang*. Also, since Kim Jong-un took office, there have been many cases of moving houses without permission from the authorities.

Domestic travel without a travel permit is a punishable offense, but there are more and more cases where the penalty is avoidable by offering a bribe. Out-bound migration is still strictly prohibited, however. Since 2012 when Kim Jong-un took power, not only DPRK, but also China, have tightened the control around the borders, so attempts to flee have been restricted.

#### **(7) Equal Rights and Rights of Socially Vulnerable Groups**

The rights of women, children, the elderly, and people with disabilities are protected by the North Korean Law. However, there is no proper implementation of the law in real life. Additionally, these groups are not aware of their own rights and of the fact that they can seek protection by the law. Especially, the problem of child labor remains very prominent.

#### **(8) Right to Food**

Malnutrition in DPRK worsened in 2017. The annual 2018 Global Hunger Index, Concern Worldwide, German World Hunger Aid, and the U.S.-based International Food Policy Research Institute all ranked DPRK 11th among the 119 countries surveyed. With a score of 34, North Korea's hunger situation is considered to be serious, and even worse than the previous year when the country ranked 27th, with a better score of 28.2.

Also, more DPRK children were hungry in 2017 than they were a year ago. The U.N. World Food Program has said that ten million people, which accounts for as much as 40 % of the population, are undernourished and require humanitarian assistance, and that one in every five children is suffering of chronic malnutrition.<sup>3</sup>

According to the 2018 KBA Survey, many people are at the present starving to death in DPRK, as the food problem in the country is still ongoing. The reasons behind the North Korean government's failure to guarantee the residents' right to food lies in the Food Entitlement Decline which is caused by political, economic and social factors such as lack of democratic distribution policy, discrimination in distribution, and problems in the supply system.

#### **(9) Human Rights in Detention Facilities Such as *Gwal-li-so* (Political Prison Camps) and *Gyo-hwa-so* (Long-Term Corrective Labor Camp)**

The human rights situation in North Korean political prison camps has been described as horrendous. North Korean prisons include systems of *Gwal-li-so* (political prison camp), *Gyo-hwa-so* (long-term prison labor camp), *Rodong-dalyeon-dae* (corrective labor camp), *Gyo-yang-so* (corrective training camp), *Gu-ryu-jang* (detention house), and *Jip-gyeol-so* (gathering place).

Especially the *Gwal-li-so* facilities are symbolic of the inhumane rule of the supreme leader. In 2017, the International Bar Association (IBA) evaluated the conditions in North Korean political prison camps as worse than the conditions in the concentration camps built during World War II. Many predict that the political prison camps will exist as long as the Kim dynasty remains in charge of rule.

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<sup>3</sup> Oct. 11, 2018 (UPI)



## **(10) Exploitation of Labor Force at Home and Abroad**

On paper, North Korea's Labor Act provides labor protection provisions on par with those of any developed country, but this is not the case in practice. In the Survey, many of the respondents attested that labor mobilization was obligatory and unpaid.

It is estimated that 46,000 to 60,000 North Koreans are working abroad in order to earn foreign currency. However, workers dispatched overseas are being mistreated and exploited by overseas local governments and employers under harsh working conditions, excessive working hours, deprivation of freedom of movement, and inhumane control.

As the North Korean overseas workers do not receive proper remuneration from their employers, human rights abuses in the process of overseas dispatch and in the receiving countries to a certain extent constitute a modern form of slavery.

## **(11) The Human Rights Situation of Overseas Refugees**

The logical route for many North Korean escapees is through China. However, the bilateral repatriation agreement between China and the DPRK has an enormous impact on the human rights situation of the North Korean refugees.

## **(12) Human rights Problems in Inter-Korean Relations**

Human rights problems in inter-Korean relations include civilian abductees in the period of the Korean War, unreturned South Korean soldiers in North Korea, and post-war civilian abductees including South Korean soldiers dispatched during the Vietnam War who were captured by the Vietnamese Communist forces and are now detained in DPRK. Additionally, since the Korean War, numerous Japanese, Thai, Romanian, and other foreign civilians have been abducted.

The South Korean government not only failed to look into the extent of the abductees' and captives' problem, but also failed to properly confront the North Korean regime with these issues. Even during the recent wave of dialogue between the two Koreas, these concerns have not been raised.

## II. Personal Liberty and Criminal Procedural Rights<sup>4</sup>

### 1. Introduction

The Liberty and Security of Person, a core right of the human right together with the right of life, refers to the safety and liberty of an individual to enjoy as one pleases except for those restraints imposed by laws and due process. More specifically, it means freedom from illegal arrest, detention, seizures, searches, interrogations, penalties, security measures, and forced labor.

Article 3 of the Universal Declaration of Human Rights states that “everyone has the right to life, liberty and security of person,” thus placing personal liberty alongside the right to life, while Article 5 stipulates that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” The International Covenant on Civil and Political Rights (ICCPR) more specifically stipulates personal liberty in Articles 7 and 9, as below, while Article 10 states the rights of detained persons.

[Table 2-1] Relevant provisions of the ICCPR

Article 7	No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.
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<sup>4</sup> Han Myung Sub, the commissioner of the KBA 2018 Survey committee

Article 9	<p>1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</p> <p>2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.</p> <p>3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.</p> <p>4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.</p> <p>5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.</p>
Article 10	<p>1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.</p>

	<p>2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;</p> <p>(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.</p> <p>3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.</p>
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Article 79(2) of the North Korean Constitution revised in 2016 also stipulates that “A citizen shall not be detained or arrested, nor private homes be searched, except as provided by the law.” The liberty and security of person guaranteed in the Constitution are generally realized through the provisions on arrest and detention procedures in the Criminal Procedure Act. The North Korean Criminal Act revised in 2012 also carries provisions for the guarantee of human rights in the process of investigation, pretrial examination, trial, and penalty enforcement, including procedural provisions on arrest and detention. *The Report of the DPRK Association for Human Rights Studies*, which North Korea published on September 13, 2014, also emphasizes that citizens have thorough guarantees of various rights, including the right to life, freedom from slavery, freedom from torture, rights to physical freedom and safety, and the right to a fair trial.

The Korea Bar Association's Survey on Human Rights in North Korea in 2018 (hereinafter, 2018 Survey), as in prior Surveys, placed an emphasis on the status of education on these personal liberties that the regime claims it strictly guarantees, its residents' awareness of their rights, and the application of criminal procedure rights in general. Based on the 2018 Survey, this paper will also examine the application of various provisions related to human rights including liberty and security of person in North Korean criminal procedure.

The Liberty and Security of Person, a core right of the human right together with the right of life, refers to the safety and liberty of an individual to enjoy as one pleases except for those restraints imposed by laws and due process. More specifically, it means freedom from illegal arrest, detention, seizures, searches, interrogations, penalties, security measures, and forced labor.

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[Table 2-2] Relevant provisions of the ICCPR

Article 7	No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.
Article 9	<p>1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</p> <p>2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.</p> <p>3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.</p> <p>4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.</p>

	5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.
Article 10	<p>1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.</p> <p>2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;</p> <p>(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.</p> <p>3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.</p>

Article 79(2) of the North Korean Constitution revised in 2016 also stipulates that “A citizen shall not be detained or arrested, nor private homes be searched, except as provided by the law.” The liberty and security of person guaranteed in the Constitution are generally realized through the provisions on arrest and detention procedures in the Criminal Procedure Act. The North Korean Criminal Act revised in 2012 also carries provisions for the guarantee of human rights in the process of investigation, pretrial examination, trial, and penalty enforcement, including procedural provisions on arrest and detention. *The Report of the DPRK Association for Human Rights Studies*, which North Korea



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The Korea Bar Association's Survey on Human Rights in North Korea in 2018 (hereinafter, 2018 Survey), as in prior Surveys, placed an emphasis on the status of education on these personal liberties that the regime claims it strictly guarantees, its residents' awareness of their rights, and the application of criminal procedure rights in general. Based on the 2018 Survey, this paper will also examine the application of various provisions related to human rights including liberty and security of person in North Korean criminal procedure.

## **2. Education on Liberty and Security of Person and Residents' Awareness**

When asked whether they had ever learned the inviolability of the liberty and security of person guaranteed by Article 79 of the North Korean Constitution at school, at work, or in other contexts, only nine out of the 50 respondents said they had received such education. Of the nine positive answers, five had learned it in secondary school or university, while one learned it at work. This result demonstrates that North Korean education on liberty and security of person is highly insufficient. The specific substance of the education is as follows. [Chart 2-1] If you have received education on liberty and security of person, mark all relevant elements of the right which were included in your human rights education.

<b>Content</b>	<b>Frequency</b>	<b>Ratio (%)</b>
All citizens are entitled to personal liberty.	6	18.8
No one shall be arrested, detained, searched, subjected to seizure, or interrogated except by law.	3	9.4
No one shall be subjected to penalty, security measure, or forced labor except by law and due process.	5	15.6
No one shall be subject to disadvantageous treatment by the actions of family members and not their own.	3	9.4
Torture is forbidden.	2	6.3
There is a right to remain silent.	2	6.3
As a rule, arrest, detention, search, and seizure require a warrant issued in advance by a judge.	5	15.6
If a state investigative or pretrial examination agency illegally infringes on the freedom of the person, a tort or crime has occurred and the state or the infringing actor is liable for damages.	1	3.1
A criminal defendant is presumed innocent until a final judgment of guilt.	3	9.4
An interrogatee has the right to the aid of an attorney.	2	6.3
Total	32	100.0

### 3. Nulla Poena Sine Lege

North Korea published *Joseon-minjujuui-inmin-gonghwaguk Beopjeon (Dae-jungyong)* (*DPRK Code: For Public Use*) in 2004 and 2012, listing laws such as the Criminal Act and the Criminal Procedure Act, and has also published revised and expanded editions. When asked if they had seen such books or knew of their publication, 41.9% answered in the affirmative, with three respondents having seen *the DPRK Code: For Public Use* and other 15 respondents having heard of them.

29.8% of respondents said they knew of the Addendum to the Criminal Act (General Crimes), which North Korea still does not make available to the public and which was adopted by Ordinance 2483 of the Presidium of the Supreme People's Assembly on December 19, 2007. This was not significantly different from the 32% rate for this response in the KBA's 2016 Survey on the human rights situation in North Korea. One respondent stated that the Addendum had been revised in December of 2010, and in fact the Addendum to the Criminal Act was revised by Ordinance 1152 and Order 44 of the Presidium of the Supreme People's Assembly on October 26, 2010.

In the 2010 revision, the 23 Articles were cut down to 11, with 12 Articles deleted including Article 7 (illegal sale of strategic preparation supplies), Article 8 (smuggling of national resources), Article 9 (unauthorized removal of foreign currency), Article 10 (violation of construction codes), Article 11 (extremely severe forms of drug smuggling and dealing), Article 12 (storage of drugs and drug ingredients, violation of supply order), Article 13 (illegal cooperation with a person residing in another country), Article 15 (abetting a

crime), Article 16 (obstruction of case resolution), Article 17 (especially severe forms of immoral activity), Article 18 (illegal business), and Article 19 (especially severe forms of intentional infliction of severe physical injury).

For the other crimes as well, where formerly most had only provided for capital punishment as a possible penalty, North Korea revised the provisions so that *Mugi-nodong-gyohwahyeong* (lifetime correctional prison labor) became an option in addition to the death penalty. Though the Addendum is still problematic from a human rights point of view, the revision was a considerable improvement. We do not know the exact reasons why the Addendum to the Criminal Act was revised, but criticism from the international community likely played a large role. However, when asked if they knew of cases where someone was sentenced to death under the Addendum, 50% of respondents said they did. This is nearly a fivefold increase since the KBA's survey on the state of human rights in North Korea in 2016, and suggests that the enforcement of the Addendum has become even more draconian regardless of the revision.

The most problematic aspect of the North Korean criminal legal system for the principle of *nulla poena sine lege* (no penalty without law) is criminal penalties that are provided for by proclamations of state administrative agencies, such as the *Inmin-boan-bu* (People's Security Bureau, currently *Inmin-boan-seong*, Ministry of People's Security). 44.2% of respondents stated that there were more of these proclamations since the advent of the Kim Jong-un administration, and 37.2% stated there was no change. In relation to the level of punishment, 61.5% answered that the penalties had grown more severe.

Meanwhile, the KBA's *2016 White Paper on Human Rights in North Korea*

(hereinafter, *2016 White Paper*) mentioned a proclamation by the People's Security Bureau of February 4, 2015 titled "On Stiff Penalties for Those Who Cause Traffic Accidents or Violate Traffic and Maritime Order," which, unlike prior proclamations, did not provide any statutory penalties such as the death penalty in the proclamation itself but only warned that the existing law would be strictly enforced. *The 2016 White Paper* stated that it remained to be seen whether the nature of proclamations had changed.<sup>5</sup> In relation to this issue, a proclamation by the People's Security Bureau on March 19, 2018, recently covered by Radio Free Asia, resembles the 2015 proclamation in not providing for statutory penalties such as capital punishment in the proclamation itself but only states that stiff penalties shall be imposed. The proclamation, entitled 'On Stiff Penalties for Those Who Engage in Anti-Socialist and Non-Socialist Behavior,' forbids residents from infringing on socialist systems, defacing socialist imagery, and violating the socialist economic system, and further warns that citizens who violate the proclamation will be found, arrested, and subjected to strict legal consequences, with the money, equipment, and goods used for the crime and illegal activity seized. Any place of business involved will be shut down.<sup>6</sup>

Compared to proclamations prior to the Kim Jong-un administration, this shift is a positive sign in terms of *nulla poena sine lege*. However, in contrast to this analysis, according to *2018 White Paper on Human Rights in North Korea*

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<sup>5</sup> Korean Bar Association, *2016 Bukaningwonbaekseo (2016 White Paper on Human Rights in North Korea)*, p. 66.

<sup>6</sup> *New Daily*, "Kim Jong-un pogomun bon bukan jumindeul "tetto don tteudeogaryeogo..." (North Korea Residents at Kim Jong-un's Proclamation, 'They Want to Extort Money from Us Again...),' April 20, 2018.

published by the Korea Institute for National Unification there were contrasting testimonies of proclamations that included legal penalties, including one from September of 2013 stating that anyone caught watching South Korean movies or listening to South Korean music would be put to death, and a number of others stating that those watching or distributing South Korean videos would also face the death penalty.<sup>7</sup> However, no such proclamations concerning the testimonies has been known. Meanwhile, 40% of respondents said that proclamations had effect for a limited time period, while another 40% said that they were effective until repealed. Though the proclamations known so far do not specify effective time period, it appears that internally they are only applied for a limited period.

#### **4. Forced Labor other than By Court Judgment**

North Korea enacted the Administrative Penalty Act on July 14, 2004, and amended it eight times in seven years through October 16, 2011. Almost any act is punishable under this Act, including violations of the national security order which are also subject to criminal penalties, and also violations of the economic, culture administration, general administration, and communal living orders. There are few differences between the violations that are subject to administrative. This opens door to arbitrary penalties and those subject to criminal ones. enforcement of the law where the authorities can resort to administrative or criminal penalties, depending on their convenience, for the same vi-

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<sup>7</sup> Korea Institute for National Unification (KINU), *Bukaningwonbaekseo 2018 (2018 White Paper on Human Rights in North Korea)*, p. 171.

olations. One type of administrative penalty is labor without pay lasting between one and six months, the enforcement of which consists of hard and strenuous labor (Article 16). This is a provision that in practice heightens control over residents through an administrative penalty, which can be imposed swiftly by simple procedures, rather than a criminal penalty which requires more complicated procedures.<sup>8</sup>

The imposition of labor without pay by administrative rather than criminal penalty is in violation of the ICCPR, which prohibits forced labor. Article 8(3)(a) of the ICCPR provides that “No one shall be required to perform forced or compulsory labour.” Paragraph 3(b) provides for an exception, however: “in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.” Paragraph 3(c) further clarifies that the prohibition of forced labor does not extend to: (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention; (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors; (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community; (iv) Any work or service which forms part of normal civil obligations. The penalty of labor without pay under the North Korean Administrative Penalty Act, however, does not fit any of these exclusions. Perhaps cognizant of

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<sup>8</sup> Korean Bar Association, *2014 Bukaningwonbaekseo (2014 White Paper on Human Rights in North Korea)*, p. 83.

this problem, North Korea has not listed the Administrative Penalty Act in its *DPRK Code: For Public Use* published in 2012, which came after the enactment of the Act, and does not make it available to the public.<sup>9</sup>

In the KBA's 2018 Survey, 48% of respondents stated that they had been subjected to the penalties of labor without pay or *Nodong-gyoyang-cheobeol* (corrective labor training) (12%), or had watched such penalties being imposed (36%). The major violations included bribery, failure to fill scrap metal collection quotas, losing animals, possessing subversive recordings, assault, making phone calls to somebody in China, smuggling, unauthorized absence from work, and illegal border crossing. The specifics of labor without pay included hard labor such as working in rural farms, road construction, home construction, logging, and cement factory labor. There were even actions compelled for the sole purpose of inflicting pain, such as moving rocks and then moving them back again [ID 21(2018)], digging up the ground and then filling it up again or building and demolishing a building [ID 25(2018)], and going from apartment to apartment with full pails of water [ID 46(2018)].

The People's Security Protection Act also has instances of forced labor that is not by a court judgment. This Act was adopted on December 28, 1992, as a replacement to the Social Security Act, and the most recent revision is said to be a modification and supplementation on July 26, 2005 by Decree No. 1226 on July 26, 2005. The purpose of this Act is to "establish strict systems and legal orders in people's security protection so as to deter actions that violate

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<sup>9</sup> Ibid., pp. 83~84.



the legal order and contribute to accurate investigations and processing,” (Article 1) and is applied to “a person whose actions are not enough to warrant criminal liability.” (Article 7) Articles 9 to 40 provide for the specific prohibited actions, which cover a broad range of everyday life activities by North Korean residents including threats to political safety; illegal diversion of equipment or materials belonging to agencies, corporations or organizations; making profit at sales stands without authorization; failing to properly maintain farm machinery or oxen; wasting electricity; superstition; smuggling and sale of smuggled goods; unauthorized border crossing; brawls; and environmental pollution.<sup>10</sup> Possible penalties include corrective labor training, which is also a violation of the ICCPR’s prohibition of forced labor except by the judgment of a court. In the 2018 Survey, when the respondents were asked whether they had been subjected to corrective labor training determined by the Consultative Meeting of Chief Secretaries, 40% had received such punishment themselves (18%) or had watched such punishment being inflicted (22%). The major type of violation was found to be telephone calls to South Korea or China.

## **5. The Application of the Criminal Procedure Act**

### **(1) Application of the Investigative Process**

According to North Korea’s current Criminal Procedure Act revised in 2012, the cases where a criminal suspect may be arrested and detained are limited to the person caught in the act of the crime, or in the similar situation, attempts

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<sup>10</sup> Han Myung-sup, *Tongilbeopje teukgang (Special Lecture on Reunification Law)*, Hanurempulleoseu, 2016, pp. 179~180.

for suicide or hiding, and lack of definite residence (Article 142 of the Criminal Procedure Act). A written decision of detention must be prepared within 48 hours of the arrest and receive the approval of a prosecutor, and if the detained person's identity as the criminal is not confirmed within 10 days of the arrest, they must be released immediately (Article 143 of the Criminal Procedure Act).

Of the respondents questioned in the 2018 Survey, 35 (67%) had been investigated by an investigation agency personally (26 individuals), or their families had been investigated (7 individuals). The charges they had been investigated for included smuggling (11), illegal border crossing (6), cell phone communication with person in China (4), possession of illegal recordings (2), assault (2), embezzlement (1), trade in stolen goods (1), and human trafficking (1), mostly relating to economic activities. 15 of these respondents never received an explanation from the investigator why they were arrested or detained, outnumbering the 11 who did. Of the 16, only two had received the documents providing the basis for their arrest or detention, while 14 had not been presented with such documents. The families of only six of the respondents had received notice of the arrest or detention.

75.8% of respondents were unaware that, in cases where a criminal suspect was arrested without a prosecutor's approval, they had to be immediately released if a prosecutor did not approve within 48 hours, which was a slight decrease from 87.7% in the KBA's 2016 Survey. On the other hand, 69.7% testified to instances of an arrested or detained suspect having remained in detention for over 48 hours without a prosecutor's approval, which is a considerable

increase from the 38.3% number in the 2016 Survey. 75.8% of respondents were entirely unaware of the provision that an arrested or detained suspect must be released immediately if not confirmed within 10 days to be a criminal, also an increase from 55.6% in the 2016 Survey.

51.5% of respondents (17 individuals) knew that the Criminal Procedure Act provided that suspects are to be immediately released if the investigator does not confirm within 10 days of the arrest that the arrested suspect is the criminal, but 21.2% of respondents (seven individuals) were detained for longer. Cases included a respondent who was detained on charge of illegal border crossing for one month in the office of Anti-Socialist Group (often called “*Grouppa*,” Inspection Unit) [ID 15(2018)], and a respondent who was detained for 40 days in the City *Bowibu* (Ministry of State Security)’s detention facility [ID 17(2018)].

An investigator is obligated to tell a person making a statement that they are subject to criminal liability if they make a false statement (Article 136 of the Criminal Procedure Act), and 78.8% had been given this notice. On the other hand, only 9.1% (three individuals) had been given notice that they had the right not to make disadvantageous statements in the course of the investigation.

## **(2) Application of the Pretrial Examination Procedure**

According to the North Korean Criminal Procedure Act, the pretrial examination is the process by which the defendant is specified and the facts of the entire

criminal case are clarified as much as possible (Article 147). The pretrial examination is to make a finding through objective evidence of all facts that are significant to the resolution of the criminal case, including the kind of crime committed by the defendant, motive, purpose, means, and method of the crime, the degree of action and the result, and the degree of contribution to the crime and the degree of criminal liability. (Article 148).

In the KBA's 2018 Survey, 26 respondents (52%) replied that they (12 individuals) or a family member (14 individuals) had been subjects of pretrial examination. Of these 26, eight (30.8%) had been arrested or detained by *Yes-imwon* (a pretrial examination agency). 11.5% of respondents (3 individuals) replied that they knew a pretrial examination agency must make a decision to commence pretrial examination within 48 hours of having a criminal case sent to it from an investigative agency and commence proceedings, marking a decrease from 21.7% in the 2016 Survey. In fact, 65.4% (17 individuals) had not received pretrial examination in 48 hours, a large increase from 35% in the 2016 Survey.

Under the Criminal Procedure Act, if the pretrial examination agency makes a decision to pursue criminal liability, it must notify the interrogatee of the decision within 48 hours, and of their right to select a lawyer (Article 157 and 158). However, 84.6% of respondents of the 2018 Survey (78.3% in the KBA's 2016 Survey) replied that they had never received such notice. In fact, none of them had received assistance of a counsel. In the 2016 Survey, 37% of respondents had met with a lawyer.

If a pretrial examination agency undertakes a measure to arrest the interrogatee at the pretrial examination stage, that is a detainment measure, the interrogatee must be presented with documentation to verify identity, and an arrest warrant (Article 181 of the Criminal Procedure Act). However, only one respondent (12.5%) was presented with such documents, a decrease compared to 28.6% in the KBA's 2016 Survey.

Furthermore, if the pretrial examination agency makes a decision to take an arrest and detention measure the suspect's family or organization must be notified in 48 hours, but only two respondents (24.5%) had their family or organization notified. This represents a large decrease from 45.7% in the 2016 KBA Survey.

Under the Criminal Procedure Act, the pretrial examination agency should not coerce confessions or induce testimony by forcible means (Article 166). However, according to the 2018 Survey, 69.2% of respondents (18 out of 26) in the course of the investigation and pretrial examination were coerced into a confession, subjected to violence such as torture or abuse for the sake of obtaining a confession, or convinced to make a confession for the sake of more favorable treatment. This marks a decrease from the 80% rate in the 2016 Survey, but is still alarmingly high. A significant number were beaten with fists, feet, or wooden clubs. 69.2% of respondents (18 out of 26) were also forced to sign written statements against their will while being coerced to confess, which is a considerable increase from 40% in the 2016 Survey.

73.1% of respondents in the 2018 Survey testified to cases in the course of investigation and pretrial examination where a suspect's assets were seized with no relation to the investigation or money was extorted in exchange for a lighter charges, an increase from 60.8% in the 2016 Survey. When asked whether the suspect was given the record of interrogation to read, or whether it was read to the suspect before the fingerprinting, to confirm that it matched the suspect's statement, 26.9% of respondents answered in the negative, an increase from 14.2% in the 2016 Survey.

Suspect interrogation as a general rule must take place between 8 am. and 8 pm. (Article 162 of the Criminal Procedure Act), but 50% of respondents testified to nighttime interrogations that violated this provisions. After the interrogation record is prepared, the suspect should be given a chance to read it over and modify or supplement (Article 174), yet 53.8% of respondents testified to a violation of this provision.

According to the results of the Survey on the state of human rights in North Korea, we believe that the guarantee of procedural rights relating to interrogatees' rights of defense in the pretrial examination procedure has deteriorated as compared to the results of the 2016 Survey.

Meanwhile, sources say that the Security Committee of the Party in a county or a province determine whether a case is to be referred to pretrial examination and whether the suspect would be detained, all without authorization from the Criminal Procedure Act. When asked whether they know if the Security Com-

mittees of the Party actually performs its function as provided, 54% of respondents said that the Committees actually do play such roles. The participants in the Committees include the Chief Secretary of the Party, the Legal Director of the People's Committee, Director of the Security Bureau (Station), the Minister of State Security, the Director of the Prosecutor's Office, the Secretary of the Party Organization, and the Vice Administrative Director of the Party Organization. This means that the decision to refer to a pretrial examination or to detain, two of the most crucial steps in North Korean criminal procedures, are in the hands of the Labour Party officials who have no official legal role rather than an investigative agency or the judiciary. 85.2% of respondents have stated that certain category or class of people such as the members of the families of liberation fighters during the Japanese occupation received special favor of not being detained while the Security Committee considers whether to hold the pretrial process or not.

### **(3) Application of Trial Procedures**

The principle of public trials is codified in North Korea for the appropriate operation of trial proceedings and the guarantee of human rights (Article 164 of the Constitution, Article 270 of the Criminal Procedure Act). All or part of the proceedings may be held away from the public, however, when necessary to protect state or personal secrets or when open trial proceedings may have adverse social effects (proviso to Article 270 of the Criminal Procedure Act). 17 of the respondents in the 2018 Survey had been on trial, and they were all detained for the proceedings. 77.8% (seven individuals) of these respondents had been in closed proceedings, which was a large increase from 40% in the

2016 Survey. In 70.6% of cases both the prosecutor and defense counsel were in attendance (65.9% in the 2016 Survey), and in 11.8% of cases only the prosecutor was in the courtroom. There was no reported case in which neither the prosecutor nor the defense counsel was present.

Article 164 of the Constitution and Article 58 of the Criminal Procedure Act guarantee the right of an interrogatee to receive the aid of counsel in trial proceedings; however, only three respondents (17.6%) had received such aid in trial.<sup>11</sup> Two of the respondents selected their own counsel, and one had the court-appointed counsel. When asked whether they met face-to-face with their counsel in the course of the trial, two answered in the affirmative and one in the negative. Questioned whether they believed the counsel was helpful in the trial, only two said yes. Asked whether they saw the investigative, pretrial, and trial records through their counsel, only one respondent said he or she had seen the pretrial examination record in a waiting room, and the other two answered that the prosecutor or judge refused to show them their records. Of nine respondents, eight said the hearing and judgment took place in one session, and only one said there were four separate trial sessions.

23.5% of respondents had been given notice of their right to remain silent before the trial, and 70.65% had been allowed a final statement. Of 17 respondents, only two (11.8%) said they summoned and interrogated favorable witnesses in court. This represents a considerable decrease from the 26.8% in the 2016 Survey. When asked why they did not summon and question the favorable witnesses, the answers were either lack of necessity (20%), ignorance of

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<sup>11</sup> This rate was 46.3% in the 2016 KBA's Survey on the state of human rights in North Korea.



the procedure (26.7%), refusal by the judge (13.3%), or their belief that the testimony would not affect the outcome (13.3%).

According to Article 281 of the Criminal Procedure Act, the maximum detention period for a defendant in the court of first trial is 25 days, and for a defendant whose charges are subject to *Rodong-dallyeon-heong* (disciplinary prison labor), the period is 10 days. The detention period may be extended by 10 days each in especially complicated or serious cases. Of the 17 respondents, 12 (70.6%) had their trials finished within one month; for one it took three months, and for another it took eight months.

14 of the respondents (82.4%) were sentenced to *Rodong-gyohwahyeong* (correctional prison labor), one to corrective labor training, one to disciplinary prison labor, and one received a suspended sentence on correctional prison labor. 15 of the 17 respondents (88.2%) were notified that they could appeal their judgment when the judgment of the court of first trial was handed down, but only four (23.5%) actually appealed. Two of the four appellants received a lesser sentence on appeal.

In response to the question whether they believed their trials were fairly conducted, only three (17.6%) answered in the affirmative. When asked why they thought the process unfair, respondents testified as follows: It was the norm for trials to be unfair [ID 02 (2018)]; a person was sentenced to *Rodong-dallyeondae* (a corrective labor camp) while I were sentenced to correctional prison labor for the same crime [ID 05 (2018)]; they were tried despite being

mentally ill [ID 08 (2018)]; North Korean law is unfair by its very nature because money determines everything [ID 13 (2018)]; people who have the money bribe their way out of punishment [ID 15 (2018)]; trials are merely a formality [ID 16 (2018)]; the defense attorney and prosecutor are on the same side [ID 32 (2018)]; trials favor only those with power and money [ID 33 (2018)]; everything is determined arbitrarily behind closed doors [ID 41(2018)]; and the process is unilateral [ID 43 (2018)].

When asked whether they were aware of procedures to correct mistaken judgments through emergency appeal or retrial after a final judgment was made, 26 out of 50 (52%) were aware of them, and 11 (42.3%) replied that they themselves or someone they knew had made use of such procedures. Four (36.4%) replied that mistaken judgments had been rectified by emergency appeal or retrial, suggesting that these systems appear to be in operation.

In order to enlighten the masses and prevent crimes, trials may be organized locally in North Korea. The head of an institution, a company, or an organization may expose and denounce a criminal's actions in local public trials (Article 285 of the Criminal Procedure Act). When asked whether they had witnessed or heard of local public trials, 42 of the 50 respondents (84%) replied that they had. Questioned how often local public trials take place, the common answer was one to three times a year, and nine respondents said they were held even more often. The range of actions that warrant public execution conducted in local public trials was very broad, including those who watched illegal videos such as South Korean videos, illegal border crossings, waste of materials,

human trafficking, sex trafficking, rape, larceny, smuggling, drugs, spying, illegal trade in foreign currency, theft of state property, and murder.

#### **(4) Enforcement of Penalties**

##### **(A) Capital Punishment and Public Executions**

Article 29 (2) of the North Korean Criminal Act revised in 2015 prohibits the use of the death penalty on persons under 18 years of age and the enforcement of the death penalty on pregnant women. One of the respondents, however, heard of a person under 18 who had killed their father being executed by firing squad in Hyesan, Yanggang-do (Yanggang Province), in 2012 [ID 23 (2018)]. 27 out of 50 respondents (54%) said that the death penalty was not enforced on pregnant women, but three (6%) had heard of pregnant women being executed.<sup>12</sup>

With respect to the public execution whether there were more instances in Kim Jong Un era compared to the Kim Jong il time, more respondents (46.5%) said ‘not increased’ compared to the ‘increased’ (25.6%) view. Some responses include: Though public executions of party officials has increased, the ordinary people are seldom publicly executed [ID 17 (2018)] ; in the Kim Jong-il era

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<sup>12</sup> The following testimonies are from the KBA’s 2018 Survey: In 2006, a pregnant woman attempted to escape from the Long-term corrective prison camp No. 88 in Gangwon-do (Gangwon Province) was caught and was publicly executed [ID 26 (2018)]; a man was detained, and his pregnant daughter went in to try and clear his name but she ended up being accused as well and was executed [ID 27 (2018)]; and around 2010, the respondent heard that who may have conceived by a **Chinese** man was executed and her baby she was pregnant with was also dropped and killed [ID 37(2018)].

the North Korean authorities gathered the convicted criminals for these executions, but after Kim Jong-un took power the authorities gather the high-ranking officials and then shoot them until they have no recognizable shape, stoking terror [ID 20 (2018)]; though there used to be many public executions, now there are more secret executions [ID 37, 39, 45 (2018)].

(B) *Rodong-gyohwahyeong* (correctional prison labor) and *Rodong-dallyeongheong* (disciplinary prison labor),

North Korea's correctional prison labor is the North Korean equivalent of the imprisonment penalty in South Korean Criminal Act. Correctional prison labor is implemented by sending the person to a *Gyohwaso* (long-term corrective prison camp) and then put to forced labor. During the forced labor, some of the rights of the citizen are suspended (Article 30 of the Criminal Act). 31 of the 50 respondents (62%) answered that they had experienced or witnessed correctional prison labor through their own, a family member's or an acquaintance's experience. There was a broad range of crimes for which correctional prison labor was sentenced, including human trafficking, drugs, smuggling, theft of state property, illegal border crossing, sale of grains, cell phone calls to South Korea or China,<sup>13</sup> absence from work without leave, and death resulting from violence. Though this took place a long time ago, during the Arduous March Period, someone was sentenced to 15 years of correctional prison labor for cutting down three pine nut trees. Most respondents said that in relation to

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<sup>13</sup> In the revised Criminal Act of 2015, North Korea added Article 222 (Illegal International Communications) reading, "Any person who makes an illegal international communication shall be sentenced to one year or less of disciplinary prison labor. If the circumstances are exacerbating, the person shall be sentenced to five years or less of disciplinary prison labor."

the suspension of civil rights that, once a person is deprived of their citizen's card they cannot exercise any rights and are not treated as a person, becoming no better than an animal.

Discipline through labor under Article 31 of the Criminal Act is enforced by sending the convicted criminal to a designated place to perform labor for a period of six months to a year. 32 out of 50 respondents (64%) were punished in this way or witnessed such punishment. The range of crimes for which discipline through labor was sentenced is broad, including theft, assault, smuggling, trade in stolen goods, absence from work without leave, viewing of illegal videos, illegal border crossings, and phone calls to China or South Korea. For enforcement, the person sentenced will be sent to one of the corrective labor camps throughout the country and put to hard labor on construction sites, coal mines, logging camps, companies, or farms.

When asked whether the convicts are detained for the enforcement of their disciplinary prison labor, all 32 respondents replied that every convict was detained.<sup>14</sup> Visitation by family and friends is allowed, however (90.6%). 46.9% replied that they had been subjected to or witnessed violence and other cruel

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<sup>14</sup> Though there were responses in the 2016 Survey that they had commuted to and from their place of labor (5.6%), the respondents appear to have confused their labor without pay penalty under the Administrative Penalty Act, which allows for commute, for a reform by labor penalty. Meanwhile, an analysis posits that a person who is sentenced to disciplinary prison labor is detained in a corrective labor camp under the jurisdiction of the People's Security Bureau, while a person who is sentenced to corrective labor training is held at a corrective labor camp at the city, county, or district levels under the jurisdiction of the People's Committee's Labor Mobilization Department. Korea Institute for National Unification (KINU), *op. cit.*, p. 84.

treatment in the course of disciplinary prison labor, which is similar to the rate of 45% in the 2016 Survey. 25% had witnessed people being disabled or dying from this mistreatment, a slight increase from the rate of 21% in the 2016 Survey. Meanwhile, 31.3% of respondents had experienced or heard of sexual assault and rape at a corrective labor camp, 65.6% testified to prisoners suffering from illness, and 37.5% said there were prisoners who died or were disabled from disease. These responses suggest that the protection of prisoner human rights has not improved at all in the enforcement of disciplinary prison labor. This is likely to be true of correctional prison labor as well.

### (C) Additional Penalties

The North Korean Criminal Act, in addition to basic penalties such as death penalty, *Mugi-nodong-gyohwa-hyeong* life-time term of correctional prison labor, *Yugi-nodong-gyohwa-hyeong* limited term of correctional prison labor, correctional prison labor and discipline through labor, provides for additional penalties such as deprivation of franchise, confiscation of property, payment of fines, deprivation of qualifications, and suspension of qualifications. Asked whether they had been sentenced to additional penalties or witnessed such cases, positive answers included deprivation of franchise (8%), deprivation of qualifications (16%), suspension of qualifications (12%), and confiscation of property (32%). Article 34 (2) of the Criminal Act provides that enforcement of the confiscation of property had to leave enough food, everyday necessities, and money for the family of the person sentenced to maintain a minimal quality of life, but 62.5% of respondents replied that this limitation was not adhered to while only 25% said it was.

#### (D) Pardons

Pardons in North Korea include special pardons by the Chairman of the State Affairs Commission (Article 103 Subparagraph 5 of the Constitution) and the general amnesty by the Presidium of the Supreme People's Assembly (Article 116 Subparagraph 17). 90% of respondents knew about the special or general amnesty, and 66.7% had received amnesty or seen people who had, suggesting that amnesty is in broad use. When asked when special and general amnesties were issued, most replied it was on the birthdays of Kim Il-sung and his son or the commemoration of the Labor Party's foundation.

#### (E) Criminal Compensation

The respondents were asked whether there was a system in place where, if someone was arrested or detained and were investigated, examined in a pretrial process, or tried, but was released due to the charges being unfounded or received a judgment of innocence, there was a mechanism in place for the person to be compensated for his or her injuries from the arrest or detention. Three out of 50 respondents (6%) said such a mechanism existed, and two of them replied that there was a mechanism but no one actually sought compensation. When asked whether a person can bring action against the state or a perpetrator for mental and physical damages in the case of illegal arrest or detention or mistreatment such as torture in the course of investigation and pretrial examination, nine respondents (18%) said there was such a system, while seven of them said the mechanism existed but no one sought compensation.

In relation to criminal compensation, North Korea has mentioned its Regulation on Criminal Compensation in its implementation report of the ICCPR submitted to the Human Rights Committee in 2000.<sup>15</sup> In the report North Korea reported that Article 2 of the Regulation provides that “The state shall compensate for the mental and physical suffering and the property loss of the person who has been arrested and detained or punished innocently by investigation, preliminary examination or judicatory organs.” North Korea also mentions compensation mechanism for residents whose rights were infringed in its 2016 common core document submitted to the UN.<sup>16</sup> According to the results of the Survey, cited above, even if the criminal compensation mechanism is in place, not only are the majority of residents unaware of its existence, but it is not in proper use.

#### (F) Management of Criminal Record and Effects

With the exception of a small fraction of respondents, criminal records of conviction and penalties are stored and managed for life by the state, and 82% of respondents said that their criminal records interfered with their daily lives. When asked about the influence of criminal records, they replied that they become subject to surveillance, and adversely affected in their job prospects,

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<sup>15</sup> Second Periodic Report of the Democratic People’s Republic of Korea on Its Implementation of the International Covenant on Civil and Political Rights, UN Doc. CCPR/C/PRK/2000/2 (2000), para. 17 (d), requoted from *ibid.*, p. 75.

<sup>16</sup> Common Core Document Forming Part of the Reports of State Parties: Democratic People’s Republic of Korea, UN Doc. HRI/CORE/PRK/2016 (2016), para. 52, requoted from *ibid.*, p. 75.



party entry, and promotions. Their children and even their relatives are affected. 82% of respondents said that the People's Security Bureau regularly run secret checks of people with criminal records under the guise of crime prevention.

## 6. Conclusion

The North Korean Constitution has provisions on personal liberty and the Criminal Procedure Act also has various procedures and mechanisms relating to the guarantee of personal liberty and human rights. It appears that the education of the residents on these rights, however, are wholly inadequate (are far from satisfactory). It is a positive sign in terms of *nulla poena sine lege* that the proclamation of the People's Security Bureau, issued after the advent of the Kim Jong-un regime no longer provides for legal penalties such as the death penalty unlike those in previous eras. The Addendum to the Criminal Act (General Crimes), a special criminal law that is not open to the public, has also seen some improvement with its reduced scope of application and adding *Mugi-nodong-gyohwa-hyeong* life-time term of correctional prison labor to those crimes where the death penalty was previously the only choice of penalty.

However, labor without pay under the Administrative Penalty Act and the corrective labor training under the People's Security Protection Act, both of which may be viewed as forced labor without the judgment of a court, are still in effect. The 2018 Survey found that the actual application of various provisions in the Criminal Procedure Act for the guarantee of human rights, including the

arrest and detention procedures at the investigative and pretrial examination stages, had in general deteriorated compared to the results of the 2016 Survey. The right to assistance by counsel was still valid in name only, and the formality of trial had still not seen improvement. Criminal compensation for defendants who were found guilty existed as a regulation, not a statute, but is seeing little use. Violence in the detention facilities and other mistreatment has not improved at all. The Security Committee of the Party, an institution that is not even given such authority by the Criminal Procedure Act, decides such matters as referral to pretrial examination and detention, meaning the capture of the investigative agencies by the Labor Party remains a problem. Though public executions are still being held under Kim Jong-un, more respondents said that their number had decreased than those who said otherwise. It appears that public executions of ordinary residents has decreased.

### **III. Status of Right to Life<sup>17</sup>**

#### **1.Introduction**

The right to life is not only the most fundamental and basic right, but also the source of all other human rights and the one to be respected most. As stated in the ICCPR, “No one shall be arbitrarily deprived of his life.”<sup>18</sup> But the DPRK has seriously infringed upon its citizens’ right to life for decades, starting from the 1950s to the present. Its criminal law provisions extensively prescribe the death penalty, despite the statutory language being vague, ambiguous, and obscure. Moreover, a fair trial is not guaranteed in the DPRK criminal justice process, since an independent judiciary is not established. The DPRK, being a country without the rule of law, frequently perpetrates executions publicly, extrajudicially, summarily, or arbitrarily while ignoring lawful judicial procedures. It is safe to say that the DPRK regime is maintained solely by a reign of terror, which completely ignores, denies and robs its citizens’ right to life.

#### **2. Provisions Relating to Death Penalty**

**(1) The Criminal Law:** The DPRK heavily amended its criminal law on April 29, 2004. Since then, the criminal law in force was amended on May 14, 2012, in which Article 6, paragraph 2 added that “The State shall impose criminal liability only for acts defined as offenses under the criminal law,” succeeding

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<sup>17</sup> Hereafter, partly quoted from INFRINGEMENT OF HUMAN RIGHTS IN THE DPRK AS “THREATS TO THE PEACE” (2016 KBA) p 8-19

<sup>18</sup> See article 6 paragraph 2 of the “International Covenant on Civil and Political Rights (ICCPR).

to the previous criminal law.<sup>19</sup> Additionally, the DPRK appears to have declared the “*nulla poena sine lege*” principle in the sense that it has deleted the statutory provisions which allowed “interpretation by analogy” as provided in Article 10. Furthermore, the DPRK imposed the death penalty only on five limited crimes such as Conspiracy to Subvert the State (Article 60), Terrorism (Article 61), Anti-State Propaganda and Agitation (Article 63), Treason against the Nation (Article 68), and Intentional Murder (Article 266). In addition, the death penalty may be imposed on the crime of Sabotage (Article 65) according to the amendment in 2009 (Article 64) and the discretion of imposing the death penalty has been expanded to Drug Smuggling and Trafficking (Article 208) in the current criminal law amended thereafter. However, the five crimes among the aforementioned seven crimes, excluding Intentional Murder and the Drug Smuggling and Trafficking, are related to political crimes and the wordings defining these crimes are vague and ambiguous.

**(2) Addendum to Criminal Law:** The addendum to the criminal law (general crimes), which is a very unique type of criminal law, was enacted on December 19, 2007 and has 23 articles, of which, are the 16 articles such as drug smuggling and trafficking, that have been specified to be punished by the death penalty. Arbitrary interpretations of the 16 articles seem to be allowed due to the frequent use of such vague and ambiguous terms as “particularly grave form” or “extremely grave form.” Furthermore, it seems possible that for any crimes, a death penalty can be imposed at the sole-discretion of the DPRK authorities, since Article 17 includes an express and general provision that “in cases of particularly grave forms of action by the perpetrator, the punishment shall be

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<sup>19</sup> See article 6 paragraph 2 of the “International Covenant on Civil and Political Rights (ICCPR).”

either life-term reform through labor or the death penalty." And Article 23 provides that "in cases where multiple acts of crime are committed by the perpetrator in a particularly grave form, or where there is no possibility of rehabilitation, the perpetrator can be sentenced to death," even though its relevant statutory language may not contain a death penalty in its original form.

**(3) Proclamation:** The DPRK has continued to impose the death penalty through proclamation even though the death penalty is not specified in the criminal law provisions. According to the 2014 Survey on 103 North Korean defectors who came to South Korea after 2011, 80 North Korean defectors (77.7%) answered that they saw the proclamation and directives stating that the death penalty shall be imposed if citizens violate orders. According to the 2010 Survey, it is reported that these kinds of proclamations are announced every few months, and that their contents are conveyed through lectures in-group gatherings, and that violation of the proclamations are strictly punished.<sup>20</sup> This clearly violates the principle of *nulla poena sine lege*.

### 3. Public Executions

**(1)** Public executions, the most representative examples of the DPRK government's denial of its citizens' right to life, are usually carried out by a firing squad at such crowded places as marketplaces, riversides, stadiums, etc., forcing and encouraging participation by people. Even 10-year-old children or the victims' family or relatives are forced to watch the public executions, which

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<sup>20</sup> Korean Bar Association(KBA), *2010 White Paper on Human Rights in North Korea*, pp. 177-78.

causes mental anguish equivalent to torture.<sup>21</sup> These public executions had been most frequently conducted, per Kim Jong-Il's instructions, to prevent citizen agitation during the 1990s great famine period, and many economic criminals who committed crimes such as simple theft, embezzlement, or cow slaughter for survival, had been publicly executed.

(2) According to the face-to-face testimonies collected by the Korea Institute for National Unification (KINU) from 2008 to 2014, interviewees reported a total of 1,382 public executions from 2000 to 2014.<sup>22</sup> According to the KBA 2014 Survey, 78 people (75.7 %) answered that they had witnessed public executions in the DPRK. Regarding respondents' witnessing of public executions, public executions have been continuously carried out since the 1990s up to the present. Regarding how many times respondents witnessed public executions, out of 71 respondents, 20 people (28.2%) witnessed a public execution one time, 15 (21.1%) two times, 13 (18.3%) three times, and 23 (32.4%) more than four times, which shows that the public executions in DPRK have been widely and frequently perpetrated.

(3) The DPRK government argues that public executions are legitimate because they are a means of condolence with victims and the bereaved. However, we cannot find any legal grounds for public execution as a method of administering a death sentence in the DPRK. The on-site (or ad hoc) public trials stipulated by Article 286 of the DPRK Criminal Procedure Law are concerned with the publicity of hearings of a trial, not of the method of execution. There-

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<sup>21</sup> UN Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (hereinafter, COI Report of the Detailed Findings), pp. 267-268.

<sup>22</sup> *White Paper on Human Rights in North Korea 2015* (KINU), p. 67.

fore, Article 286 does not seem to provide the legitimate legal ground for public execution. Article 32 of the Decisions and Sentencing Law also only says, “Death sentences shall be carried out by firing squads and the like.”

Meanwhile, public executions have been frequently carried out for crimes such as illegal border-crossings or foreign currency earning through sex videos, neither of which is the statutory penalty death. Even though the DPRK Criminal Law provides that a person under the age of 18 at the time of committing a crime shall not be sentenced to death, according to the 2012 KBA Survey, seven such executions were witnessed by the respondents.<sup>23</sup> Additionally, Article 29 of the North Korean Criminal Law code prescribes that pregnant women shall not be sentenced to death, but according to the KBA 2014 Survey, there was one reported case of a pregnant woman who was put to death for the crime of human trafficking. Thus, it seems obvious that public executions in the DPRK are conducted in violation of their own criminal laws and procedures, and deprive North Koreans of the basic right to life.

(4) Public executions peaked during the 1990s famine, entered a lull in the 2000s, and again have again been frequently carried out in recent years. Under Kim Jong-un’s regime, public executions were conducted by machine guns instead of rifle fires, and more brutal methods have been reported as well. In early 2012, Kim Cheol, vice-minister of the People's Armed Forces was said to have been executed by mortar-fire for drinking during the mourning period for Kim Jong-il<sup>24</sup>.

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<sup>23</sup> KBA, *2012 White Paper on Human Rights in North Korea*, pp. 157-158.

<sup>24</sup> Yoo Sung-ok, President of Institute for National Security Strategy, *Chosunilbo*, February 3, 2014.

In August 2013, nine Unhasu orchestra members were said to have been executed before the public for the charge of pornography production, and in early November 2013, 80 residents were publicly executed in six major cities: Sinuiju (in North Pyeongan Province), Pyeongseong (in South Pyeongan Province), Chongjin, (in North Hamgyeong Province), Sariwon (in North Hwanghae Province), and Wonsan (in Gangwon Province) on charges of watching South Korean dramas or movies and distributing pornography. There was a media report that the executions were carried-out by firing machine guns blindly, which made the barbaric act all the more gruesome—filling local residents with terror.<sup>25</sup>

#### **4. Infringements upon the Right to Life by Political Purges**



Execution of Jang Sung-taek, Kim Jong-un's uncle, who was a prominent figure, often traveled to China and even to South Korea to learn about economic policy and planning. Photo by KCNA

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<sup>25</sup> *Joongangilbo*, November 11, 2013.





Hyun Young-chul was executed by ZPU-4 Anti-aircraft Machine Gun System (Photo credit: U.S. Army) without any judicial process and only two or three days later after his arrest.

It is known that Kim Jong-un has either sent to political prison camps or has killed 340 North Koreans, many of them government officials.<sup>26</sup> Such are the findings of the national intelligence service, according to the agency's white paper covering Kim's first five years of rule. The mass executions of hundreds of high-ranking officials, including the public sentencing of Kim's uncle-in-law Jang Song Thaek, is part of Kim's plan to firmly consolidate his inherited power as the third-generation ruler of DPRK. The number of purges and executions has also skyrocketed as Kim increased his authoritative grip on the country.. "There were 3 [purged or executed] in 2012, more than 30 in 2013,

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<sup>26</sup> SEOUL, Dec. 28, 2016 (UPI)

greater than 40 in 2014, and more than 60 in 2015," according to the report. Furthermore, numerous credible high ranking defectors testified that at least 3,000 of Jang Song Thaek's close associates in Workers's Party of Korea have been purged or killed.

Quite recently, Kim Jong-nam, the former heir apparent set to lead the DPRK regime and eldest son of Kim Jong-il, was killed in February 2017 in an assassination scheme believed to be orchestrated under the orders of his younger half-brother, current DPRK leader Kim Jong-Un. The political purges by Kim Jong-un circumstantially serve as evidence that his infringement upon the right to life has crossed over any measure of reasonableness. The executions were made without a judicial process, and even those issued through a one-level judicial trial were issued without an appellate review, which are clearly infringements upon the basic right to life, and is in violation of the ICCPR, of which the DPRK is a signatory state to. For reference, the ICCPR Article 14, paragraph 5, stipulates that "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

## **5. Infringements upon the Right to Life in Detention Facilities**

**(1) Infringements in ordinary prison camps, *Gyohwaso*:** In these prison camps severe labor, malnutrition, illness, beatings, and other inhumane treatments are combined with poor hygiene and medical care, frequently resulting in mass deaths. In and around 1997, at the *Gyohwaso* located in Taehun County

of South Pyong-an Province (closed around the end of 1997), three to five prisoners were secretly executed every week,<sup>27</sup> and from May 1998 to the end of 1998, at *Gyohwaso* No.12, Jeongeori *Gyohwaso*, one to three times a month, five to seven prisoners were secretly hanged with iron chains.<sup>28</sup>

North Korean defectors from the Jeongeori *Gyohwaso* testified that around four to five prisoners died every day and that the death count reached 850 prisoner deaths in six months. From June 2000 to January 2001, approximately 80 people died every month. Approximately 40 deaths occurred per month from 2000 to 2005, and approximately 20 per month from 2006 to 2007.<sup>29</sup> According to a recent interview of a defector from the Jeon-geori *Gyohwaso* (he was imprisoned from May 2007 to November 2011 and defected to the South in 2015), there were approximately 900 male prisoners when he entered the camp and approximately 2,000 prisoners, male and female, when he left. He stated that during his four-and-a-half-year imprisonment, on average three prisoners died of starvation every two days, and the corpses were cremated and the ashes were used as fertilizer by being spread on the potato or cornfield.<sup>30</sup> Also, according to the testimony of a female defector who was detained at the same *Gyohwaso* from June 2010 to January 2013 (she defected from the DPRK in March of 2013), there were approximately 1,800 male prisoners and 1,200 female prisoners when she entered the camp, 80% of whom were repatriated after escaping from the DPRK. She noticed that around July and August of 2010, three to four female prisoners died of starvation and of heat-related illness every day, and as the summer heat decreased, one prisoner died every two to

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<sup>27</sup> COI detailed report, p. 268.

<sup>28</sup> Aug. 12, 2013. Made public in the National Human Rights Commission of Korea and COI detailed report, pp. 267-268.

<sup>29</sup> 2012 Compilation of North Korean Human Rights Violations (National Human Rights Commission of Korea) p. 95, 102.

<sup>30</sup> Interview on Oct. 6, 2015 in Kyunggi Province.

three days. It was testified that the death rate was higher amongst male prisoners.<sup>31</sup> Another defector from the same *Gyohwaso* who was detained from December 2013 to April 20, 2015 (he escaped from the DPRK in May 2015), testified that he personally witnessed at least 12 deaths from starvation during the one year and four months he was imprisoned. More importantly, he reported that the prison authorities often release prisoners who were likely to die from starvation in the near future in order to reduce the statistical number of deaths inside the camp. As a result, the number of deaths just outside of the camp may be greater than those occurring and witnessed inside of the camp.<sup>32</sup>

In 2004, at *Gyohwaso* No.11, Jeung-san *Gyohwaso*, where several hundred imprisoned women who had been repatriated after a failed defection from the DPRK, about 70% of the prisoners were suffering from malnutrition and two or three prisoners died every day. The women's corpses would then be wrapped in vinyl covers and buried without a coffin in a common cemetery called "flower hill."<sup>33</sup> And surprisingly, according to the testimony of a defector who had the task of corpse transportation, Jeung-san *Gyohwaso* was notorious for malnutrition amongst its prisoners and extremely poor sanitation. She also saw corpse tag numbers evidencing the deaths of 3,721 people in the six-month period from January 2005 to June of the same year.<sup>34</sup>

Another defector, who was detained at *Gyohwaso* No.1, Gaecheon *Gyohwaso*, from October 2010 to December 2014 (he escaped from the DPRK in 2015), worked in the sanitation department at the camp, and testified to have seen

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<sup>31</sup> Interview on Oct. 6, 2015 in Kyunggi Province.

<sup>32</sup> Interview on Oct. 6, 2015 in Kyunggi Province.

<sup>33</sup> *Chosun Ilbo*, March 20, 2010.

<sup>34</sup> National Human Rights Commission of Korea, "2012 North Korea Human Rights Violations Collection," p. 123.

statistical data that out of approximately 3,000 male and female prisoners, roughly 1,500 died from October 2009 to December 2010, and thereafter, even though the numbers might have decreased, there were still many deaths from starvation. At the time of his discharge in 2014, at least 100 people died from starvation every year.<sup>35</sup>

## **(2) Infringements upon the Right to Life in the Political Prison Camps:**

The DPRK authorities deny the existence of political prison camps in their country. Contrary to this denial, it is well known that political prisoners in the DPRK are exposed to the most heinous infringements upon their right to life in the form of public or secret execution, malnutrition, starvation, and forced labor.<sup>36</sup> However, due to the small number of witnesses from such camps, it has been difficult to obtain new information recently.

## **6. Other Infringements upon the Right to Life**

Article 11 Paragraph 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees all human beings the fundamental right to be free from hunger. In the great famine period of 1990s in the DPRK, the mass starvation of citizens in such a highly centralized regime is mainly attributable to the catastrophic failure of its policy-makers, including top leadership, to make and implement policies regarding the production and distribution of food and foreign aid, and to efficiently allocate national budget.

Accordingly, the DPRK leadership and policy makers' misconduct is responsible for the widespread, organized, and grave infringements upon human

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<sup>35</sup> Interview on Oct. 6, 2015 in Kyunggi Province.

<sup>36</sup> KBA, *2012 White Paper on N. Korea Human Rights*, pp. 356-363.

rights, which inflicts tremendous mental and physical anguish on its citizens. This is also a serious infringement upon the right to life. Even after the 1990s famine, there are on-going concerns that mass starvation may be very likely to recur and that the right to life would be violated to a massive degree as long as such said laws and policies persist in infringing upon the right to food.<sup>37</sup> Most pressing is the issue of malnutrition and the lack of food amongst vulnerable populations such as pregnant women and newborns.

Besides the food crisis, another serious infringement upon the right to life is the on-the-spot killings of citizens who try to cross the Sino-North Korean border to flee from the DPRK. On October 22, 2011, witnesses reported that DPRK guards immediately shot a North Korean refugee who had crossed into China by way of the Yalu River from the area of Hyaesan, Yanggang Province.<sup>38</sup> There is also witness testimony that a 37-year-old man was shot to death by the DPRK border patrol in April of 2013.<sup>39</sup>

## **7. Conclusion**

The criminal statutes that call for the death penalty in the DPRK Criminal Law are vague and ambiguous and, furthermore, have been significantly expanded in by-laws. As a result thereof, the death penalty in the DPRK has been carried out for almost all kinds of crimes. Executions have routinely been carried out arbitrarily, by means of administrative orders or directives, even though the death penalty is not included as statutory punishment in the criminal law itself. Worse yet, public executions and secret executions have been carried out after

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<sup>37</sup> See supra note 4, at pp. 144-208.

<sup>38</sup> <http://news.donga.com/Politics/New/3/00/20111107/41680173/1>

<sup>39</sup> Unification Research Institute, *2015 North Korean Human Rights White Paper*, p. 381.

show trials and even without show trials, as a means of maximizing fear amongst North Koreans. Of specific concern is the increasing frequency of public executions carried out by particularly cruel means that have occurred during the political purges of Kim Jong-un. The DPRK should immediately cease arbitrary death executions and infringements of people's right to life.

Additionally, infringements upon prisoners' right to life in *Gyohwaso* and political prison camps have been on-going and increasing in magnitude in a short period of time in the form of starvation, harsh labor, poor sanitation, and executions. These conditions are widely corroborated in former prisoner's testimonies.

All such infringements upon the right to life are well-organized, widely-committed and serious violations of the human rights, and it is not only in violation of the ICCPR but it also constitutes a crime against humanity, and therefore, the United Nations General Assembly, Security Council and member states should make all efforts to prosecute the criminals at the International Criminal Court (ICC); and so for that purpose should collect, record, and maintain all evidences of human rights violations to prove the criminals' guilt. This along with the Republic of Korea congress's enactment of the North Korean Human Rights Act and establishment of the archive of North Korean human rights records in cooperation with the newly opened United Nations Field Based Structure office in 2016 are the first steps toward holding the DPRK responsible for these human rights violations.

## IV. Restriction on the Freedom of Movement<sup>40</sup>

### 1. Introduction



Corpse of a North Korean Woman Who Froze to Death in the Tumen River  
(assumed year 2008, source: Chosun.com)

The recent Syrian refugee crisis so clearly and unquestionably shows how important the freedom of crossing borders is to preserve and promote human life and dignity. In this sense, a discussion of the restriction on the freedom of movement in the DPRK is one of the primary approaches to fulfill and realize inherent human rights of North Korean people living either inside or outside the DPRK. Generally, issues about restriction on the freedom of movement include not only restrictions on travel to foreign countries, but also travel within the country and choice of residence. The DPRK authorities have established a very precise and detailed surveillance system in order to restrict freedom of movement for the purpose of maintaining the regime and maximizing its ability to control citizens. As a result thereof, North Korean citizens' freedom of movement is extremely limited.

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<sup>40</sup> Hereafter, partly quoted from INFRINGEMENT OF HUMAN RIGHTS IN THE DPRK AS "THREATS TO THE PEACE" (2016 KBA) p 48-67



## **2. Restriction on the Freedom of Residence and Movement in the DPRK**

Paragraph 1 of Article 12 of the ICCPR, of which the DPRK is a signatory, states that everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence, and Paragraph 2 stipulates that everyone shall be free to leave any country, including his own country, and Paragraph 4 stipulates that no one shall be arbitrarily deprived of the right to enter his own country.

In addition, regarding the right to free choice of work and employment, which is closely related to freedom of residence, Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), of which the DPRK is a signatory, requires that the States Party to the Convention “recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right” in Section 1. Furthermore, the Socialist Constitution of the DPRK provides that citizens have the right to work and all able-bodied citizens may choose occupations in accordance with their wishes and skills and are provided with stable jobs and working conditions in Article 70 thereof.

In spite of that, the DPRK has restricted freedom of residence and movement through various means such as the rationing system, compulsory job placement, and the identity registration system, and so on and so forth. However, in 1998, the DPRK yielded to international pressure and amended its constitution to read, for the first time, “Citizens have freedom of residence and travel,” in Article 75. Despite the constitutional amendment, the DPRK is so concerned

with preventing any possible criticisms of its regime and its system that may arise from information exchange among its citizens, that, in reality, it still strictly restricts the freedom of residence and movement systematically and practically. For this reason, it appears that the great majority of North Korean residents do not know that they have a constitutional right to free movement.

According to the KBA 2014 Survey of the North Korean human rights situation which was conducted from October 2013 to January 2014, amongst 103 North Korean defectors who escaped from the country after January 1, 2011, 77 defectors (74.8%) provided a negative answer to the question: “Do you know that since 1998 the North Korean Constitution has stipulated, that every citizen has freedom of residence and travel?” Even though the above-mentioned North Korean constitutional amendment has failed to expand the freedom of movement of its residents substantively, it seems that North Korean citizens secured themselves an expanded freedom of movement and residence since experiencing the market economy of the 2000s.

### **3. Restriction on Freedom of Residence and Movement within the Territory**

#### **(1) Restriction on Freedom of Residence**

As mentioned above, freedom of residence and movement as well as freedom of choice of employment are not separable from each other. In other words, whether the freedom of choice of employment is fully guaranteed is an indicator of whether freedom of residence and movement is fully guaranteed. In the DPRK, however, the state assigns jobs to its citizens and, accordingly, their residence is determined. The state-designated employment is monopolized by

the Workers' Party of Korea (WPK) according to its labor supply and demand planning, and the forced assignments are heavily based on *Songbun* (a kind of caste system, social stratification), which classifies people on the basis of state-assigned social class or family background, rather than individual interest, aptitude, or ability. In other words, people who belong to the lower *Songbun* classification, or whose immediate family or relatives have a history of opposing the regime's ideology, are assigned to hard physical labor jobs such as working at a farm or a coal mine. Where there are not enough workers at factories, coal mines, construction sites, workplaces, etc, people are usually assigned their job as a group by instruction of the WPK based on what the state believes is necessary. On the other hand, children of party officials or government officers with higher *Songbun* are assigned to good jobs in preferred areas like Pyongyang, regardless of their personal ability. Once a job is assigned, any changes are also solely determined by the WPK based on *Songbun* rather than an individual's wishes. The ID card is used to distinguish between Pyongyang residents and non-Pyongyang residents as Pyongyang residents are given a specially issued "Pyongyang Citizen ID Card," which is different from the ordinary people's "Registration Card."

For women, state-designated job placement is less strictly enforced compared to men. Although both men and women are assigned places of employment upon completing their studies or military service, it is reported that married women are able to leave their job within a short time of getting pregnant.<sup>41</sup> For men, once a job is assigned, they must go to the work place even in cases of factories that are only operating at 20 to 30 per cent capacity, but women are not obliged to comply with the same rule. Such a relatively greater freedom

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<sup>41</sup> UN Human Rights Council, A/HRC/25/CRP.1, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, para 365.

seems to be the basic reason why more women than men are able to escape from the DPRK.<sup>42</sup>

In the DPRK, not going to work or unemployment is defined as a non-socialistic phenomenon and is subject to punishment. Also, a designated place of residence may not be changed without government permission. Article 146 of the Criminal Law of the DPRK (as amended in May 14, 2012) defines a crime of “violation of orderly usage of a state-owned dwelling place” by stating that a person who violates usage regulations of a dwelling place owned by the state shall be punished with short-term labor of up to one year, and in cases of a grave offense, he or she shall be punished with short-term labor of up to three years. Additionally, a crime of “illegal transfer of a state-owned dwelling place” is defined in Article 149 of the previous Criminal Law and the law prescribes that “a person who transfers, receives or lends a dwelling place owned by the state in exchange for money or goods shall be punished by short-term labor for less than two years and in cases of grave offense, he or she shall be punished by reform through labor for less than three years.”

However, as society has changed and market economy spread after the economic crisis of the 1990s, more defectors answer that financial means, i.e. bribes, are becoming the most influential factor for a job assignment, and illegal housing sales are actively growing in the shadows.<sup>43</sup> People bribe housing officers to trade housing, exchanging a small house for a larger one, for example. In particular, real estate transactions are increasing in Pyongyang and there is an interesting report that some rich people who live in the rural provinces own a number of houses in Pyongyang.<sup>44</sup> In the past, such a phenomenon was

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<sup>42</sup> A/HRC/25/CRP.1, para 377.

<sup>43</sup> A/HRC/25/CRP.1, Para 360.

<sup>44</sup> North Korea Intellectuals Solidarity, Newsletter Vol. 5, 2014 (Korean only).

unimaginable. Supposedly, such change is related to the fact that North Koreans seem to have secured greater freedom of residence, movement and travel after the suffering of the Great Famine in the 1990s and experiencing market activities such as *Jangmadang*, in the 2000s.<sup>45</sup>

In the KBA 2014 Survey, to the question of whether one can change place of residence without government permission, 74 people (71.8 %) of 103 respondents answered that one is bound to be punished and cannot be issued an ID card, but it is indeed possible without those consequences if one bribes an official.

Meanwhile, forced relocation or deportation frequently occurs in the DPRK—a common violation of the freedom of residence. 83 people (80.6 %) of the respondents to the KBA 2014 Survey answered that “people are forcibly moved to another area for a policy reason.” Only five people (4.8 %) answered that forced relocation in the DPRK does not occur.

Pyongyang residents with poor *Songbun* have been massively relocated from the city and such relocations are applied as a political tool to political wrongdoers, dissidents, and their families. Particularly, if a member of a family is a defector, it is said that remaining family is often relocated to another area. In the KBA 2015 Survey, as much as 56 (54.4%) of the respondents affirmatively responded to the question, “Is it true that the family members who still live in the DPRK, are relocated to another place after the defector has left to the ROK?” Only 16 (15.5%) answered, “No, not true”, 29 (28.2 %) answered “Sometimes yes, and sometimes no”, and 2 (1.9 %) answered, “Do not know.”

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<sup>45</sup> Korea Institute for National Unification (KINU), *White Paper on Human Rights in North Korea* (2015), 200-201.

In border areas such as Hyaesan, frequent relocations are mostly enforced for smuggling and human trafficking, and the relocations have also increased for punishment non-socialist behaviors, including the use of cell phones. Aside from individual relocations for non-socialist illegalities such as sex trafficking, narcotics use, illegal use of cell phones, and defection of family members, it is known that relocations can sometimes take place without an element of presumed law-breaking on the part of the relocated individuals, solely executed as a wholly political decision by the government.

Discrimination against women and their vulnerable status in the DPRK, as well as the prospect of *refoulement*, makes women extremely vulnerable to human trafficking. A large number of women are trafficked by force or deception from the DPRK into China or within China for purposes of exploitation in forced marriage or concubines, or prostitution under coercive circumstances. Currently, an estimated 20,000 children born to North Korean women in China are effectively deprived of their rights to birth registration, nationality, education, and healthcare because their recognition would expose the mothers to the risk of *refoulement* to the DPRK under the present Chinese policy.<sup>46</sup>

## **(2) Restrictions on Domestic Freedom of Movement**

According to Article 6 of the Travel Regulation, North Korean residents must obtain a travel permit when traveling to areas other than their registered city or county of residence.

In the KBA 2014 Survey, 98 people (95.1 %) of 103 respondents stated that there is a duty to possess a travel permit. Moreover, Article 30 of the People's

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<sup>46</sup> COI detailed Report .144.

Security Enforcement Law prescribes that “the People’s Security Agency shall exercise supervision over the violation of travel regulations and walking regulations.” Thus, traveling without a travel permit falls under a violation of the travel regulation and individuals who enter unauthorized areas are subject to warnings, penalties, or unpaid labor under Article 194 of Administrative Penalty Law.

In the KBA 2014 Survey, regarding the question of the kinds of punishments imposed for domestic travels without a travel permit, 39 people (35.1%) responded they received penalties,” 31 people (27.9%) responded they received unpaid labor not more than six months,” and 19 people (17.1 %) responded they received “short-term labor from six months, but not more than two years”.

Minors who are not issued an identification card cannot obtain a travel permit and must be accompanied by an adult who has one. Additionally, a special permit is required to travel to certain areas. For example, those who do not have a Pyongyang residence card or a temporary residence permit may enter the city only after obtaining a travel permit stamped with an approval number from the Pyongyang issuing agency. This fact has been confirmed in the KBA 2014 Survey by 98 people (95.1%).

Moreover, in order for ordinary citizens to travel to cities and counties near the border, such as the Tumen River, the Yalu River, and the Demilitarized Zone (DMZ), they must obtain permits from their registered province with the approval number issued by the Section Two Office of the Provincial People’s Committee of their destination (North Pyongan Province, Jagang Province, Yanggang Province, or the North Hamgyong Province). In order to travel to Pyongyang, areas near the enemy border, or the border region, people must

also obtain an approval number from a *Bowibu* agent. Basically, in order to travel, one must obtain approval from Section Two of the People's Committee through their work place, and to travel to a controlled area, an additional approval number from a *Bowibu* agent is required, through a two to three tier control system.<sup>47</sup>

The traveling person is also subject to inspection with respect to not only transportation but also accommodation. The violators of room and board registration rules are penalized with a warning, a sterner warning, fines, up to three months of unpaid labor, or a labor education penalty (Article 173 of the Administrative Penalty Law). In addition, the Law on City Administration stipulates, "If anyone wants to provide room and board at his/her own home for a visitor, he/she should obtain approval from relevant agencies according to the established rules" (Article 32). The agency will further enforce the law against unauthorized private homes.<sup>48</sup>

Although there are laws and regulations on travel within the country as described above, in reality, control over domestic travel is becoming less restrictive due to economic hardship. In principle, a domestic travel permit is issued free of charge, but obtaining the permit is very inconvenient and may take a long time if an applicant follows normal procedures. For these reasons, as travel has increased for business and other purposes, the common practice is that people resort to bribes including money and cigarettes to get a travel permit.

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<sup>47</sup> White Paper On N.K. Human Rights, (KINU) 2015, 207

<sup>48</sup> KINU, *White Paper on North Korean Human Rights 2015*, p. 213.



Furthermore, an increasing number of people are traveling without permits and they avoid punishment by offering bribes if caught. This is supported by the KBA 2014 Survey results. 70 people (68.0 %) positively answered the question of whether it is possible to avoid punishment with bribes when caught traveling without a travel permit. Only 14 people (13.6 %) answered that it is possible in the non-restricted areas but impossible in the restricted areas, 13 people (12.6 %) answered that it is possible with bribes even in the restricted areas, and 4 (3.9 %) answered that they do not know.

Travelers are subject to not only ID checks but also inspection at lodging. The violators of rules on the accommodation registration are subject to a warning, a stern warning, penalties, unpaid labor not more than three months, or a labor education penalty (Administrative Penalty Law, Article 173). The People's Security Agency enforces the law (People's Security Enforcement Law, Article 33). The Agency conducts such inspections to find unregistered private guest-houses and guests who do not have an ID card or travel permits. However, in recent years, the registration and the bed check inspections have not been strictly enforced, and Neighborhood Watch chiefs do not carefully monitor them. Moreover, even if caught, people can likely avoid punishment with bribes of money or cigarettes.<sup>49</sup>

## **4. Restriction on Freedom of Travel to Foreign Countries**

### **(1) Ordinary travel to foreign country**

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<sup>49</sup> White Paper 2015(KINU), 212

In order to travel to a foreign country, North Korean citizens are required to obtain a border area travel permit such as a passport or an alternative certificate, as well as a visa (DPRK Immigration Law, Articles 2 and 9). -There are two categories in the overseas travel permit: one is a long-term stay permit for work or official business, and the other is a short-term stay permit for a trip or a visit to relatives. In practice, long-term stay permits have been selectively given only to members of the elite class, with good *Songbun* and sound ideology. -Recently, however, as overseas work such as logging, construction, sewing, and the restaurant industry are expanding to earn the regime foreign currency, and so the percentage of long-term stay permits issued is increasing steadily.

In most cases, ordinary citizens who travel to foreign countries go to China in order to visit their relatives or do business. In practice, people may visit their relatives only in China, and invitation letters from the relatives are required to get a passport. In the 2014 KBA Survey, 80 people (77.7%) responded that countries which can be visited are limited only to China, and only 2 people (1.9%) answered that it is possible to visit countries other than China if bribes are offered. Currently, people over the age of 45 who have no criminal records may apply for a passport to visit their relatives in China.

The KBA 2014 Survey also questioned the defectors about “a river-crossing pass,” which is a short-term travel permit of 24 or 48 hours for residents in border regions and for cross-border trades in China. According to the survey, 26 people (25.2 %) answered that there is such a pass in the DPRK. On the other hand, 36 people (35.0%) answered that there is no river-crossing pass and 41 (39.8%) answered that they did not know whether such a pass existed. In addition, on the question about the practice of requiring considerable bribes

for a river-crossing pass, 44 respondents (42.7%) affirmed such a practice, while 13 people (12.6%) denied it and 46 (44.7%) answered that they do not know. According to the survey result, it appears as if the river-crossing pass system is not actively used.

As economic hardship is worsening and the foreign currency crisis is growing, in most cases, passports are issued only after offering bribes, rather than via regular procedures. In reality, even with bribes, it may take a long time to obtain a passport in some cases.<sup>50</sup> This is supported by the answers to the survey question concerning whether ordinary citizens may make a short-term trip to China upon receiving invitation letters from their relatives in China. 61 respondents (59.2 %) responded that they may do so if bribes are offered, 12 (11.7 %) answered that bribes are usually required, but sometimes not necessary, 7 (6.8 %) said that it is possible without bribes, 20 (19.4 %) answered that they do not know and only 3 (2.9 %) responded that it is impossible. .”

## **(2) Overseas Workers<sup>51</sup>**

DPRK has dispatched workers to countries such as China and Russia. The number of dispatched workers is estimated to be at 50,000 to 100,000 although the accurate number is difficult to grasp. DPRK has dispatched workers on a massive scale to earn foreign currency. The money coming into DPRK through their overseas dispatched workers is estimated to be around hundreds of millions dollars per year. Subsequently, the United Nations adopted a series of resolutions sanctioning DPRK for their nuclear and missile tests. As part of these measures, UN member states have been prohibited from receiving new North Korean workers from August 2017. Through this resolution, existing

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<sup>50</sup> Supra, page 230

<sup>51</sup> This Overseas Workers part was quoted from KINU 2018 WHITE PAPER p 508-526

workers were sent back to North Korea within two years. The number of North Korean overseas workers is projected to decrease inevitably in the future.

As a State Party to the ICESCR, DPRK has a duty to protect the rights prescribed in the Covenant. However, as labor is fundamentally assigned according to the State labor supply plan in DPRK, workers' freedom to choose jobs is inherently restricted. Even for overseas workers who voluntarily apply for dispatch, the freedom to choose their jobs is restricted. Although dispatching overseas is considered to be a good money-making opportunity, there is a tendency that such opportunity mostly comes to those with a good background (*songbun*) and with money who can afford to offer a bribe. A defector who left North Korea in 2017 testified that unmarried women usually work at restaurants or work by entertaining guests in China as it is difficult to make a living back home. The testifier found out that a bribery of 150 to 300 dollars is required when he or she tried to send her daughter for such jobs.

It appears that overseas North Korean workers work longer hours as well. At construction sites, North Korean enterprises sign subcontracts aimed at the completion of a construction project, and it is the North Korean enterprise, not the local company, that directly manages the work sites of North Korean workers who belong to the enterprises. In these cases, work frequently proceeds at an excessive pace, in many cases, violating local labor regulations.

One North Korean defector who worked for a North Korean enterprise that had a contract with a Russian company from 2010 to 2014, testified that he/she had to work whenever there was daylight, without pre-decided working hours. This meant that on some occasions, work continued until 3 or 4 am on "white nights".

As described above, it appears that while overseas North Korean workers suffer from excessive labor in poor working environments, they do not seem to receive proper levels of payment that correspond to their work. Two factors appear to explain this discrepancy.

First, it is possible that North Korean workers are given relatively lower wages than those from other countries. Second, and more important is the fact that North Korean workers overseas are required to pay an excessive amount of their wages to the State. North Korean workers usually belong not to a local company but to North Korean enterprises that sign a contract of labor supply with a local company. Therefore, North Korean enterprise, not the local company, pays the North Korean workers what remains of their wages after deducting payments submitted to the North Korean authorities such as tax and social security fees. However, since labor-related contracts are mostly concluded between the North Korean site manager and the local company, a majority of North Korean overseas workers do not know the ratio of their actual wage and the required payment to the State. The size of the required payment to the State can be approximated by analyzing testimonies of some North Korean workers. It appears that a substantial part of the received wages are deducted in the name of the State planned quota. A defector who was dispatched as a construction worker to the UAE from December 2012 to August 2013 testified that he/she was paid 400~500 US dollars per month, including labor payment and commuting expenses. The testifier said that after deducting the amount submitted to the North Korean authorities based on various pretexts, he/she had around 100~200 US dollars left per month.

North Korean overseas workers are actually under the surveillance of the dispatched MSS officers or their North Korean enterprise's managers. Overseas

North Korean workers living in groups are obligated to participate in a Life Review Session (*saenghwalchonghwa*) held at a dormitory of their enterprise. It is said that those officers and managers inspect workers' belongings two to three times a week and that one is not allowed to possess mobile phones. Those who engage in deviant behavior can be punished or forcibly repatriated to DPRK., and listening to South Korean radio or watching South Korean TV were punished most severely.

## **5. Punishment for those caught after crossing border illegally**

Many North Korean citizens have crossed the border with China without travel certificates since the Great Famine of the 1990s for food and liberty. People who illegally cross a border of the country are subject to unpaid labor under Administrative Penalty Law, People's Security Enforcement Law, Immigration Law, and are punished by reform-through-labor not more than five years under Criminal Law (amended 2004) Article 221, or are applied Article 63 of the Criminal Law (Treason, amended 2012).<sup>52</sup> If it is found that the person contacted people from the ROK or a church, or tried to defect to ROK, the person is bound to be punished by reform-through-labor of five years or more, reform-through-labor for life, death penalty, detention in political prison camps, or immediate execution.

On October 22, 2011, it was witnessed that a defector who crossed the Yalu

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<sup>52</sup> Article 167 of 'Administrative Penalty Law'(Violation of travel orders) provides that "Those who violates travel orders or illegally enter and exit controlled area, or crossing border will be subject to a fine, warning or severe warning shall be given, or unpaid labor for not more than 3 months or labor reformation. In grave situations, unpaid labor or labor reformation for more than 3 months."

River near Hyaesan City in Yanggang Province was shot dead by a North Korean guard as soon as the defector reached Chinese territory.<sup>53</sup> In January 2014, Kim Jong-un issued the “Order of Central Military Commission of the Workers’ Party of Korea” for “strict punishment for traitors to the socialist fatherland.”<sup>54</sup> He instructed that the “Central Military Commission of the Workers’ Party of Korea commands Korean People’s Army Guard, State Security Department, and Korean People’s Internal Security Forces to strictly punish the defectors and strengthen border security. All soldiers belonging to the Border Guard must carry live ammunition and impose merciless punishment on the people crossing the border illegally, defectors, and spies; that is, shooting them dead.”<sup>55</sup>

Concerning the matter, the KBA 2014 Survey asked the people whether they knew that an instruction which authorized military units in border regions to kill any defectors to China on-site had been issued in 2010. A majority, 65 people out of 103 (63.1 %) answered “Yes”, while only 3 (2.9 %) said “No” and 35 (34.0 %) said they do not know.

Now, it is said that the defection has almost ceased because the country has unprecedentedly fortified the border blockade along the Yalu River and the Tumen River between the DPRK and China. From January 2014, after the execution of Jang Song-taeck, border guards have adopted a pass-code system. The codes are changed twice a day and the guards are under order to shoot

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<sup>53</sup> Dong-A Ilbo, North Korea “Stop Escapees by all means”, “Death by gunshot at the border”, Nov. 7, 2011.

<sup>54</sup> According to Workers’ Party of Korea Publisher, written that “strictly confidential document limited to internal circulation and subject to re-collection.” It appears that it distributed only to higher-ranking officers in State Security Department and Border Guard.

<sup>55</sup> Chosunpub, Kim Jong-un, Orders “Merciless Punishment on Defectors (shooting them to death) (Jan. 22, 2014, Korean Only); A/HRC/25/CRP.1, para 384.

anyone who provides an incorrect pass code.<sup>56</sup> As a result of the stringent border controls and improvements in the public economy owing to market activities, the number of defectors has decreased under the reign of Kim Jong-un since 2011.

North Korean defectors caught in China are forcibly repatriated to military units along the border, sent to detention facilities of the State Security Agency in the border regions, such as Hoeryong, Hyesan, Musan, Onsong, and Sinuiju for an identity check and basic interrogations, and then transferred to their place of residence. Repatriated defectors are sent to the detention facilities after undergoing a strip search, personal belongings search, and health examination for AIDS. While carrying out the invasive body search, in order to find any hidden money, the Agency goes so far as to examine the wombs of pregnant women and excrement of all detainees—forcing detainees to squat down and stand up, an act known as “pumping.” In addition, detainees are beaten, verbally abused and intimidated in the Agency detention facilities and provincial *jipkyulso* located in border regions. According to Article 430 of Criminal Procedural Law, women are not to be detained within three months before and seven months after childbirth; however, forced abortions on women who became pregnant in China and infanticide of their children, occur frequently.

Defector families are also relocated from the border regions and confined to collective villages built in rugged mountainous regions with frigid climates, such as Jangjin, Bujon, Hochon, Kumya, etc. The collective villages were reportedly built to imprison the defector families who defected after Kim Jong-

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<sup>56</sup> Dong-A Ilbo, “Breathless Border Area, Happenings in North Korea Today (65)” (Mar. 17, 2014, Korean Only).



un became the supreme leader of the country in 2012. Recently, it is also reported that the State Security Department dispatched 200 people to Yanggang Province and the North Hamgyong Province in order to crack down on people who aid and abet the defectors.<sup>57</sup>

Meanwhile, China actively cooperates with the DPRK in cracking down on defectors and sealing the border, in violation of the international human rights norm of “prohibition of forced expulsion or return.” Beginning in 2011, China has set up two to three meters tall barbed-wire fences along major defection routes in Helong, Sanhe, Tumen and Kaisantun, with the goal of sealing the entire border between the two countries.<sup>58</sup>



Chinese policeman holds back North Korean defectors attempting to enter the South Korean Embassy in Beijing. (WorldTribune; Sep. 23, 2015)

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<sup>57</sup> The Chosunilbo, “North Korea, Detains Defector Families in Hamgyong Province” (Jan. 23, 2014, Korean Only).

<sup>58</sup> Dong-A Ilbo, “[Exclusive] North Korea ‘Prevent defection in any means,’ shooting to death on site in the border regions” (Jan. 17, 2011, Korean Only).

## V. Status of Right of Access to Information<sup>59</sup>

### 1. Introduction

On August 25, 2015 at 12:55 a.m., the ROK and the DPRK reached an agreement: the ROK would suspend operation of loudspeakers in exchange for the DPRK's virtual apology 43 hours later at a meeting. The reason for such a hastily arranged meeting was a result of the ROK Army's resumption of loudspeaker operation at the DMZ for the first time in 11 years after the DPRK's planting of wooden box mines, the explosions of which caused serious injuries to South Korean soldiers. The DPRK declared a quasi state of war in response to the resumption of the loudspeaker operation. This loudspeaker system has been used intermittently by the ROK as a means of spreading information about South Korean news and pop culture to the DPRK from the 1960s until April of this year, when the loudspeaker system was turned off and subsequently dismantled after the Inter-Korea summit.

The ROK Army's loudspeaker broadcasted a simple weather forecast, stories of daily life in the South, information about liberal democracy, the freewheeling entertainment programs of South Korea's pop culture, etc. In response, the DPRK fired anti-aircraft missiles towards the loudspeakers and threatened to wage an all-out war if they did not cease the broadcasting.

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<sup>59</sup> Hereafter, partly quoted from INFRINGEMENT OF HUMAN RIGHTS IN THE DPRK AS "THREATS TO THE PEACE" (2016 KBA) p 68-78



News of the DPRK's launching of missiles at the loudspeaker in August 2015

According to the analyses of the ROK Military Intelligence, the loudspeaker operation not only seriously demoralizes those DPRK soldiers who are near the DMZ, but also seriously threatens to the stability of the regime. At the maximum amplification, the broadcasts can be heard up to about 24 km away during nighttime and about 10 km away during daytime. The soldiers of the DPRK, who are otherwise in the dark as to the outside world, spread the information they heard from the broadcasts once they leave the DMZ or retire.<sup>60</sup>

After inter-Korean summit of April 27, on May 1, 2018 the Ministry of National Defense of ROK took down the loudspeakers along the border between the North and the South. However, according to the 2018 KBA Survey, 84 % of the respondents knew of the South Korean broadcasts and propaganda leaflets or flyers. 45.2 % of the respondents had seen flyers while in DPRK.

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<sup>60</sup> In the past, the loudspeaker broadcasted the news of the Explosion at Ryonchon railroad station in N. Pyongan Province in 2004 and it became an issue when the DRPK soldiers relayed the news in letters to their families in their home villages.

## **2. Control of information**

### **(1) Significance of Right to Know**

Article 19 of the UDHR states that everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and disseminate information and ideas through any media, and regardless of frontiers. Also, Article 19 of the ICCPR, of which the DPRK is a signatory, similarly states that everyone shall have the right to freedom of expression, and that this right shall include the freedom to seek, receive and disseminate information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice (clause 2).

Article 67 of the DPRK Constitution specifies that citizens have freedom of the press, publication, assembly, protest and association. Even in the national reports submitted to the 6<sup>th</sup> Human Rights Council Working Group on the Universal Periodic Review (UPR) which was held from November 30, 2009 to December 11, 2009, the DPRK has claimed that all of its citizens have freedom of opinion and expression, and 480 kinds of newspapers have been published nationally and distributed in plants, companies, universities, and elsewhere, on a national/provincial scale, along with hundreds of magazines published by dozens of print-media outlets. In addition, the DPRK has insisted that all citizens have the freedom to publish their opinions and views through TV and other media.

However, in reality, the DPRK government controls citizens' right to freedom of information, publication and press through a variety of laws, institutions and

customs. The 2018 World Press Freedom Index, compiled by Reporters Without Borders(RSF) ranked again DPRK last(180<sup>th</sup>) of 180 countries.

Throughout the history of the DPRK, among the most striking features of the State has been its claim to an absolute monopoly on information released to the public and total control of organized social life. There is almost complete denial of the right to freedom of thought, conscience, and religion, as well as, of the rights to freedom of opinion, expression, information, and association.<sup>61</sup>

According to KBA Survey, it is noteworthy that restricted freedom of expression was considered the most serious violation of human rights, while restrictions on the freedom of movement, fear of political prison camps and right to food are successively chosen as the next, though the order changed over time.

## **(2) Crackdowns and Punishments Related to Recordings**

North Korea strictly bans the distribution of information through images such as illegal recordings.

Many defectors consistently testified that discreet viewing of South Korean CDs and videos is becoming widespread. North Koreans purchase inexpensive Chinese video recorders and secretly sell and share recordings with their neighbors. The most common reaction after having watched South Korean recordings was a longing for South Korea and a more negative perception towards North Korea. Furthermore, the envy of the economic affluence and freedom in the daily lives of South Koreans sometimes lead to defection from North Korea.

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<sup>61</sup> COI detailed Report 73

Many North Korean defectors testified that those who watch or share South Korean recordings are subject to labor training punishment or correctional labor punishment. However, after Kim Jong Un's December 2013 instructions on 'impure' videos, merely watching them would be treated the same as attempting to defect to South Korea and subsequently, punishment would be closer to correctional labor.<sup>226</sup> One testifier commented that in September 2013, a declaration was issued whereby those watching South Korean movies or listening to South Korea music would be sentenced to death. In addition to this, testimonies claimed that such declarations were posted in many places.

### **(3) Crack down on and Punishment for Illegal Use of Mobile Phones**

Mobile phones are important tools among North Korean people in introducing and delivering external information. After the "Yongchon Railway Station Explosion" in April 2004, North Korean authorities suspended mobile communication services. However, through a joint investment by Orascom, an Egyptian communication firm, and North Korea's Ministry of Post and Telecommunications, Korea Link was established and 3G mobile communication service was resumed. The number of service subscribers was 1,694 immediately after the service started, and nowadays(2018), the number of subscribers is estimated to be around 5 million. While the number of mobile phones supplied in North Korea increased, most of the calls are limited to domestic calls while international calls and the inflow and circulation of external information through mobile phones are strictly controlled.

North Korean authorities have strengthened crack downs on mobile phones by

adding Article 222 (Unlawful international communication crime) when it revised the Criminal Law in 2015, which stipulates “those who engaged in unlawful international communications shall be subject to up to one year of labor training punishment and those in serious cases shall be subject to up to five years of correctional labor punishment.”

Since the beginning of the Kim Jong Un regime, North Korean authorities have been reinforcing the prohibition against illegal use of mobile phones by introducing a jamming wall and jamming detector in the border areas of North Korea and China. From the end of 2013, the roles and authorities of the MSS have been expanded and reinforced, and its control over mobile phones has been tightened under the pretext that they “dismantle socialism.”<sup>62</sup>

### **3. Conclusion**

In order to maintain its regime, the DPRK has blocked its residents’ right of access to information by keeping a close watch on, punishing as a crime, and completely controlling the consumption of outside information. The degree of oppression has worsened with the succession of power from Kim Il-sung to Kim Jong-il and to Kim Jong-un. However, due to the active galvanization of the market economy and rapid development of communication technology, it is believed that the blockage of information by the DPRK government will soon lose its effectiveness. In a situation where the number of subjects for crack down increases exponentially in comparison to the number of enforcers, control is impossible. Under these circumstances, it is anticipated that the

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<sup>62</sup> KINU 2018 WHITE PAPER p 167-174

DRPK government's violation of human rights such as the right to know will become worse and there will be more oppression on people.

In spite of heinous information control and human rights violations in the DPRK, its people are acquiring information from not only traditional media such as radios, newspapers, flyers, etc., but also DVDs, CDs, USBs, and mobile phones. It seems obvious that through such an influx of information, residents of the DPRK will become conscious of the irrationality and unfairness of its system and a hostile feeling against its system will grow. It is believed that such a trend will either gradually change society in the DPRK or may result in an abrupt change.

Freedom to gather information, namely "right to know," is an indispensable right to maintain dignity and value as a human being in pursuit of happiness and an individual's sovereignty. It is one of the most important basic rights of the people in any democratic country. In 1946, at its very first session, the United Nations General Assembly declared, "the freedom of information is a fundamental human right...the touchstone of all the freedoms to which the United Nations is consecrated."

The combined efforts of the international community, accompanied by the small changes occurring in the DPRK, will contribute to the realization of dignity and value as human beings, to pursue happiness, for and by the residents of the DPRK in the near future, through the "right to know."



## **VI. Violation of Children's Rights**

### **1. Introduction**

Of the many dictatorships in the world, DPRK has without a doubt the most unyielding and absolute social control and indoctrination system. The merciless indoctrination of children is the basis from which the ruling family has maintained its power for three generations and further enables the transfer of economic strain, a product of the government's failed policies, to those very children in the form of forced child labor.

As a result, a social system that is incredibly abusive towards children is the reality and the government is abysmally failing to provide the most basic protection of rights for children; the bare minimum of what should be expected to any civilized society. The fact that these children of the DPRK, a military powerhouse with ballistic missile and nuclear technology, are growing up and being educated in such an aggressive and abusive environment serves as a serious challenge to the future of the DPRK, peace in north east Asia and also efforts towards protection of children's rights worldwide.

By focusing on its research regarding the Education System (2016), Child Labor (2017) and Child Abuse (2018), PSCORE is working to raise awareness in the international community on children's rights in the DPRK.

### **2. Education System**

The DPRK is one of the most economically, politically and socially isolated

countries in the world. In 1948, Kim Il-Sung took office as an authoritarian dictator, establishing the DPRK, and installed a mandatory education system that justifies his dictatorial regime.

Article 43 of the North Korean government constitution states, “The State shall embody the principles of socialist pedagogy so as to raise the rising generation to be steadfast revolutionaries who will fight for society and the people, to be people of the new *Juche* type<sup>63</sup> who are knowledgeable, morally sound and physically healthy”. To this end, the DPRK enforces education centered around idolization of their dictator, falsification of history, and discriminatory and hateful propaganda. Through this education system, the North Korean government violates its citizens’ human rights and indoctrinates them into monitoring each other and hating foreigners. Additionally, although it is crucial for children to receive standard education during their youth, North Korean children are forcibly mobilized into propaganda education and forced labor, neither of which have any necessity for the children themselves.

## **2.1 The Purpose and Nature of the DPRK’s Education System**

### **2.1.1 Revolutionary Teachings**

The primary goal of North Korean education is to train “revolutionaries” devoted to Kim Il-Sung, Kim Jong-Il and Kim Jong-Un. In order to achieve this goal, strong emphasis is put on the importance of a curriculum centered around political thought, putting it above all other subjects in priority. For example:

*To learn about the revolutionary history of the Supreme Leader Kim*

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<sup>63</sup> Self-reliance ideology: based on the governing principles of so-called *juche*., the *suryong* (supreme leader) takes the helm; Understanding North Korea 2014, Institute for Unification Education.

*Il-Sung under the guidance of our Dear Leader Kim Jong-Un is the greatest form of honor and happiness as the heirs of the revolution. This subject of study is of primary importance on the path to become revolutionaries of the Juche ideology with deep regard and loyalty for both the party and the leadership.*

*- High School, 1<sup>st</sup> Grade “The Revolutionary History of Our Supreme Leader Kim Il-Sung” p.1*

This political science education is further subdivided into topics of socialist morality and the revolutionary histories and deeds of Kim Il-Sung, Kim Jong-Sook<sup>64</sup>, Kim Jong-Il and Kim Jong-Un, which carry enormous weight within the overall education curriculum.

Political theory education takes root beginning at age seven, far before children are able to formulate their own thoughts and identities, embedding in them steadfast loyalty to the regime and indoctrinating them with the idea that the greatest objective in life is to become true revolutionaries. Furthermore, the same ideology is incorporated into music and dance classes that also bolster students with revolutionary ways in songs. During elementary and middle school, children learn songs that emphasize patriotism to the nation and to the Supreme Leader, songs which contain lyrics speaking of their desire to become brave revolutionaries. The song, “I Want to be Your Army,” contains lyrics that portray becoming part of the army as an admirable goal for the future at a time when these children have only just begun their education and have yet to form their own values and worldviews.

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<sup>64</sup> Kim Jong-Il’s birth mother

<sup>62</sup> Research Association of Korea, 2014, 76.

### 2.1.2 Alleged Free Education

Article 47 of the Constitution of the DPRK clearly states that the North Korean government is to provide free education to all students, and posits that this is one of the reasons that the socialist system is so outstanding.

The DPRK states that “all education is free of charge, and educational institutions are forbidden from receiving any fees pertaining to admission, classes, training, tours, and field trips from students and their parents.”<sup>65</sup> However, in reality, all costs and efforts of maintenance and conservation of schools are borne by the students. Schools may demand construction materials such as nails, timber, and heating materials in the winter. They may also demand that students and their parents come and repair walls, paint the school, and more. A student defector who was interviewed stated that the school had demanded that his parents come to paint the outer walls of the school, and because his father had lived too far away from the school, he requested a neighbor to go in his place.<sup>66</sup>

The DPRK uses their socialist constitution to mandate free education. Unfortunately, the reality is that the DPRK does not have the means to provide free education unless it transfers its military funding into the funding for education. The government uses its constitution to make it appear to the outside world that it is providing good welfare for its people. The truth is that the students are rallied into forced labor or forced to gather various items as a form of tuition as recounted in the following defector testimony:

*There is no required tuition, but the students must give bribes to the*

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63 Jung Eun-Gyung, Interviewer Nam Bada, Seoul, Apr. 14th, 2016, Interview Number 3.

*teachers. We have to give around 10-20 dollars' worth per week. We also have the "Children's Initiative." The term is only really used when the students are young (i.e. in elementary school), and starting in middle school, it is referred to as "Support Service," "National Initiative", "Advanced Support Service" and so on. We did it once a week. When we would gather, there was always some kind of announcement for a support service next week. They would demand meat, presents, clothes, gloves, socks, etc. They would demand various materials each week, so there was even a merchant selling the requested good. To hand over the goods like this was like forfeiting a full meal for each person.*

*- Kim Yeon-Ri*

This could not be deemed "free" education, and the North Korean government should not falsely proclaim to their own citizens and other nations that they provide free education.

### **2.1.3 Socioeconomic Discrimination**

Like other communist nations, the DPRK asserts that it pursues a classless society that is free of capitalism. To support this assertion, it claims that free education is provided fairly to all students. However, if one looks into the truths of North Korean education, severe social discrimination and bribes play a large role in admissions and academics. The maintenance of the royalty-like status of the elites and the military program means that capitalists and proponents of land ownership are driven out and that regular citizens are discriminated against.

*Students are evaluated based on grades, but you don't necessarily*

*have to do well to receive good grades. Even if you don't do well academically, if you do well with the Children's Initiative or otherwise have contributed substantially to the school (i.e. through large monetary donations), then the teachers would raise your marks. Thus, those students would end up ranking higher. Although you should be academically competent to be admitted into college, if you're only mediocre at your studies, you would need lots of money to make up for it. It may be that out of those admitted into college, eight out of ten kids came from good social backgrounds, and only one or two got in because they studied hard. Background is extremely important, and if you come from a good one, you're set for college admissions. This, of course, gives way to grade tampering. Each college has an admissions broker who would fix exam scores for you.*

*- Kim Yeon-Ri*

#### **2.1.4 Militaristic Education**

In the DPRK, militaristic education begins at a young age. From kindergarten, students are taught to lay down their lives for their country and to despise and be wary of foreign countries. This militaristic style of education includes marching to school in lines of four, followed by basic military training that resembles daily inspections in the military. In the later years of high school, students must join the “Red Youth Guard” and receive a full month’s worth of military training.<sup>67</sup> There, students learn to fire AK-47 rifles and are forced to participate in combat training that resembles military boot camp in the ROK for new military recruits. After graduation, many of the men over the age of 17 often spend 10 to 13 years serving in the military while women who also

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<sup>67</sup> If one follows defector testimonies, the training period differs per person, and there is a difference in age.

choose to enlist serve for seven years.

The students are taught that this type of military education and serving in the military are the kinds of things that patriots do for their country, and that laying their lives down in order to defend the nation is what makes them a hero.

*We experienced militaristic education during high school. We imitated real battles, training for a week and firing around three rounds. There was a training center in each region, with its own chief of training and workers. They would commission a school at which to carry out the military training. The training involved target shooting, roll call, military-style reporting, military rules, individual battles, getting past barbed wire, passing obstacles with our rifles and so on.*

*- Kim Cheol-Soo*

### **2.1.5 Monitoring and Enforcement**

From childhood, North Korean students grow up being told to always watch their words and never be caught off guard through phrases such as, “There is always at least one spy within your class,” “Be careful what you say at school and in public places,” and “The bird listens by day, the mouse listens by night.” The underlying message is “I must always monitor others so that I can keep wrongful individuals in check.” Such phrases are widespread in the DPRK, and the concepts of monitoring and enforcement are ingrained in its culture.

*At school, if a kid went to the State Security Department for watching South Korean dramas or listening to South Korean music, then everyone’s perception of him would change, and they’d monitor each other to avoid speaking to him. They would voluntarily criticize him*

*and scrutinize his every activity. What's alarming is that it just happens so naturally. There is even a saying, "Every North Korean is the State Police."*

*- Kim Yeon-Ri*

## **2.2 The DPRK's Indoctrination Tactics**

### **2.2.1 Idolization Propaganda**

Idolization education is one of the most important aspects of the North Korean ruling system. Other communist countries have enforced this kind of education, but none have demonstrated an idolization education system as thoroughly entrenched in society as in the DPRK..<sup>68</sup>

All textbooks contain a one to two-page preface explaining the objectives of each class. These prefaces are at the front of the textbooks, and the most important message is Kim Il-Sung or Kim Jong-Il explaining the class objective in technical jargon such that it seems they have extensive knowledge of all subjects. Therefore, the students learn to idolize the Kim family.

There is also Self-Study Time, and as a daily task, one student will bring forth the newspaper or a song and read it out loud. The objective is to keep learning the Party's policies and current events. However, with no freedom of the press, the media is merely another form of idolization education. And after Self-Study Time, there's another idolization session centered around the Kim family called, "Party Policy and Refinement". As such, political thought education dominates the curriculum and unsurprisingly it has a big influence on the North Korean people.

*After listening to the idolization education every day, we started to*

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<sup>68</sup> The Constitution of the Democratic People's Republic of Korea, Article 43.



*think “The Supreme Leader is a great leader” and think he was “an infallible, supreme being”.*

*- Hwang Soo-Min*

*It’s been so long since I’ve studied it, but I could never forget it. That’s why indoctrination is such a frightening thing; you can’t help but believe it because it’s all you learn.*

*- Kim Yeon-Ri*

Apart from the pervasiveness of political ideology in all aspects of the education curriculum, the government also does not tolerate any kind of religion. Many North Koreans are not even aware of the existence of religion, and even if they are aware, they refrain from any religious activities as that would result in severe punishment.

*When I was in the DPRK, religion was something frightening. Because if you get caught believing in a religion, you would die... I thought religion was an evil spirit.*

*- Jung Yoon-Bo*

### **2.2.2 Historical Distortion**

Historical distortion is another facet of the indoctrination education system designed to maintain the single-party dictatorship of the DPRK by justifying the regime, idolizing its leaders, and accentuating its claim that it is a great nation. History is distorted in various ways, including changing modern Korean history, manipulating truths about Kim Il-Sung’s anti-Japanese war efforts, glorifying the Kim family history, as well as intentionally misinterpreting world history.

The main examples in modern Korean history include, the General Sherman Incident, the Sinchon Massacre, the March 1<sup>st</sup> Independence Movement, as well as the Korean War, which are all distorted to favor the Kim family and demonize the US, Japan and the ROK.

*I was taught that the Korean War was started with the ROK invading the north, but I learned after coming to the ROK that it was the other way around.*

*- Kim Yeon-Ri*

Kim Il-Sung's involvement in the anti-Japanese efforts are also greatly exaggerated or falsified, some stories going as far as deifying him. For example, stories such as Kim Il-Sung drawing a white horse on paper and the drawing becoming a thousand real horses which he used for the anti-Japanese war, or tales of him wielding a gun at the age of three and being able to drive at age five leads to widespread idolization and glorification of the leader.

### **2.2.3 Violent and Hateful Propaganda**

Another disturbing aspect of North Korean education is the hatred and aversion towards foreign people and countries that it propagates. The North Korean government upholds this violent and hateful education policy in order to maintain its dictatorship and inspire integral unity.

Hateful propaganda is found in various activities outside of the regular educational curriculum. Almost every field day at school has a competition called, "Smash the foreign-nosed Americans to death". Most students are required to participate, and they've done so since a very young age, as elementary school

students. The purpose of these kinds of violent games is to indoctrinate the children into believing that the DPRK is the best country in the world, and to instill anti-American, anti-imperialist sentiment.

The North Korean government further indoctrinates the youth by providing animated cartoons that infuse hateful ideas along with their school curriculum. Since youth, North Korean children are taught to loathe and disrespect foreign powers and peoples, which is much different from children in other countries who are told to love and respect one another. These ideals even appear in the popular animated shows for the North Korean children.

There are animated cartoons like “Boy General” or “The Squirrel and the Hedgehog” that teach children to hate and exclude capitalist countries at all times, and at the same time, they indoctrinate the children into believing that the DPRK is the best country in the world.

Apart from these explicit forms of hate education, the *saeng-hwal-chong-hwa* or group criticism sessions should be mentioned as it is a form of damaging and fear-instilling education that has been handed down since the Kim Il-Sung Government to make the people obey the dictatorship through public self-criticisms and mutual criticisms at schools or working groups. It makes people monitor and distrust each other and contribute greatly to preventing members of society from cooperating with each other.

*If someone criticized me during saeng-hwal-chong-hwa, I always thought that I should criticize that student later on. So for the whole next week, I only kept an eye on that student's behaviors.*

*- Lee Ji Yeon*

This practice has become so ingrained in their society that citizens view each other with a critical eye even when not in these sessions. Through this environment of constant societal scrutiny, the regime causes its people to experience mistrust, anxiety, and fear while still suffering pressure to promulgate the very behavior which keeps them so subjugated. Moreover, there are considerable cases in which weaker students are bullied because of what happens in *saeng-hwal-chong-hwa* (see Child Abuse section).

## **2.3 Conclusion**

Shocking as it is, the education provided by the DPRK to its people is violent and creates massive amounts of hatred. Furthermore, this education is very systematic and permeates into all schooling and the students' daily lives; the North Korean people have no choice but to reject foreign powers, and it even makes them monitor and criticize each other.

This is one of the biggest reasons why the North Korean people cannot choose a different way of life by themselves. There are too many eyes that monitor one's behavior, and it is hard to perceive how to transition into a healthy society from such a system. Seeking changes based on solidarity is not possible within such a propaganda-centric education system.

### 3. Child Labor

According to Article 31 of the North Korean Constitution of 2016, North Korean citizens are eligible for labor beginning at the age of 16, and child labor is forbidden. Despite being a party to several international conventions on child labor and having enacted domestic laws against child labor, the North Korean government does not, in reality, offer meaningful protection for children.

Instead, from a very young age, children are forced into various labor, both within and outside the North Korean education system. These include participating in the Agricultural Labor Support, the Item Collection as well as construction work and other miscellaneous activities. In addition, children in prison camps, orphanages and relief shelters are also subject to arduous labor.



Students bringing rocks to the railroads<sup>69</sup>

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<sup>69</sup> Russel Myers, “Child chain gangs of North Korea exposed, as kids as young as five forced to repair railways,” Mirror UK, 14th December, 2016.

### **3.1 Child Labor within the Education System**

#### **3.1.1 Agricultural Labor Support**

“Agricultural Labor Support” refers to mandatory farm labor such as sowing, weeding, rice-planting, transplanting “nutrition jars” and harvesting. The government mobilizes children through the education system and sends them to a local farm, which is partnered with a school. Because farm work is considered an essential component of the school curriculum, the work is unpaid. There are two types of Agricultural Labor Support within the education system, namely local and long- term.

The Local Agricultural Labor Support involves labor on farms close to the students’ schools and homes. Over the course of the year, students are given different tasks depending on the season. The work is strenuous, exhausting, and time-consuming and becomes increasingly onerous as the students get older. Students invariably spend more time performing unpaid labor on farms than they do actually studying and receiving a proper education.

The Long-term Agricultural Labor Support is generally for high school students requiring them to work on a farm collective for a month or more. During spring, summer, and fall there is a high demand for labor to complete farm works, so students are mobilized to assist and remain at a farm for a prolonged period of time, lasting usually from 30 to 40 days in the middle of the semester. Students travel to a local or distant farm, determined either by the government or the school, and lodge there while completing the farm-related tasks given to them. Accommodation and sanitation facilities are usually very poor, no matter where they are. Both the North Korean government and the school system knowingly place children in abominable working conditions.

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<http://www.mirror.co.uk/news/world-news/child-chain-gangs-north-korea-9460513>.

### 3.1.2 Item Collections

Item collections administered by the school, including the fuel and waste paper collections, came to exist because of the North Korean government's failure to honor its obligations to finance educational institutions, including teachers' salaries and cost of school supplies. The role initially held by the government is imposed on the schools, who in turn force children to perform onerous item collections to gain needed supplies and finances.

The Children's Initiative refers to assignments given to students by the government through the school system, starting in elementary school, to bring a wide range of supplies, materials, and goods on a yearly basis with the goal of providing practical help to the nation. The items students have to bring under the Children's Initiative include: scrap papers, scrap iron, scrap rubber, human feces for fertilization, medicinal plants, pickled food, rabbit hides, mittens, etc. The array of items that the government orders students to bring lays an oppressive, inescapable burden of child labor on them. In addition to the exorbitant amounts, some items are nearly impossible to gather in the DPRK. For example, no one can find a piece of scrap iron, let alone over ten kg, because there is almost no scrap iron in the DPRK.

In addition to the annual Children's Initiative, there are other government-run item collections for students. The umbrella North Korean term for all government orders relayed to students is *pochi*, which broadly means "facilitating a project by dividing team tasks and sharing operations manuals". Therefore, *pochi* includes orders of not only item collections, like the Children's Initiative, but also monetary donations and societal and political assignments, such as participating in political events, cleaning statues, supporting the People's Army and the Construction Site Support Project.

School-run *pochi* is organized and planned by a school's high ranking officials, such as a principal. Teachers do not order school-run collections, but they may take a portion of the collections or demand additional work from students. In order for schools to make up for the government's unfulfilled duty of budget appropriator, they have to earn their own funds, and they deem the exploitation of their students as the appropriate solution.

The table below shows the types of work the children are demanded to do according to the seasons.

[Table 4-1] Children's labor for each seasons

Spring	Summer	Autumn	Winter
Planting corn	Looking for rabbit hide	Agricultural support	Looking for rabbit hide
Collecting sun-flower seeds, hemp, castor beans and beans	Pulling out grass and laying rocks to build railways	Collecting scrap paper and scrap iron	Collecting scrap paper and scrap iron
Sowing	Making bricks out of soil	The Battle of Autumn Harvesting*	Working on trees
Collecting scrap paper and scrap iron	Collecting pecans, hazelnuts and acorns		Transporting soils
Collecting brackens	Collecting and removing the skin of bush clovers		Working in the mine

\* extended period where students are expected to dedicate their time to work, without attending classes at all.



### **3.1.3 Miscellaneous: Construction work, mass games, propaganda**

In addition to Agricultural Labor Support and Item Collection, students must also participate in construction projects, as well as various performances that take place on national holidays, such as the birthdays of Kim Il-Sung, Kim Jong-Il, and Kim Jong-Un, and for other special occasions.

Students are mobilized for dangerous construction work and assist either with municipal infrastructure, school buildings, railroad repair and even private housing of school personnel. Additionally, construction work required to newly build, maintain, and/or repair the school edifices is often completed by the students. Not only are they mandated to participate in hazardous construction labor, but they are also required to make or bring the materials necessary for the construction at their own expense.

The mass games in the DPRK are known to have a lot of manpower. During the big Arirang festival about 50,000 children turn color cards at the same time to create a “animated” mosaic-like background.



Example of a flipcard backdrop<sup>70</sup>

For Arirang performances especially, children practice continuously for 6-12 months. Casualties are inevitable when they practice for hours under the scorching sun. The celebration of the birthdays of Kim Il-Sung, Kim Jong-Il, and Kim Jong-Un consists of numerous individual performances across the nation, ceremonial parades, visits to monuments, songs/choir concerts, etc. As expected, children are summoned for these functions. The North Korean government also regularly assembles children through the school system for political campaigns and events. They are mobilized to march with posters and shout profane slogans for hours.

### 3.2 Child Labor outside the Education System

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<sup>70</sup> Werner KrawietzVogel, "Fotoserie über die Massgames in Pjöngjang, Nordkorea", 25<sup>th</sup> September 2015  
<http://www.werner-kranwetvogel.de/massgames-pyongyang>.

### **3.2.1 Prison Camps**

The DPRK differentiates their prisons according to the crime convicted. Those who are accused of ideological insubordination are sent to a *gwan-li-so*, which is a concentration camp mostly for those accused of political crimes. Even though the North Korean government firmly denies the existence of such places, there are five known camps. They are “villages” enclosed by electric fences and barbed wire. Up to 120,000 people live in each of these camps, where the children are treated with particular cruelty, but those who manage the camp keep them short of dying, knowing that they are indispensable as the next generation of laborers.

The children suffer from all kinds of child labor existing in the North Korean society, and additional labor needed at the camp. Despite their state of starvation, the children are made to spend most of their waking moments working where they have to meet certain quotas. Like the schoolchildren outside the *gwan-li-so*, those inside are required to collect scrap items. However, the amount the *gwan-li-so* children have to collect is considerably greater because the authorities are allowed to be especially harsh on these so-called prisoners. Next to that, manual labor is required. The children are given different tasks based on the season.

### **3.2.2 Orphanages and Relief Shelters**

The types of child labor found across the country are nearly identical. The work done in public schools and in prison camps, is also done in orphanages and relief shelters alike. However, the children who live in an orphanage are forced to live a regimented, military-like lifestyle and are constantly subjected to the whims of their supervisors. Furthermore, the students have to take care of the teacher’s personal fields.

Relief shelters are makeshift orphanages, with significantly fewer resources. The majority of the children who live here are *kkotjebi*, who are homeless youth found begging on the streets. The government claims these establishments are meant to protect and manage homeless children. The living conditions in a relief shelter, however, are no better than a detention facility.

*We were dirty and basically treated like prisoners. We were shameful to look at, barely clothed and dirty. People from outside the relief shelters thought we looked like prisoners.*

*- Jo Dong-Ik*

As a result, these children are not allowed to attend political celebrations but are nonetheless forced to memorize and worship the North Korean regime's ideologies.

In terms of labor, the children in the relief shelters work for longer hours than the orphanage children; from sunrise to sunset, they work for the entire day since they do not go to class. When asked about the labor they did in a relief shelter, it was difficult for the defectors to recall anything specific. They knew that their work was mandatory and daily, but their most vivid memories were of being famished, tired, and beaten.

### **3.3 Conclusion**

The North Korean government is more concerned with maintaining its dictatorship than promoting basic human rights for its citizens. Its primary objective is to maintain its distorted social structure to protect the DPRK's social system and the vested interests of those in power. What is worse is that in order to

maintain its corrupt policies and distorted system, the North Korean government is actively exploiting its children: the most vulnerable social class whose voices are not heard.

The treatment of North Korean children is not a crisis that can be solved by the economic support of the international community, but rather by the reformation of the fundamental national system that exists in the DPRK.

#### **4. Child Abuse**

The Democratic People's Republic of Korea (DPRK) has consistently defended the nation's position regarding its human rights policies and record including its compliance with the Universal Declaration of Human Rights (UDHR) along with the Conventions on the Rights of the Child (CRC), adopted in December 1948 and November 1989, respectively. However, the wrongful conduct that infringes upon children's human rights within the DPRK include circumstances such as: mental and physical abuse in classrooms and labor sites and sexual abuse by teachers, soldiers and other authoritative identities.

Violence against children can be in either direct or indirect forms. While the impacts can be influential regardless of the form, the violence in the DPRK is unique due to the Confucius cultural context and their dictatorial political regime. North Korean children are exposed to an unimaginable amount of violence perpetrated by adults. Child abuse is conducted by their family members, at schools, and by soldiers.

While the DPRK does have some form of legal framework according to their constitution, the citizens of the DPRK are not aware of any legal framework

that does exist. Even if they experience violence, they have no other means to report the abuse nor can they do anything about the abuses they face. Therefore, the incidents continue to happen without legal punishment.

#### **4.1 Physical Violence**

As with most countries which forbid severe corporal punishment, the DPRK also has in place regulations against it. However, because these laws are not enforced, not only are North Korean children exposed to abuse by their teachers, but the perpetrators also do not face any consequences. Teachers will ruthlessly beat students who fail to attend or do their labor tasks properly. Corporal punishment at North Korean schools is a tool used not to educate the students, but as a tool to subjugate them. The way in which it is used every day is dangerous because it has been manipulated and evolved to a detrimental form of physical violence.

The children in prison camps are physically and verbally punished, just as is done to children within the education system. The difference is that there are more punishments in prison camps. Besides, the children in prison camps spend the majority of their lives confined within electric fences and are taught to believe that this is as good as it will be. The cruel treatment and excessive labor are close to slavery and the prisoners are treated like animals. Sometimes, without any reason, the teacher takes it out on the kids and beats them over small mistakes.

*When I was in middle school, there was a time I did not listen to my teacher. And I was hit on the back of my head so hard that I fell over on my knees and hit my nose and lips, which started bleeding. However, most times, the teacher is not the one disciplining the student.*

*The responsibility is instead passed on to a subordinate, the class chairperson (student). Generally, the teacher beats the chairperson and makes him beat the other children. The chairperson will make the children run twenty rounds of the playground and then hit them with a club. Resisting the chairperson was equivalent to resisting the teacher, so it was impossible. Because I was a male, I was often beaten during my childhood in the gwan-li-so. I have more memories of being punished by my classmates than the teacher.*

*- Han Chul-Min*

It is also common for children to be excessively abused in orphanages and relief centers. The workers hit children with wooden sticks and or anything else close at hand. In the relief centers, children are made to run outside barefoot to prevent them from escaping as might be possible with shoes.

## **4.2 Psychological Violence**

It can be argued that the entire North Korean system is a form of psychological violence on its people as they are not even allowed the freedom to think. However, more explicitly, children are also subjected to intense psychological violence as they are forced to attend school visits to visually horrifying museums such as the Sinchon Museum of American War Atrocities as well as witness public executions.



An exhibit in the Sinchon Museum of American War Atrocities<sup>71</sup>

The museum visits are so shocking and provocative that it remains vividly in the North Koreans' memory for a long time, as shown through the detailed interviews of North Korean defectors. Lee Seon-Ri, who was born in the late 80s, vividly remembers the museum field trips, even though it has been years since she has visited. However, people become accustomed to such shock before long, and thus we know how harmful such experiences are to children's mental health.

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<sup>71</sup> Joo Sung-Ha, "The cruel pictures used by North Korea for Anti-American education purposes (157)," *Pyongyang Stories* written from Seoul, Sept. 11th, 2013 <http://blog.donga.com/nambukstory/archives/66921>.



*I visited the Sinchon Museum of American War Atrocities every year, and I visited there when I was in kindergarten. There was a slogan in front of the museum that read, “Drive the United States out and reunify the country.*

*- Lee Seon-Ri*

Hwang Soo-Min also vividly remembers experiencing such shock when she first visited the Sinchon Museum, even though it has been some time since she escaped from the DPRK, in 2003.

*When I was in middle school (11–12 years old), I visited the Sinchon Museum of American War Atrocities to see the brutality of the U.S. army. Nail marks remained there like an Auschwitz concentration camp, as well as blackened marks from fire. I was so scared. I remember learning that the American army was cruel. It was painful because I imagined people who were confined there were dying in inhumane ways.*

*We froze and were speechless from shock after listening to how the U.S. army killed the North Koreans by throwing hand grenades at them, setting them on fire after spraying them with gasoline, and exterminated North Koreans after forcing them to gather in one place. I froze and was speechless with shock. I felt strange. I got goose-bumps and felt as if I could smell the blood.*

*- Hwang Soo-Min*

Towards the end of Kim Jong-Il’s rule and during the early years of Kim Jong-

Un's rule, public executions frequently occurred in various locations and people witnessed them since youth, whether they were forced to or not. These executions, as supported by the defectors' testimonies, were very violent and served to warn everyone that there is no tolerance for any form of actions made against the regime.

As such, there were many moments in which it was mandatory to attend public executions, and if the person attending is a minor, it often becomes a source of lifelong trauma. These scenes of violence, which even elementary school students are forced to watch, are a denial of basic human dignity and humane criminal justice to the people.

Although they do not occur as frequently in recent days, public execution is still used as a tool for instilling fear, which the DPRK government does not hesitate to use as the need arises.

*I witnessed one in 2011. (...) They conducted it in a place where every citizen from Cheongjin could attend, which was an organizational event hall. It wasn't compulsory, but they encouraged people to attend; everybody affiliated with the party attended the execution. They had announced it in a wide, open area below the Sooseongcheon river bank. People came in like waves. The safety borders had been trampled over, and many people stood in place like sardines. I did feel sorry for the ones being executed, but I also thought that they did do something very wrong too. Ten shooters came out to shoot four criminals, and blood began splattering. While they were firing, I saw the criminals' waists bend and break. I couldn't eat very well that day from the shock.*

*- Kim Jin-Joo*

Children are also subjected to systematic bullying, which is another form of psychological abuse. Students are exposed to open criticism from their peers through *saeng-hwal-chong-hwa* where certain students are targeted by the whole class and bombarded with scathing remarks.

*Normally, more than three students can't criticize just one student, but if a secretary of the Youth Alliance decided to criticize a certain student, all of the students tend to only criticize that student for the whole session.*

*- Kim Jin-Joo*

*Normally, students who were bullied got intensely criticized. For example, other students would interrogate them for being absent or late. But if it got too serious, teachers sometimes stopped them.*

*- Jung Yoon-Bo*

Apart from *saeng-hwal-chong-hwa*, classmates are used to constantly discipline each other, mainly through bullying. Weak students are treated in a hostile manner because upon seeing the teachers, to whom they look as role models, act openly antagonistic towards the poor students, they start to believe it is acceptable to act in the same way. As such, North Korean children become accustomed to scapegoating the weak, and the public shame their peers experience elicits apathy, not sympathy. This apathy sometimes intensifies to resentment and results in bullying.

#### **4.3 Sexual Violence**

According to defector testimonies from interviews, sexual violence is very

common in schools in the DPRK. Teachers often sexually abuse the students, avoiding the public eye as much as possible in choosing more private spaces off school premises. In this particular testimony to follow, the perpetrator regularly assaulted the students outside the school premises in the mountains during the DPRK's mandatory public service requirement for children, or essentially child labor.

*Teacher Cho Seung-Hwan... still teaches at the school. He sexually assaulted female children 16 to 17-year-olds at the mountain, and the children killed themselves. He told others that these children died by accident. However, because within two to three years, about five female children died, rumors spread against his testimony. There was no reason for cautious female students to die by falling off the mountain by accident.*

*- Han Chul-Min*

However, there were also cases where the teacher was bold enough to assault students on schools premises during night shifts.

*This is the case of my friend...when students are on the night shift of the school's security<sup>72</sup>, the teacher on the night shift sleeps with the students... in a large gathering room. At times like this, the teacher will touch the students' bodies. The rumors spread among students. There was a rumor that once a teacher got a student pregnant...*

*- Kim Sang-Ho*

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<sup>72</sup> North Korean students are required to work night shifts to secure the school premises. A team of one teacher and several students comprises each shift.

School teachers are not alone in being perpetrators of sexual assault, as school administrators are also guilty. Another defector testified that his close relative was raped by her school principal.

*While having a drink with my close relative (older female cousin), the cousin said that her principal raped her. When I heard her story, I thought such could have reasonably happened, that it was not implausible that her account took place... In the perspective of the North Korean men, 'it is stranger for her to not have been raped...' my cousin was too beautiful not to be...*

*- Park Chang-Shik*

What is even more unfortunate is that the victims are often ashamed of the assault. Parents of the victim-students often tried to blame the students when he or she was sexually assaulted by a teacher.

*I heard of students my age coming home pregnant from schools. The parents would say things like 'it was the fault of the students for not being cautious,' blaming and silencing the victim.*

*- Kim Yeon-Ri*

Other than teachers and school administrators, there are numerous testimonies regarding the sexual abuse by soldiers. North Korean men are required to join the military, the Korean People's Army, at the age of 17 and serve for a decade. Defectors claimed that soldiers frequently and indiscriminately assault civilian women including children.

*There are a lot of stories about how soldiers rape minors. The soldiers are trapped in the military for 10 years and cannot date, so they go crazy. The soldier class is the class most infected with sexual diseases... When soldiers go to the hospital for checkups, they prioritize to know whether they are HIV positive. AIDS is rampant in the DPRK...*

*- Park Chang-Shik*

North Korean women who enter military service are required to serve a minimum of seven years and the youngest age of entry is 18 years old. While the DPRK defines “children” as those up to 16 years old only, under the United Nations’ definition of the “child” as defined by the UN Rights of the Child, North Korean women who are 18 are within this age limit. Female defectors who served in DPRK military, the world’s fourth largest, claimed that sexual harassment is rife.

*I heard that sexual assault is even worse in the military... many people who go to the army come back pregnant. There is also an image, a common understanding that any women who went to the military was sexually assaulted in some way...*

*- Kim Yeon-Ri*

#### **4.4 Neglect**

Other than explicit abuse like physical, psychological or sexual abuse, neglect of the children’s physical, emotional and educational needs are another serious concern with severe consequences.

#### 4.4.1 Physical neglect

While food is generally scarce in the DPRK, the state of malnourishment of children living in prison camps or orphanages and relief shelters is, according to defector testimonies, abominable.

Specifically, in the prison camps there is barely enough food distributed. As children, the defectors were always hungry and constantly on the search for food to fill their empty stomachs. They needed to first and foremost relieve their hunger because the standard ration for a family of 4 is 1.8kg of corn a month. This is barely enough to feed two people.

*When I was living in the gwan-li-so, I didn't know that eating three meals a day was normal. A month's ration did not last us for more than two weeks, and I was always hungry.*

*- Han Chul-Min*

In order to survive, children become experts at catching wild animals. This includes snakes, birds and rats. Otherwise, they have no other source of meat.

*If I saw a snake, it was my lucky day. I would grab it with my hands. I didn't care if it was poisonous. I'd cut off its head, roast it over a fire, and eat it. There wasn't anything we didn't catch to eat.*

*- Han Chul-Min*

But food was still scarce. The prisoners suffer from poor nutrition, sanitation and healthcare to the point that disease and distress are widespread. For example, pellagra is a disease that plagues the prisoners, particularly the ones who first enter the camp and are not used to its harsh conditions. It is caused by

vitamin deficiency and malnourishment. Parts of the skin peel off, sores appear around the mouth, making it difficult for the diseased person to eat.

Children in orphanages or relief shelters are given corn stalk meal, ground up rice plant root, porridge from noodles, corn rice, etc. None of these are normal foods for Korean people, and are considered animal feed. Worse, this food is non-nutritional, barely filling, and detrimental to the growth of children. Even though the children are fed three times a day, it is still never enough and the memories of being hungry stand out the most for all those interviewed.

*I couldn't sleep because I was so hungry. I lay down to try to sleep but my stomach would burn and hurt that sleep never came. It was so much worse in the winter because I was also cold.*

*- Lee Ga-Yeon*

In the relief shelters, children who naturally have a bigger and stronger build than the rest of the peers are able to eat more and live slightly more comfortably; they are the “older brothers” who bully their way to survival. In contrast, in order to also survive, the smaller children resort to stealing. They sneak away from the relief shelter to go to the marketplace, steal food there, and return before nightfall. They usually eat whatever they find during the day and come back for a place to sleep. But there are more situations when the children cannot fend for themselves and are put in desperate predicaments. Lee Ga-Yeon was caught stealing a cabbage root. The guard who caught her beat her but she recollects:

*I was so hungry that even as I was getting hit, I kept the cabbage root in my mouth. If I endured it, I could eat it afterwards. If I had not eaten*



*like this, I would have starved to death.*

*- Lee Ga-Yeon*

#### **4.4.2 Emotional neglect**

The general sense of hopelessness that pervades North Korean society partially stems from the neglect of justice for victims. Victims of abuse lose basic trust in the institutions and environment that they are a part of as the DPRK government fails to provide proper injunctive relief to the victims. For example, according to defector testimonies, there is no identifiable government institution and or authority figure to which the victims of violence can report the horror they had experienced.

*There is no place to sue, no official place to sue, no legal route, no lawyers. I only have my parents to talk to. There are justices, but they only take care of cases for treason. There are so many people under the death penalty and treason that our cases were not even apt for a hearing.*

*- Kim Yeon-Ri*

Even in the rare cases where assaults are reported, authorities do not mete out adequate punishments to the perpetrators. Not only does this constitute emotional abuse to the victim in the form of neglect, but it can also be construed as second-hand perpetuation of sexual assault because lack of action naturally may lead to further violence.

*Eleven male students locked up a female student in a house and raped her taking turns... instead of taking any disciplinary actions, the school politely asked the parents of the eleven male students to leave*

*the school district...*

*- Kim Yeon-Ri*

Even on a day-to-day basis, children's rights are ignored and advocates silenced. The expectations of society are such that they cannot even rely on their parents to defend them.

*It's common to see strangers hit children's heads on the bus for being noisy. The parents would not rebuke the stranger for such an act. In fact, in most cases they would try to get the children to quiet down.*

*- Park Chang-Shik*

On a broader level, the oppressive atmosphere of North Korean society, where children are not free to choose their own path and there are simply no opportunities to break out of their given class (*songbun*), is enough to stunt the emotional development of any child. One of the defectors, when asked what he thought was the most serious form of child abuse in the DPRK answered:

*The lack of opportunities given to children (is the most serious child abuse). The chance for one to decide one's own future is not given at all. (I believe) this is more serious than the physical or psychological abuse.*

*- Park Chang-Shik*

In the case of one athlete, despite years of training and his superior performance relative to peers, he was forced to give up his dream of competing in the Olympics due to his distant relative having gone missing years ago and another relative having been born in Seoul and having served in the ROK army.

When he realized that alternative options such as becoming a coach were also severely restricted, the sense of loss that he felt was immense. It was as though he had lost his whole identity and his disillusionment with society was what eventually led him to defect.

#### **4.4.3 Educational neglect**

As seen in the previous sections, it is obvious that due to the time spent on forced labor and propaganda education the educational needs of North Korean children are far from being met by any standards.

Not only are children deprived of the bare basics of education that are critical for their growth and development, but at schools the children are left to their own devices with regard to bullying, discrimination and physical abuse—in a place where children should be ensured safety from such abuse.

*Bullying of weaker children at schools is condoned. The weaker children with no money, connections or power are abused, mercilessly beaten. It's not a matter of slaps on the face but rather severe punching and kicking. Whipping with belts and loss of teeth is a common occurrence. People do not go to courts or reach agreements for this kind of thing in the DPRK. The assailant never gets in trouble.*

*- Park Chang-Shik*

The fact that parents or teachers simply do not regard this as an issue and make no effort to remedy the situation is a serious form of neglect that is passed down from the DPRK's government's attitude toward education and justice.

*Parents are not bothered by these power struggles amongst students at school. The parents expect their children to grow strong. Therefore,*

*children do not speak up to them about being bullied or assaulted. North Korean children really fight a lot. Violence amongst children is serious. It is a very violent society in general. The justice system does not protect the people. There is no culture of resolution through the law. There is no culture of resolution through agreement. Everything is resolved physically.*

*- Park Chang-Shik*

#### **4.4.4 Medical neglect**

As detailed in the Child Labor section, children are forced to participate in Agricultural Labor Support and Item Collection and therefore exposed to severe injuries due to its rigorous and labor-heavy nature. Several types of farm labor as well as gathering firewood require the use of dangerous tools, such as sickles, hoes, and pickaxes. Children are not physically capable nor experienced enough to operate them. As a result, injuries are common.

The North Korean government claims its commitment to “the system of universal free medical service” in Article 56 of its 2016 Constitution, and Article 5 of the 2010 Children’s Rights Protection Act emphasizes that children, out of all citizens, should enjoy the benefits of universal free education and medical service the most.<sup>73</sup> However, these guarantees are not executed. Regardless of the severity of injuries acquired during government-mandated labor, no medical treatment is made available to students.

*If you hurt yourself while working, they don’t do anything about it and just send you back home. Once I hurt myself, and I applied fermented soybean paste when I got back home to stop bleeding, but the method*

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<sup>73</sup> Democratic People’s Republic of Korea, Supreme People’s Assembly, “Constitution of North Korea 2016”; Democratic People’s Republic of Korea, Presidium of the Supreme People’s Assembly, “2010 Children’s Rights Protection Act Order 1307”, 2010.

*is not based on sound medical knowledge. It's just a traditional home remedy, that's all.*

*- Hong Hye-Jin*

## **4.5 Conclusion**

Testimonies on child abuse in the DPRK paint a dire picture. As demonstrated above, children in the DPRK are abused on a wide scale and in almost all aspects of their lives. It's difficult to imagine a government that so thoroughly and ruthlessly violates the development of vulnerable young lives who deserve to thrive in an abuse-free environment.

Any one of the above abuses is enough to stunt the normal development of a child. It is unfathomable to consider the effect on children subject to multiple types of abuse on a daily basis as is the case in the DPRK. The fact that these victims' voices are not heard is another tragedy in itself.

## **VII. Conclusion and recommendations**

### **1. Conclusion**

Here, the situation of human rights in the DPRK was discussed from the overall human rights policy of the DPRK to types of violation to human rights. Despite partial improvements in some areas, since the beginning Kim Jong-un's regime, many areas still had not improved at all. In fact, deteriorations occurred.

Meanwhile, the DPRK continued nuclear and missile proliferation in 2017 despite the concerns of the international community. In response, the international community, including the UN, imposed strong sanctions against the DPRK, giving rise to fears of a nuclear war on the Korean peninsula. However, Kim Jong-un's gestures towards peace began with an emotional acknowledgment of inter-Korean relations in his 2018 New Year's address. The DPRK's participation in the Pyeongchang Olympic Games held in the ROK further contributed to a peaceful atmosphere. This culminated in the inter-Korean summit of April 27, May 26, 2018 and the first ever US-DPRK summit of June 12, 2018. However, there is growing concern about whether the DPRK really wants nuclear disarmament and peace on the Korean peninsula.

Above all, the issue of North Korean human rights was completely ignored in the two inter-Korean summit talks and the June 12 US-DPRK summit, based on the assumption that denuclearization is so important that human rights issues should not become a precondition for negotiation. Throughout these talks,

Kim Jong-un was seen as the leader of a normal state by the international community, disregarding that previous UN resolutions designated him as a perpetrator of crimes against humanity.

While it is true that peace is a paramount value that must be pursued vigorously, a peace settlement is not optimal, if it ignores the serious human rights violations that North Koreans are suffering and tolerates the tyranny of the North Korean dictator. It is argued that the DPRK regime is abusing human rights due to the hostile external environment. Such argument is essentially the same as past authoritarian regimes' logic. The human rights issue cannot be an afterthought in the discussion with the DPRK. The UDHR, which celebrates its 70th anniversary this year, stipulates that the recognition of equal and inalienable rights to the dignity of all human beings is the foundation of freedom, justice and peace in the world.

## **2. Recommendations**

(1) International community must acknowledge that North Korean human rights abuses lie at the core of the denuclearization problem. The latter has always taken priority, but complete, verifiable and irreversible denuclearization(CVID), or full and final verified denuclearization(FFVD) of DPRK can only be credible if it is accompanied by concrete evidence of human rights reform and human rights accountability. So diverse efforts should be made both at the government and civilian level for the DPRK authorities to put priority on the human rights situation and for the ordinary people to know and expect their rights.

(2) We call upon member states to ensure that the people of the DPRK can have the right of access to information as stipulated in Article 19 of UDHR and ICCPR to which the DPRK is a signatory. We are convinced that breaking the information monopoly of the DPRK government is a key determinant of freedom and a short cut to help bring about internal change. So we must accelerate the information influx into the DPRK by improving its means and content. Various electronic media such as portable storage devices (including USB flash drives), portable stereo systems, video players, mobile phones, wireless internet, and web pages should be enriched to help relay information to the sealed-off country.

(3) It is important to clearly demonstrate that individuals leading the oppression of human rights in the DPRK will face punishment in the future, for their committed crimes against humanity. The ICC's referral to the North Korean situation is delayed due to the opposition of China and Russia. In order to persuade these countries and maintain the UN's momentum in addressing human rights in the DPRK, international community should continue to collect evidence on crimes against humanity and publicize them to the whole world. Especially the role of OHCHR office in Seoul and the Center for North Korean Human Rights Records and the DPRK Human Rights Documentation Office which opened in 2016 by the North Korean Human Rights Act of the ROK should be strengthened.

(4) Cooperation and mutual exchange with the DPRK are necessary for the



development and improvement of inter-Korean relations. As the DPRK becomes more involved with the outside world, its residents will become more motivated to learn about it and ask the authorities to reform, change, and improve the human rights situation in the DPRK. Kim Jong-un is also pursuing economic development for the survival of the regime, and has already achieved considerable outcomes in agriculture reform by expanding the '*Pojeon-damdangje* (Farmland Responsibility System)' through the June 28th Measures in 2012.

However, it should be kept in mind that the North Korean authorities actually confront the human rights of the North Korean people. We should keep paying close attention to the inter-Korean exchanges and cooperation on the improvement of human rights in the DPRK, and follow the principle of reciprocity in the framework of international sanctions against the DPRK. The reason for the rise of human rights under the Eastern European Communist system was that Western countries encouraged the communist states to accede to the Helsinki Agreement in 1975 and continued to hold their Eastern counterparts to human rights clauses, while internal resistance groups used it as a space for human rights movement.

(5) Freedom of movement is an essential right that is directly linked to human survival. However, the DPRK strictly restricts the freedom of movement of its citizens at home and abroad in order to defend its Supreme Leader regime. In particular, since Kim Jong-un took power, the DPRK has taken a strict anti-defection policy to lower its defector numbers, strengthening surveillance to patrol the North Korean-Chinese border. Meanwhile, The People's Republic

of China also maintains its policy to return North Korean refugees back to their country. The PRC should protect the people of the DPRK who have sought refuge in, or are transiting through, its territory by abiding by the principle of *non-refoulement*. The UN and the international community need to pay constant attention to the violation of North Korean residents' freedom of movement in the DPRK and the forced repatriation of refugees in PRC.

(6) The DPRK should immediately cease arbitrary death penalties and infringements upon people's rights to life such as public executions, and extra-judicial summary executions ignoring the lawful judicial procedures. We also urge the Government of the DPRK to immediately close the political prison camps and release all political prisoners unconditionally and without any delay. Our concern is that in the event of an unstable political situation, the DPRK may perpetrate massacres in the camps to erase evidence. So the international community needs to formulate a plan to rescue camp survivors.

(7) Member States should not turn a blind-eye on the systematic practice of forced labor perpetrated by the DPRK on their citizens inside the DPRK, as well as on their overseas workers hired in the member states' territories, with respect to which, we urge the member states to conduct inspections and investigations on a regular basis, and to enforce a repatriation of the DPRK supervisors who are responsible for the violations.

(8) We encourage the member states, when providing food aid to DPRK, to implement proper monitoring and to ensure transparency of distribution. Like this the aid will have a higher chance of benefitting the most vulnerable groups. Above all, it is salient for the North Korean authorities to be aware that their

duty negligence, which results in starvation of the North Korean subjects, cannot be justified in any way.

**(9)** The international community needs to urge DPRK to comply with international standards and norms regarding education and end all forms of child labor and abuse. Institutions and organizations that are able to do so should continue to communicate to the people of the United Nations and the international community the situation of children's rights in DPRK.

**(10)** In addition to that, member states need to ensure foreign aid is given to the DPRK if and only if the DPRK is abiding by the international laws it has ratified. As DPRK endeavors to comply with international standards, third party experts should be allowed to join in and evaluate the progress made. This process should be conducted with transparency and any progress achieved should be made public.

**(11)** Finally, we call upon the international community, including all civil societies, to maintain momentum in raising awareness of the human rights situation in the DPRK. Pressure should be aimed at trying to get governments like the PRC and the Russian Federation to cease defending the DPRK, and let the UNSC refer Kim Jong-un and other top leaders of the DPRK to the ICC for their crimes against humanity.



- I. UDHR and DPRK's Human Rights
- II. Personal Liberty and Criminal Procedural Rights
- III. Status of Right to Life
- IV. Restriction on the Freedom of Movement
- V. Status of Right of Access to Information
- VI. Violations of Children's Rights
- VII. Conclusion and recommendations

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