

# **PSCORE Recommendations to the Accountability Agenda in the DPRK**

— For Consideration of the Special Rapporteur's  
Report to the UNHRC

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# 1. What Progress and Limitations Do You See on Accountability Issues in the Democratic People's Republic of Korea Seven Years after the COI Report, and How Do You Envisage the Way Forward?

The promotion and development of human rights in the DPRK cannot be achieved without the efforts of the DPRK itself and the cooperation of the international community. In spite of the existence of many pressing issues related to human rights violations in North Korea, PSCORE is currently focusing on four specific topics, namely children's rights, women's rights, digital rights and abductions.

## A. Children's Rights

Officially, there has been some progress when it comes to the DPRK's legal framework in relation to children's rights. North Korea adopted the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography in 2014 and the DPRK's fifth periodic state report on its children's rights situation for the consideration of the UN Committee for the Rights of the Child in May 2016<sup>1</sup> paints a picture of the DPRK providing proper care and rights for its children. Moreover, North Korea agreed to consider reviewing its national laws on child protection, in order to cover all children under the age of 18 years and also raise the minimum age of marriage to 18 years.

However, through many defector testimonies we can be sure that the DPRK report contains false information. The DPRK adopted the Law on the Protection of the Rights of Children in December 2010, yet it is clear that **physical abuse** is still prevalent in all areas of life in the DPRK. The government's inaction and deliberate concealment of the true situation are extremely undesirable. For students, bodily harm from their teachers is so severe that many need to receive medical attention and therefore are unable to attend classes. Physical punishments are given for various reasons such as disobeying teachers, late attendance, and insufficient scholarly performance. The educators face no repercussions as this culture of abuse has been passed down through generations and is considered part of the status quo. Though Domestic Family Law and the Law of Protection of Children's Rights outlaw maltreatment and bodily harm against children and reports of the situation having improved over recent years<sup>2</sup>, neither are seen as overly harsh and are morally accepted<sup>3</sup>. It is the responsibility of the North Korean government to correct the problems in the North Korean education system, especially the physical abuse of children, and to take immediate

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<sup>1</sup> 5th Periodic Report Of States - Democratic People's Republic of Korea, 13 May 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/240/01/PDF/G1624001.pdf>

<sup>2</sup> The Law on the Protection of the Rights of Children, 22 December 2010 (Korean version), <http://www.yeslaw.com/lims/front/page/fulltext.html?pAct=view&pPromulgationNo=157445>

<sup>3</sup> Defector interview on 21/03/2018, Park Chang-Shik by Nam Bada, PSCORE

measures. The DPRK's militaristic and violent culture is a carefully constructed system, strengthening the government's political and ideological power.

Children are also still subjected to **sexual abuse** in the DPRK. Through interviews with North Korean defectors, PSCORE was able to deduce that the legal concepts of 'sexual harassment' and 'minors' do not exist in the DPRK. Therefore, children and women are vulnerable to sexual harassment as there is no protection from the state and no clear age of consent for sexual activity<sup>4</sup>. The lack of sexual health and sexual education subjects in school curricula and the neglect in hostile social environments are the most fundamental catalysts for continuing child sexual abuse. This leads to abuse going unreported and becoming an accepted facet of domestic life. From a young age, boys are taught to intimidate girls through verbal aggressions and bodily harm as women are not considered to be equal to males. In addition, due to the government's neglect to pass adequate protection laws for abuse victims and the social gender hierarchy, male perpetrators enjoy protection by the state and the victim of sexual harassment or abuse experiences discrimination and stigmatization not only in daily life, but also in their career and marriage possibilities.

There are testimonies concerning the maltreatment of underaged individuals following their **repatriation** from China. They are not given any legal aid and are charged under adult criminal law<sup>5</sup>. Detaining those teenagers for an extended time span bypasses the time period during which they may be released without punishment. There are reports of children from the age of thirteen being held in prison for decades under arbitrary circumstances and not receiving information regarding their arrest<sup>6</sup>.

Similarly, pregnant women who have been repatriated from China were involuntarily made to abort their fetus or even had their baby murdered by customs officers<sup>7</sup>. A former North Korean officer wrote a memoir about the practice of **infanticide** of newborn babies, stating that any infants of North Korean women coming from China must be killed according to current orders by the government. This is due to the hatred of interracial children and the desire to keep a pure blood line as well as enforce severe punishment on those women<sup>8</sup>.

**Discrimination** toward children in the DPRK is not only based on the nationality of their parents, but also on social status as another testimony from a defector proves. According to them, discrimination toward students based on their families' social status is prevalent in North Korean schools. Elite and upper class parents regularly bribe educators and provide financial support to schools. This leads to students of higher social status receiving privileges from teachers.

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<sup>4</sup> Defector interview on 03/2019, Eun-Joo by Shim Da-Yeon, PSCORE

<sup>5</sup> Inescapable Violence - Child Abuse within North Korea, PSCORE 2019, p30 <http://bit.ly/37I66Ny>

<sup>6</sup> Ibid, p31-32

<sup>7</sup> PSCORE 2019, p28

<sup>8</sup> PSCORE, The Fate of the Repatriated North Korean Women, Defectors Memoirs, online, <http://pscore.org/memoir/fate-repatriated-north-korean-women/>

Differentiated treatment by educators negatively affects lower class students' learning ability and future success<sup>9</sup>.

Furthermore, the DPRK has revised their constitution, setting 16 as the legal age of work and banning **child labor**, though utilisation of children in the work force continues to this day.

Students, depending on their social status and location, spend up to 40% of their academic career performing physical labor, which is not necessarily done for the government, but for educators who abuse their authority to utilize the children for personal tasks<sup>10</sup>.

Similarly, North Korea states that it offers "free education" for all students, which has been disputed by defectors in recent interviews. Though monetary compensation is not technically required of the students, they are expected to earn their right to education by collecting resources, materials and utensils for the classroom or the teaching-staff themselves or enduring forced labor to contribute to the labor force under the guise of education.

Labor conditions for children are cruel and violate their basic human rights in order to increase economic productivity. They are left alone without any guardians and must take care of their own medical aid. A defector described an instance where they suffered a severe injury, but were not helped and had to dress the wound themselves with soiled cloth.

As food is not provided during working hours, children have to scavenge for anything edible on the ground. Digging for food comes with the risk of physical punishment by supervisors.

The time that is actually spent at school is tainted by the education sector's agenda to indoctrinate the children with their anti-foreign ideology from an early age. State-controlled class materials and textbooks used in schools contain biased information and aim to sow seeds of hatred against supposed enemy powers like the United States and Japan. Pupils, instead of being educated on world history and current events, learn about the achievements of the ruling family and their heroic fight against the malicious forces of the West.

### *Recommendations*

- Ensure that lower class children, children with disabilities, and orphaned children fully enjoy their right to health, education, and other social and cultural rights;
- Grant access to education and health care to children in the most disadvantaged areas equal to that of urban children;
- Urge the North Korean government to cease to claim that free education is provided;

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<sup>9</sup> Defector interviews conducted on 29/03/2018, Oh Ji-Ye by Nam Bada, PSCORE#

<sup>10</sup> Unending Toil: Child Labor within North Korea, PSCORE 2018, p106-108

- Eradicate child labour practices and provide humane conditions for every child by enforcing the labor and education laws set in their constitution;
- Pressure the DPRK into improving its children's rights situation while avoiding more suffering of vulnerable groups due to economic hardships;
- Ratify the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention against Torture (CAT), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) with the aim of enacting them into national law;
- De-politicize the curriculum, which currently features improper representations of other nationalities and phenotypes, historical distortions and the idolization of totalitarian political order;
- Launch an education campaign that promotes diverse perspectives of historical events, allows access to unaltered international sources and avoids any biased ideology, which to this day has created contempt towards the international community.

## **B. Women's Rights**

North Korean women are often not aware of their basic right to protection from **sexual violence**. However, there are also reports that North Korean women are actively fighting against this issue. Women who deserted the military regularly revealed that sexual assault had been the catalyst for their decision. There are also collective reports written by victims about sexual abuse committed by high-level military personnel in Pyongyang. These reports not only outline the crimes committed, but also ask for respect for women.

Even though some North Korean women are beginning to realize their rights, they are still not protected by societal norms. Even the domestic law has limited restrictions on sexual violence, which runs rampant in North Korea. Additionally, sexual molestation is not considered a crime and therefore is a common occurrence. The government's neglect of women's rights in the judiciary is obvious. It is the North Korean government's urgent responsibility to improve the legal protection of women's rights, and strengthen the government bodies and systems currently in place in order to actively improve the situation.

While the "Me Too" movement is prevailing all over the world and women's rights are gradually becoming more of a concern for the general public, women in North Korea are still persecuted by

their families, society, and the authorities. Specifically, in 2010 North Korea passed a new legislation guaranteeing women's rights. However, it simply states the general rights of women and excludes any mention of sexually violent crimes<sup>11</sup>. The protection afforded to North Korean women under domestic law is minimal when they receive unfair treatment. The vast majority of North Korean women who are subjected to sexual violence do not have access to justice because of a need to protect their family's **reputation** or because they are threatened by authorities.

The unfair treatment of women in North Korea is particularly evident in cases of sexual abuse and rape by those in positions of power. Sexual violence in correctional labor camps, detention centers and markets has escalated in recent years<sup>12</sup>. In these kinds of closed spaces, women completely lose their ability to protect themselves. Threats from those in power and worries about their families have hindered their resistance to some extent. Sexual persecution can cause permanent trauma regarding women's bodies as well as their psychological status. All of the defector women interviewed expressed great pain and anger as they recalled the sexual violence they had suffered<sup>13</sup>. The fundamental problem is that the North Korean government covers up for the sexual crimes of government officials but neglects women's human rights. The lack of fair and impartial accountability and punishment for government officials who molest women has led to the inability of women to mobilise against sexual misconduct against themselves.

### *Recommendations*

- Improve North Korea's legal system in order to implement fair and just protection for women by law;
- Conduct thorough investigation of the use of torture and cruel treatment, in particular cases of physical and sexual violence against women in the prison system;
- Establish a national legislation to combat sexual violence, including a definition of rape that applies to domestic rape and rape in detention centres;
- Investigate and prosecute members of law enforcement and other authorities in a timely manner;
- Punish under law any violence against women, establishing measures to protect victims and their families;

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<sup>11</sup> Hyun, Cases of Sexual Violence Against North Korean Women: Cases and Ways to Improve, Article download link: <http://bit.ly/3pj5MwQ>, p12

<sup>12</sup> Korea Institute for National Unification, 'White Paper on Human Rights in North Korea 2015' pp.324~ 325

<sup>13</sup> Defector interviews conducted by PSCORE between March and May of 2019, by a professional sexual violence counsellor (Shim Da-Yeon) regarding 24 North Korean female defectors who escaped between 2008 and 2019

- Adequately enforce existing government delegations for the confidential disclosure of sexual abuse and harassment, in order to assure official protection for abused women by the authorities;
- Ensure coordination and mutual supervision between the law and the governmental authorities to avoid potential corruption and the concealment of crimes committed against citizens;
- Enhance measures to address the issue of sex trafficking, prostitution and forced abortions at border detention centres through human rights awareness programmes, law enforcement training and the strengthening of institutional and legal framework;
- Improve health care for women to decrease maternal mortality.

### **C. Digital Rights**

Digital rights are a new form of human rights in the Internet era. This concept, though broad, mainly involves online privacy and freedom of speech in the online world. These rights are an extension of those enshrined in the Universal Declaration of Human Rights, thus clear violations of digital rights in North Korea cannot be ignored.

The majority of North Korean citizens do not have access to the Internet or any type of foreign media. The so-called Intranet, a domestically restricted network, is the only available information source, which consists largely of propaganda material and is completely controlled by the government<sup>14</sup>.

Due to this restriction on freedom of information, North Korean individuals cannot collect information about the outside world and are not able to educate themselves on world affairs or acquire unbiased opinions about politics, economics or social issues<sup>15</sup>. This leads to most North Koreans being exclusively exposed to anti-US and anti-Japan propaganda, fostering hostile attitudes towards foreign countries, and safeguarding the state ideology.

Furthermore, North Korea is the only country in the world that fully surveilles the electronic devices of its citizens. North Koreans have no legal access to foreign media, international TV shows, websites or music and their electronic devices, audio and video, or phone calls abroad are heavily monitored. Such a reality is a serious violation of people's digital rights.

As technology develops further and faster, the DPRK, specifically under the leadership of Kim Jong Un, has restricted citizens' freedom of thought and expression further to guarantee its control

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<sup>14</sup> Defector Interview on 29/07/2020, Park Chang-Sik by Nam Bada, PSCORE

<sup>15</sup> Defector Interview on 20/08/2020, Kim Bo-Ram by Nam Bada and Kim Do-Hee, PSCORE

over its population and continue indoctrination. Punishments for the consumption of foreign media have escalated to the degree of execution for minor offenses<sup>16</sup>.

It is the DPRK government's responsibility to ensure its citizens' human right to mental integrity, information and the freedom to personal development. However, North Korea has not shown any progress regarding the issues of internet access, and propaganda online and in schools prevail.

### ***Recommendations***

- Grant access to the internet and international media to all citizens of the DPRK;
- Allow the establishment of independent newspapers and other media, and abolish compulsory indoctrination sessions;
- Terminate the monitoring of citizens' use of electronic devices, including cell phones, DVDs and USB devices;
- Cease the disproportionate punishment of citizens for minor crimes in relation to foreign media like unauthorised internet usage, international calls, and the consumption of foreign television shows and music.

### **D. Abductees**

The well-being of various abductees detained in the DPRK is profoundly concerning to PSCORE. The Korean Air (KAL) abductee case of 1969 is unsolved to this day while the North Korean government denies any involvement or accountability. The hijacked Korean Air YS-11 aircraft carried 4 cabin crew and 46 passengers. Though some of these individuals have returned to their home country, almost one dozen are still unaccounted for<sup>17</sup>.

Returnees revealed to have been forced to attend indoctrination classes after arriving at the DPRK. However, some refused participation in such events and 'disappeared' after forced removal from their homes by soldiers.

The most prominent case of Mr. Hwang Won has remained unresolved for over 50 years as his son, Hwang In-cheol, is still in pursuit of uncovering his fate.

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<sup>16</sup> Unification Media Group, 2019, "A survey for North Korean media environment and external content usage", retrieved from [www.uni-media.net](http://www.uni-media.net)

<sup>17</sup> "Forgotten Abductees: 50 Years in North Korea", published on March 2019 by PSCORE



No progress has been made as the DPRK has disregarded and disaffirmed Hwang In-cheol's efforts of pursuing contact with his father, even though his public campaigns and petitions have garnered international attention<sup>18</sup>.

Though Mr. Hwang applied for inter-Korean family reunion in 1999, North Korea only replied by denying his request to meet with his father in 2005, stating inability to verify his life status. After the International Committee of the Red Cross (ICRC) urged the DPRK to provide information on Hwang's father in 2011, the government claimed all remaining abductees to be residing in North Korea by their own will and deny further investigation. By 2013 the 'BringMyFatherHome' Campaign was launched and its members submitted the UN Security Council Resolution 286 for the immediate release of all passengers and crew members held as a result of hijackings "without exception." to the UN Human Rights Office in Seoul.

In 2014 the DPRK denied the existence of South Korean abductees within their country. The UN Human Rights annual report of 2017 highlighted the KAL hijacking case and Hwang held a press conference urging North Korea to agree to a meeting of himself and his father in a third-country location, which, yet again, was denied by the DPRK government.

Hwang thereafter submitted a report to the UN Human Rights Council for North Korea's 3rd cycle Universal Periodic Review (UPR) and penned letters to foreign embassies in Seoul inciting them to raise his case at the review in 2018. In partnership with various NGOs, Hwang addressed the European Parliament in 2019 as well as spoke in front of the UN Human Rights Council in Geneva about his father's abduction. During the UPR, Iceland and Uruguay highlighted the KAL hijacking incident, demanding the return of Hwang Won to South Korea.

The COI 2014 Report found the DPRK accountable for crimes against humanity by forcibly disappearing those abducted and withholding information about their well-being, nonetheless there have still not been any further updates by the North Korean government regarding abductees as of 2021.

North Korea has voluntarily signed and ratified the Hague Hijacking Convention in 1983 and therefore should abide by its rules as well as ratify the 2007 International Convention for the Protection of All Persons from Enforced Disappearance (CPED).

### *Recommendations*

- Fully disclose the fate and whereabouts of abductees;
- Respond to Hwang In-cheol's contact attempts, reveal the whereabouts of his father and organise a family reunion before the passing of Hwang Won;

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<sup>18</sup> Bring My Father Home, n.d., retrieved from: <https://bringmyfatherhome.org/>

- Dismantle all labour and prison camps, release all political prisoners, and clarify with full detail the fate of any disappeared persons who cannot be readily traced;
- Set a specific timeframe and take concrete action to resolve the issue of abductions, including repatriation of the abductees.

**2. What Are Your Views on the Approach That Should Be Taken to Ensure That the Obligation to Respect Human Rights in the Democratic People’s Republic of Korea, Including on Accountability Measures and Ending Impunity, and the Need for the Establishment of Peace on the Korean Peninsula Are Fulfilled.**

It is PSCORE’s opinion that any efforts regarding the adherence to human rights within the DPRK and the establishment of peace on the Korean peninsula are reliant on various internal and external factors. In April 2015, a National Committee for the Implementation of International Human Rights Treaties was formed by the North Korean government to find ways of implementing all recently ratified laws. While verbally agreeing to some of the proposals, the DPRK has not made any real changes at home.

Even if the North Korean government is pressured by the international community to carry out the so-called legal reform, the actual implementation and compliance cannot be effectively monitored. No experts have been allowed to enter the country in order to collect primary data on the treatment of citizens, therefore human rights organisations are reliant on the testimonies of North Korean defectors to paint a picture of the current issues in the DPRK. In order to show good faith and willingness to truly improve the lives of North Korean citizens, the DPRK must allow **third-party experts**, specifically the UN members, to enter the country to evaluate progress that has been made and produce an unbiased report of the living conditions there.

It seems that not much effective change has taken place so far. Not only is a change of attitude by the North Korean government needed, but also by the international system in their interaction with North Korea.

The negative response of the North Korean government towards other international actors and their continuous threats to the safety of other countries can at best be considered **counterproductive** to the aim of reunification or peaceful coexistence of the two Koreas. North Korea has openly shown its desire to assert dominance over others via conduction of nuclear tests, rejection of UN humanitarian aid, and the refusal to allow foreign human rights monitoring agencies into the DPRK.

Though the South Korean people are generally willing to work towards peace talks, North Korea’s spiteful behaviour may eventually turn them against the idea and create a larger rift between the two countries. North Korea, therefore, needs to be more receptive and open to the

recommendations of the United Nations' member states and re-evaluate their decision to refute a large number of previously suggested actions to guarantee basic human rights to its citizens.

The DPRK should demonstrate their willingness to cooperate with other states by joining international **summit meetings** in order to discuss and evaluate human rights issues within their country. This type of meeting should be UN-led, both to guide especially other Asian countries in the construction of a functioning relationship with North Korea and to increase the mutual supervision of human rights.

In order to establish trust, North Korea must accept that their totalitarian leadership has failed their people. The DPRK has been too concerned with the enhancement of their political and ideological power, oppressing the human rights of their citizens in all aspects of life. The North Korean constitution must be re-evaluated and amended on the foundation of human rights and dignity. The DPRK should actively strive to involve their citizens in major governmental and civil decisions and allow them basic freedoms such as free movement within and outside of the country and access to the internet without immense censorship.

Should North Korean citizens decide to flee the country, the DPRK must refrain from forcibly repatriating its people and actively tracking them down in the bordering regions of neighbouring Russia and China. It must not punish them by imprisonment or execution for leaving the country and should not seek help from bordering countries in their endeavour to re-capture emigrants.

The international system must acknowledge all individuals fleeing from the DPRK as **refugees** and officially offer asylum. China, who presently conspires with North Korea to involuntarily return citizens, must be the frontrunner of refugee rights and nullify any such agreements with the DPRK. North Korean refugees must have access to education, employment and health care and have equal opportunity within Chinese society without fear of repercussions or potential repatriation. Sanctions, excluding the limitation of food supply, may be imposed by the Chinese government in the case of rejection by the North Korean government of such measures.