



# General Assembly

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## Human Rights Council

### Forty-six session

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Agenda item 4

**Human rights situations that require the Council's attention**

### **Written statement\* submitted by People for Successful Corean Reunification, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[01 February 2021]

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\* Issued as received, in the language(s) of submission only.

## Statement on Recent DPRK Human Rights Issues

South Korea's Anti-Leaflet Amendment to the "Development of Inter-Korean Relations Act"

By criminalizing the sending of leaflets and balloons to North Korea, the newly enacted amendment to the South Korean "Development of Inter-Korean Relations Act" violates North and South Korean peoples' freedom of expression and limits access to information for North Korean people, a right the importance of which has been repeatedly confirmed by both the UN and the South Korean government. PSCORE strongly recommends that this amendment be repealed to avoid further restriction of North Korean peoples' access to information from South Korea.

The Legislative Process of the Partial Amendment to "Development of Inter-Korean Relations Act"

The partial amendment to the "Development of Inter-Korean Relations Act" was passed and promulgated in December 2020. Article 24 of the act states that "no one shall engage in any of the following acts that may cause harm or serious danger to the lives and bodies of the people:

- 1) Broadcasting through speakers against North Korea in the Military Demarcation Line
- 2) Posting visual media (posts) towards North Korea in the Military Demarcation Line
- 3) Distribution of leaflets, etc."

Article 25 states the punishments for violation of the law: "up to not more than three years in prison or 30 million South Korean won in fines." In Article 4, the bill further specifies the term leaflets as "flyers, goods (including advertisements, printed materials, auxiliary memory devices, etc.) and money or other property profits"; Article 4 has comprehensive stipulations on the actions that may be considered illegal in regard to the meaning of 'distributing,' which may be doing so without an official approval and distribution of materials to unspecified masses in North Korea, as well as operating sending activities through a third country.

Freedom of Expression and Violation of the Human Rights of North Koreans

Although the South Korean government has asserted that the amendment was made in order to protect South Korean citizens living near the border, the issue of balloons and leaflets could have been managed through existing laws and without the creation of such a harsh new law. Several organizations are involved in sending balloons to North Korea, and while some are preoccupied with publicity and media attention, the majority operate quietly in an attempt to truly better the lives and improve the awareness of North Korean people by providing them with access to information. If the South Korean government had acted earlier to discourage organizations preoccupied with attracting media attention, the issue could have been dealt with before reaching the current level of severity.

The first session of the United Nations in 1946 proclaimed that "freedom of information is a fundamental human right and is the touchstone of all freedoms to which the United Nations is consecrated." The proclamation broadly interpreted freedom of information by declaring "the right to gather, transmit and publish news anywhere without fetters" as implied rights in its meaning. Additionally, both Article 19 of the Universal Declaration of Human Rights (UDHR), and Article 19, Clause 2 of the International Covenant on Civil and Political Rights (ICCPR), in which both South and North Korea are signatories of, state the importance of freedom of information. Strictly forbidding sending balloons and leaflets to North Korea further violates the basic human rights of North Korean people and we hope the United Nations will urge the South Korean government to rethink this measure.

A Korean PSCORE intern who had served in a special division which sent balloons and leaflets across the border to North Korea recounted to us his experience of meeting a defector who had chosen to defect after seeing leaflets that had been sent from South Korea. The defector expressed the enormous impact that receiving leaflets had had on his life, emphasizing the fact that North Korean people are isolated from the outside world and his great appreciation for those who attempt to send information to North Korea. This is just one example of the potential sending balloons and leaflets has to provide North Korean people with access to information and expand their knowledge of the world outside North Korea. This freedom of information is a basic human right that North Korean people must have access to.

#### Repatriation of North Korean Fishermen in November 2019

In early November 2019, two North Korean fishermen were captured in South Korean waters and repatriated to North Korea after interrogation. Since the repatriation of these two men, there has been no news of their status. Whether they are still alive or have been seriously punished or executed as punishment for their attempted defection is unknown. On January 28, 2020, the United Nations sent a letter to North Korea to inquire about the status of these two men but has yet to receive a reply. Increased concern and attention from the international community would be the only way that these men's lives and basic human rights could be protected. Since the South Korean government is not pursuing this issue further, we hope that the United Nations can devote more attention to the status of these men.

Due to the COVID-19 pandemic and the closure of China and North Korea's borders, North Korean defectors who have been captured in China are being detained there. However, when borders reopen these defectors will be repatriated to North Korea and severely punished. The United Nations Convention Against Torture forbids the repatriation of people to a country in which they will face torture upon their return. In addition, the principle of non-refoulement under international human rights law guarantees that no person should be repatriated to a country where they face torture, cruel, inhumane or degrading treatment or punishment and other irreparable harm. It is well known that North Koreans who unsuccessfully attempt to defect or are repatriated after defection are not given the right to due process in North Korea and face extreme punishment or execution. Forced repatriation of North Koreans must be stopped entirely, as well as the heinous violation of the basic human rights of repatriated North Korean people.

#### The Killing of a South Korean Official in North Korean Waters in September 2020

According to the South Korean defense ministry, on September 21, 2020 a South Korean fisheries department official disappeared from his patrol boat about 10km from the Korean border. He was discovered the next day by a North Korean patrol boat, the occupants of which questioned him from a distance before being ordered to shoot and kill him. The North Korean troops then burned his corpse using gasoline. The defense ministry noted that this may have been an anti-coronavirus measure. It is still unknown why or how the South Korean official had made it to North Korean waters.

Shortly after the incident North Korean leader Kim Jong-un sent a personal apology in the form of a letter to South Korean President Moon Jae-in. In his letter, Kim expressed his regret that the incident had taken place. Although Kim condemned the event in his apology, however a mere apology is not sufficient response to the killing. The North Korean government claimed the killing was necessitated by the man's refusal to reveal his identity and attempt to flee, however it is very likely that the soldiers would have been able to capture him and send him back to South Korea alive, or simply escorted him back if they had attempted to do so. This event reflects the extreme isolation of North Korea and its hostility to any outsiders, as well as the regime's complete lack of respect for human rights and human life. North Korea must be urged to go forward with official proceedings in order to deal with this event and to prevent similar occurrences in the future.

## Digital Rights

Digital rights is an area not generally included in the traditional concept of human rights. However, digital rights or lack thereof greatly impact freedom of expression and freedom of access to information. North Korea is the only country in the world that prohibits the vast majority of its population from accessing the internet. In addition, surveillance of digital devices is extremely strict. North Korean people can be severely punished or executed for accessing or attempting to access media from outside of North Korea or for using unregistered digital devices. The operating systems of North Korean digital devices have built-in surveillance functions, and sharing files between cell phones is restricted. Compared to other nations, which are constantly striving to improve technology, the North Korean regime is actively attempting to reverse technological advancements in order to better control and surveil its citizens' digital activity. In addition, in December 2020, North Korea adopted the Anti-Reactionary Thought Law, which further restricts the distribution of foreign cultural material and media, especially from South Korea. The DPRK continuously undermines its citizens' efforts in engaging with the international community, effectively stripping them of their fundamental rights to expression, information, privacy and education. Attention must be brought to the lack of digital rights in North Korea.

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