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Assessment of the 3rd Universal Periodic Review (UPR) of the DPRK and the Ways to Improve Human Rights in North Korea

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On May 9, 2019, the Universal Periodic Review (UPR) on North Korea took place at the United Nations Office at Geneva, Switzerland. It was the 3rd round following the previous ones in 2009 and 2014. In the National Report for the review, the DPRK stressed its efforts to a)improve the institutions to implement international conventions, b)establish national “plans” and “strategies” to improve social rights, c)enhance the human rights of the vulnerable, and d)intensify international cooperation. After a review of the DPRK’ s human rights records, the UPR Working Group made a total of 262 recommendations based on those presented by UN member countries. Topics include a)abolishing the death penalty, b)abolishing the political prison camps, c)joining human rights conventions, to which North Korea is not a party yet, d)improving human rights of the vulnerable, e)securing the freedom of thought, conscience, and religion, and f)securing social rights (such as rights to food, education, and health). Pyongyang declined to accept dozens of the recommendations, mostly relevant to civic and political rights, including sensitive issues such as political prison camps. It will provide responses to the rest of the recommendations after a review. North Korea has shown interest in improving economic, social, and cultural rights and the rights of the vulnerable than civil and political rights. Therefore, the international community may need to start from Pyongyang’ s preferred areas and expand cooperation with North Korea.

On May 9, 2019, the third Universal Periodic Review (UPR) on North Korea took place at the United Nations Office at Geneva, Switzerland. Established when the Human Rights Council was created in 2006, the UPR is an instrument that periodically examines the human rights situation of all UN member states every four and a half years in light of the UN Charters, the Universal Declaration of Human Rights, and other human rights conventions and covenants.¹⁾ All UN member states are subject to the UPR regardless of whether a state is a party to a certain human rights convention. There is a distinct difference between an individual human rights convention and the UPR: the former only governs national obligations imposed on the parties to the convention but the latter comprehensively governs all the issues on the human rights.²⁾ The UPR's first meeting was held in April 2008 and its 3rd cycle (2017–2021) is currently underway. North Korea's National Report for the 3rd round review was made public on April 16,³⁾ and a draft report of the UPR Working Group was released on May 14, which include 262 recommendations made by other UN member states.⁴⁾ Pyongyang agreed to submit its response after reviewing whether they would support 199 recommendations. The North “noted” the other 63 recommendations, but declined to comment, which is a *de facto* refusal of support.

Key Contents and Characteristics of North Korea's National Report

- 1) The UN Commission on Human Rights was often embroiled in political controversies for its allegedly selective approach to human rights issues of certain countries. The Human Rights Council, founded in 2006 to end such controversies and restore trust in the UN human rights mechanisms, introduced the UPR to periodically review the human rights situation of all UN member states. Jong-Gil Woo, “Universal Periodic Review under the Human Rights Council as Part of International Human Rights Protection Mechanisms,” *Seoul International Law Journal*, vol.15 no.1 (2008), pp. 345–346 (in Korean).
- 2) Park Jin-a, ‘Review on the Major UN Human Rights Mechanisms and North Korea: Focusing on the Universal Periodic Review (UPR), Special Procedures, and Complaint Procedures,’ *UN Human Rights Mechanism and Human Rights in North Korea* (Seoul: KINU, 2013), p. 19 (in Korean).
- 3) National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 15/21, Democratic People's Republic of Korea. UN Doc. A/HRC/WG.6/33/PRK/1 (20 February 2019).
- 4) Draft Report of the Working Group on the Universal Periodic Review, Democratic People's Republic of Korea. UN Doc. A/HRC/WG.6/33/L.8 (UNEDITED VERSION, 13 May 2019)

In the 3rd National Report of the DPRK, it is notable that the Kim Jong-un administration established various national committees and enacted new laws and policies to improve the human rights condition of the country over the last five years. Such efforts include organizing the National Committee for the Implementation of International Human Rights Instruments in 2015 and the National Committee for the Protection of Persons with Disabilities in 2016. The Institute of Human Rights was also organized in November 2016 under the Academy of Social Sciences of the DPRK.

The 3rd Report also stressed that the Kim administration systematically promoted social rights of the people by launching and implementing a number of national “plans” and “strategies” such as the 5-Year Strategy for National Economic Development (2016 - 2020), the National Strategy for the Development of Education (2015 - 2032), the Mid-Term Strategy for the Development of the Health Sector of the DPRK (2016 - 2020), the Strategy for Expansion of Integrated Management of Child Illness (2005 - 2020), the Strategy for the Protection of Persons with Disabilities (2018 - 2020), and the Strategic Plan for the Care of the Elderly (2016 - 2018).

Also noteworthy in the 3rd Report was the DPRK’s endeavor to improve the human rights of vulnerable groups such as women, children, persons with disabilities, and the elderly. According to the report, 40-odd baby homes, children’s homes, and primary and secondary boarding schools were newly built between 2014 and 2017 for children without parents or *Kkotjebi*, homeless orphans in North Korea. Also, a new “old home” was built in Pyongyang in 2015, which later served as a model for all provincial old homes. In addition, recuperation facilities for persons with disabilities were created in all provinces of North Korea between 2016 and 2018. These efforts indicate the DPRK’s active intervention in protecting vulnerable groups and promoting their rights.

Compared to the previous one, the 3rd Report stressed North Korea’s cooperative initiatives with the international community. Over the last five years, the country submitted its 5th and 6th periodic reports on the implementation of the Convention on the Rights of the Child (CRC) in 2017, 2nd to 4th periodic reports on the implementation of the Convention on the Elimination of All Forms of

Discrimination against Women (CEDAW) in 2017. It also ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2014 and the Convention on the Rights of the Persons with Disabilities (CRPD) in 2016. The initial report on the implementation of the CRPD was submitted in 2018. Further, it allowed the visit of the UN Special Rapporteur on the Rights of Persons with Disabilities to the country in 2017. By stating its cooperative activities with the international community for human rights causes over the last five years, Pyongyang stressed its participation in international efforts to protect and promote the human rights.

Although the DPRK is still refuting the accusation from the international community against human rights violations, the 3rd Report seems to soften the language as compared to the previous report. In the 2nd Report, Pyongyang condemned UN's human rights resolutions on DPRK and the activities of the Commission of Inquiry (COI) on Human Rights in the DPRK as an "attempt to interfere in the internal affairs of a sovereign state."⁵ In particular, it denounced the "hostile policy" of the United States towards the country as "the most grave acts against humanity and a serious violation of human rights."⁶ By contrast, the 3rd Report refrained from overtly blaming the U.S. Instead, it claimed the UN Security Council sanctions, unilateral sanctions by "some countries," and human rights resolutions adopted at the UN Human Rights Council and the UN General Assembly led by "some western countries" as a major obstacle to the efforts of the DPRK for the protection and promotion of human rights. Pyongyang also tried to make an emotional appeal, arguing that sanctions threaten the right to existence of vulnerable groups such as children, women, and persons with disabilities.

The North's refraining from directly mentioning the U.S. appears to be a diplomatic gesture to avoid the unnecessary provocation amidst the ongoing bilateral dialogue between the two countries. The 3rd Report's softer tone indicates that the

5) National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 15/21, Democratic People's Republic of Korea. UN Doc. A/HRC/WG.6/19/PRK/1 (4 January 2014), paras. 121-122.

6) *Ibid.* para. 126.

denuclearization talks between Pyongyang and Washington are still underway and that Pyongyang retains its willingness to talk despite the breakdown of the Hanoi summit earlier this year. Meanwhile, North Korea citing concerns over the threats that international sanctions pose to the human rights of vulnerable groups could be interpreted as an attempt to emphasize the unethical side of the sanctions. By doing so, it may have sought to divert international criticism on the DPRK's human rights violations to the actions of outside parties.

Key Contents and Characteristics of Recommendations by the UN Member States

After the 3rd round review session, the UPR Working Group made a total of 262 recommendations based on those submitted by other UN member states. The table below shows a summary of those recommendations. Many of the recommendations overlap those presented during the 2nd UPR, as the North Korean government has failed to show noticeable improvements in many of the areas. Notably, 63 recommendations that Pyongyang refused to support are mostly related to the civic and political rights, all of which could threaten the regime's survival. The recommendations include: the abolition of political prison camps and the release of political prisoners, the elimination of guilt by association, the abolition of the *songbun* class system, the cessation of media censorship, the release of abductees, and the elimination of arbitrary detention, torture, and other inhumane treatments.

Major Recommendations by the UN Member States
To be reviewed and responded as to whether to be supported (A summary of major issues expressed in 199 recommendations)
<p>Accede to and ratify human rights conventions, to which the DPRK is not a party</p> <ul style="list-style-type: none"> - The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol - Second Optional Protocol to the International Covenant on Civil and Political Rights (on the abolition of the death penalty) - The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights - The International Convention for the Protection of All Persons from Enforced Disappearance - The International Convention on the Elimination of All Forms of Racial Discrimination

<ul style="list-style-type: none"> - The Rome Statute of the International Criminal Court - The Optional Protocol to the Convention on the Rights of the Child (on the involvement of children in armed conflict) - The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women - The Protocol Additional to the Geneva Conventions (relating to the protection of victims of non-international armed conflicts (Protocol II))
<p>Join international organizations, to which the DPRK is not a party</p> <ul style="list-style-type: none"> - International Labor Organization
<p>Incorporate international covenants into domestic laws and practices</p>
<p>Encourage the National Committee for the Implementation of International Human Rights Instruments to play an active role and guarantee its independence</p>
<p>Cooperate with the international community</p> <ul style="list-style-type: none"> - Cooperate with UN Human Rights Council and the OHCHR - Allow UN Special Rapporteurs and international organizations' visits to the country - Seek technical cooperation with the UN - Cooperate with the international community to promote social rights (for example, rights to health, education, and food)
<p>Grant international humanitarian agencies' operation and access to the country</p>
<p>Continue efforts to protect the human rights of the vulnerable (women, children, persons with disabilities, and the elderly)</p> <ul style="list-style-type: none"> - Take an action to encourage more women in leadership positions - Strengthen the legal punishment for violence against women (including sexual and domestic violence) - Ensure a ban on corporal punishment to children - Take measures to develop inclusive, incorporated education for children with and without disabilities - Improve housing facilities and public transport that are not accessible to persons with disabilities
<p>Establish a national human rights institution in accordance with the Paris Principles</p>
<p>Continue efforts for the implementation of the 5-Year Strategy for National Economic Development (2016-2020)</p>
<p>Continue efforts for the implementation of the National Strategy for the Development of Education (2015-2032)</p>
<p>Strive to raise awareness on human rights</p> <ul style="list-style-type: none"> - Provide human rights training and education to public officers, lawyers, and others - Translate and publish the full text of human rights treaties, to which the DPRK is a party in order to raise awareness on human rights
<p>Promote active exchange with Africa</p>
<p>Promote the health and well-being of the public in line with the Sustainable Development Goals (SDGs)</p>
<p>Combat discrimination</p>
<p>Reflect the interests of vulnerable groups when addressing environmental issues</p> <ul style="list-style-type: none"> - Ensure that the most vulnerable to climate change are included in domestic measures to address climate

change
– Ensure that a human rights based approach (HBR) is incorporated in the implementation of the Law on Disaster Prevention, Relief and Recovery and the Environmental Protection Law
Secure the freedom of expression
Secure the rights to access to information
Secure the freedom of movement
Reduce the offences punishable by the death penalty and abolish the death penalty
Ensure humanitarian treatment for detainees
Ensure a fair trial
Put an end to forced labor
Secure the freedom of thought, conscience, and religion
Secure the freedom of correspondence
Resolve the issue of separated families
Secure the right to health
– Take measures to lower infant mortality rate, etc.
Secure the right to education
Secure the right to food
Recommendations not supported immediately (A summary of major issues expressed in 63 recommendations)
Accept a visit of the Special Rapporteur on the situation of human rights in the DPRK and cooperate with the Special Rapporteur
End the social classification system “ <i>songbun</i> ”
Close down all political prison camps and release all political prisoners
– Give international humanitarian organizations access to provide assistance to the detainees
Address the issues of abductees and prisoners of war
Abolish guilt by association
Cease the media censorship and ensure the independence of the press
Decriminalize the possession and distribution of religious texts
Grant international humanitarian organizations access to provide assistance to detainees including political prisoners
End the practice of forcing all married women to join the Socialist Women’s Union of Korea
Implement recommendations by the COI
Ensure the fair distribution of food
– Ensure that the access to food is free of discrimination and political considerations
– Stop using food as a way to control its population
Prioritize the human rights of its population over military expenditure and dedicate resources to eradicate hunger

Take further measures to prevent and combat violence, military mobilization, forced labor and exploitation of children
Put an end to practices of segregating persons with disabilities
Put an end to arbitrary detention, torture, and inhumane treatment
Secure the freedom of movement both within and outside the country

In a remark at the 3rd UPR meeting, North Korea denied the very existence of political prisoners and political prison camps. It also maintained that the guilt by association is inexistent in its criminal code. As for recommendations to abolish the *songbun* system, it argued that the criticism derives from a misunderstanding of its socialist system. In addition, representatives of Pyongyang stressed that the freedom of religion is fully protected, and only those who exploit religion as a means to subvert the regime are subject to punishment. On the death penalty, it asserted that only those convicted of certain heinous crimes are executed and public executions take place in exceptional cases only when there is a strong request from the public.

Positive answers from North Korea are expected concerning the following recommendations: cooperating with the international community to promote healthcare, education, food, and nutrition; enabling international humanitarian agencies to operate in the country to support the vulnerable; and promoting public health and well-being in line with the SDGs. Reportedly, North Korea has been hit by a severe food crisis recently, which calls for immediate actions to guarantee the right to existence of the people more than ever. By actively promoting international humanitarian support and exchange, the DPRK needs to address the crisis and increase the welfare of its people as a whole.

Ways to Improve Human Rights of North Koreans: Social Rights and the Human Rights of the Vulnerable as a Starting Point

It remains to be seen how many of the recommendations by the UN member states will be supported by the DPRK. However, based on the DPRK's National Report and the delegate's remarks during the 3rd UPR session, it seems obvious that North Korea is relatively open to causes related to economic, social, and cultural rights

and the human rights of the vulnerable than those related to civic and political rights. By contrast, the DPRK showed negligible progress on the improvement of civic and political rights and hardly provided new responses to the concerns of the international community in that matter.

In fact, political rights and social rights are interdependent and inseparably linked. Social rights without political rights or vice versa cannot fulfill the basic rights of human beings, which means that no matter how hard North Korea strives to promote social rights, it cannot lead to the improvement of human rights as a whole if it continues to suppress political rights of the people. However, it is necessary to start the cooperation from the point where North Korea shows interest in promoting human rights. The international community may begin with economic, social, and cultural rights and the human rights of vulnerable groups, North Korea's areas of interest, and then expand the scope of cooperation to other areas. It would be an effective strategy to induce North Korea's change. The improvement of social rights may induce the people to have interest in political rights as well, which could lead to the changes of North Korean society. Therefore, the promotion of social rights does not necessarily turn a blind eye to the violation of civic and political rights. ©KINU 2019

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