

White

Paper

on

Human

Rights

in

North

Korea



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White Paper on Human Rights in North Korea 2019

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The content of this *White Paper* is based on the opinions of the authors and does not necessarily reflect the official opinion of the Korea Institute for National Unification.



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KOREA
2019**

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Summary

Part I

Purpose and Research Methodology

The Korea Institute for National Unification has annually published the *White Paper on Human Rights in North Korea* since 1996 to raise awareness on North Korean human rights issues at home and abroad, and provide basic materials by objectively surveying and analyzing the North Korean human rights situation. The *White Paper on Human Rights in North Korea 2019* incorporates information from in-depth interviews with 135 North Korean defectors who had stayed in North Korea until most recently before entering South Korea. These interviewees were selected with consideration to their demographic and social backgrounds. This *White Paper 2019* looks into human rights situations in the North in the following parts: the Reality of Civil and Political Rights, the Reality of Economic, Social, and Cultural Rights, Vulnerable Groups, and Major Issues.

Part II

The Reality of Civil and Political Rights

The right to life is still not properly protected in North Korea. Especially in the 2018 survey, there were cases collected that the death penalty was executed publicly for crimes such as watching and distributing South Korean recordings, drug trading, and rape which disrupt the socialist order. However, it appears that compared to the past, the number of public executions is decreasing. In fact, it appears that the residents are mobilized fewer times to execution sites. Still, it is not clear whether the actual number of public executions has decreased or the execution of disclosed death penalty or secret summary execution has increased.

In addition, there were testimonies on inhumane treatment such as torture in the process of investigating criminal cases. Especially, many North Korean defectors testified that they were under severe physical or mental torture when facing defection related investigations at the Ministry of State Security (MSS) located near the border regions.

Forced labor by the State constitutes a serious violation of human rights; for example, imposing labor training punishment for minor crimes, re-educational labor discipline according to the Administrative Penalty Law and the People's Security Enforcement Law, and forcing labor on people who are temporarily detained in holding

centers (*jipkyulso*), and so on. Moreover, arbitrary or illegal arrests and detentions are still carried out in North Korea, and the Criminal Procedure Law does not have any provision related to informing the suspect of the reasons for his or her arrest and the facts of the charge. It also does not include a system to review the validity of a warrant by a judge.

Severe human rights violations are still found in various detention facilities such as prison camps, labor training camps (*rodongdanryundae*), holding centers, and detention centers (*guryujang*). In particular, the level of violence and mistreatment in holding centers and MSS detention centers near border regions for repatriated North Koreans is extremely serious.

The freedom of movement and residence of the North Korean people is also seriously violated: travel permit system, crackdowns by zone, forced deportation, and restriction of access to certain areas are the most typical examples. It seems that forced deportation of those who are involved in defection is decreasing, but this is more likely because the North Korean authorities have limited space to accommodate deported residents. Rather, the North Korean government is reinforcing border control to prevent and discourage North Korean people from defection.

Regarding the right to a fair trial judicial independence was denied, and unfair and perfunctory trials, as well as quasi-judicial systems were being carried out, which goes against the International

Covenant on Civil and Political Rights (ICCPR). Violation on the right to have legal assistance of a defense counsel and the right to appeal as well as limited right for foreigners detained in North Korea to consult with consul have also been continued. In the 2018 survey, however, no extraordinary cases on the subject matter have been collected.

Violation of privacy continues through monitoring residents via the People's Unit and Life Review Sessions, monitoring and tapping on residents with families who defected to South Korea and illegal house searches and interference with communication. On this regard, since 2015, cases of those who protested or raised complaints against illegal house search have been reported, with similar cases collected in the 2018 survey. This, albeit limited, shows that the overall sense of rights among North Koreans has enhanced. The younger generation in particular shows stronger opposition to the idea of illegal house search, which sometimes causes the raids to give up illegal search.

Violation on the right to freedom of thought, conscience, and religion, right to freedom of expression, and right to freedom of assembly and association has been continued. In fact, considering that controlling and denying those abovementioned rights are the core pillars supporting the North Korean regime, it is hard to expect a fundamental change from the State authorities. Rather, it was found that the controlling on North Koreans dispatched to overseas has

been strengthened. In the 2018 survey, a testimony was collected that a North Korean worker was forced to memorize the Ten Principles thoroughly before being dispatched to Oman. In addition, under the Kim Jong Un regime, crackdown and punishment on recordings and mobile phones have been strengthened. North Korea revised its Criminal Law in 2015 to add Crimes on Illegal International Communications (Article 222), strengthening the crackdown and punishment on using mobile phone around border areas. In the 2018 survey, many defectors testified that as the crackdown was strengthened under the revised law, using mobile phones led to actual punishment (sentenced to correctional labor) as opposed to the past when paying bribes could save them actual punishment.

Violation on the right to political participation still continues. However, in the 2018 survey, it was found that, unlike general testimonies of North Korean defectors, there were no observers or monitoring cameras in polling stations and it was possible to put a ballot in the opposition ballot box. However, the testifier also said that he/she did not do so, fearing being sent to the political prison camp. In addition, some testified that they were aware of candidates but these were exceptional cases and cannot be seen as a meaningful change in the right to political participation.

Regarding the right to equality the situation remains unchanged as discrimination against background and class as well as discriminatory assignment of residence region have continued.

The social trend of favoring one's financial power over his/her background also remains unchanged. Following 2017, in the 2018 survey, there were testimonies that a family has to face social discrimination if its member is known to be a defector. As the Kim Jong Un regime strengthened monitoring and punishment on defectors, such situation is expected to continue for a certain period of time.

Part III

The Reality of Economic, Social, and Cultural Rights

The general evaluation is that the food situation in North Korea had slightly improved. However, North Korea still suffers from chronic food shortage. What is more unfortunate is that food is not only insufficient, but distributed in a discriminatory manner according to social class, engaged enterprise, among others. As a result, many people are left to fend for themselves due to nearly no food allocated to them. This reality is pushing many North Korean residents to carry out personal economic activities such as trading in markets and cultivating small land to supplement the scarce food.

Although North Korea stipulates a free medical care system,

most of the cost incurred in the process of receiving medical service is paid by the patient. Therefore, residents with financial hardships cannot visit the hospital when they are hurt or become sick, and in some cases this even leads to death. Particularly, many cases were reported that the North Korean residents are using narcotics such as drugs (*bingdu*) for treatment. Although it seems that North Korea is emphasizing preventive medicine, it is still vulnerable to infectious diseases such as tuberculosis.

As evident in the case of group allocation, North Korean authorities forcibly assign people to the workplace without guaranteeing the freedom to choose work according to each individual's ability and desire. In reality, wages are not provided to the laborers for performing the officially assigned work so they are forced to join separate economic activities to sustain both their own lives and that of their families. Moreover, the freedom to form, join, and withdraw from the labor union is not ensured to the workers.

North Korea claims to have institutionalized a free educational system but the distribution of resources for basic school operation as well as teachers' remuneration is not properly operated at the national level. This seems to pass down huge financial burdens to students and parents. Students' right to education is severely infringed due to frequent mobilization of their labor in agriculture, construction, and political events.

From a legal perspective, North Korea's social security system is well established. In reality, however, it fails to fulfill its function. Elderly pension is provided in meager amounts, offering little help for the elderly in sustaining their lives. In addition, lack of an emergency welfare system makes households fully exposed to financial crises.

Part IV

Vulnerable Groups

Gender discrimination seems to be rampant in North Korea and women's rights are still suppressed; they have limited access to social status and activities. In addition, they are easily exposed to domestic or sexual violence but there is no social institution to help them when falling victim to those crimes. In North Korea, women are more likely to suffer from double burden of economic activities and household chores. Although there were some positive changes such as decreased maternal mortality and increased childbirth in medical institutions, they seem to suffer from obstetrics disease and their health conditions do not seem to be good due to poor medical facilities and unprofessional pre-/post-natal care.

The human rights situation of North Korean children still remains poor. It has been identified that the overall level of the health care/welfare of children is low, and the gap between Pyongyang

and the provinces, and between the cities and rural areas, is also enormous. It seems that children are still being mobilized for manpower and political events in order to supplement the labor shortage. However, there are some positive changes, including an increase in the vaccination rate, and a decrease in child malnutrition and infant/child mortality.

Since its ratification of the Convention on the Rights of Persons with Disabilities (CRPD) in 2016, North Korea has made efforts of its own by defining persons with disabilities as targets for particular protection. Especially, by submitting the CRPD initial implementation report for the first time, it is shown that North Korea participated in the efforts of the international community to promote human rights of persons with disabilities. Despite such efforts, however, it appears that the conventional negative perception toward persons with disabilities still prevails in North Korean society.

Part V

Major Issues

Although in the 2018 survey, there were very few testimonies on political prison camps (*kwanliso*), cases of imprisonment in such camps due to attempts to defect to South Korea have continued to be found. In particular, some testimonies suggest that

there have been cases of being sent to political prison camps on charges of aiding defection or talking to family members in South Korea on the phone. It indicates that even if one does not directly defect, all acts related to defection to South Korea are considered to be political crimes.

In the 2018 survey, testimonies still suggest that bribery was found to be prevalent in North Korean society. Although one's background is still an important factor in determining whether one can be accepted for employment as a senior official or accepted as a student in one of the top colleges, it seems that whether one can become a Party member or enter a general college, can now be handled through bribery. North Korean people consider the practice of bribery normal, which indicates that they do not perceive using bribery to handle certain issues as negative.

As the border control and crackdown on defectors have become more severe since Kim Jong Un came to power, a concern has been raised about the possible violation of human rights of North Korean residents who are caught in their defection attempt or are forcibly repatriated. Especially, in the 2018 survey, there were many testimonies that North Koreans who were caught while defecting from North Korea paid an enormous amount of money to avoid punishment, which indirectly shows that the punishment for defection was strengthened.

The opportunity of being dispatched overseas tends to be given

mostly to a selected few with a good family background who can afford to offer a bribe. A substantial amount of their wages earned through overseas labor is submitted to the State as part of the State planned quota. Not only that, workers are forced to live in groups under the surveillance and control of the North Korean authorities with their identity documents confiscated. In addition, there have been some cases where workers are subject to forced labor due to the debt incurred in the process of being dispatched.

The issues of separated families, abductees, and Korean War POWs are humanitarian issues where international humanitarian laws apply and at the same time human rights issues where international human rights laws apply. Although a family reunion event was held in 2018 and relieved some of the family reunion related concerns, the issues of regularizing family reunion event or overall cross-check on the survived members in separated families still remain unsolved.



White Paper on Human Rights
in North Korea 2019



Part I

Purpose and Research Methodology

1. Purpose
 2. Research Methodology
-

1

Purpose

North Korea has one of the worst human rights records in the world. The international community has expressed concerns and urged North Korea to address its serious human rights violations. The United Nations Commission on Human Rights (hereinafter UNCHR) adopted resolutions on North Korean human rights between 2003 and 2005, and the United Nations Human Rights Council (hereinafter UNHRC), the successor to the UNCHR, has adopted resolutions on North Korean human rights every year since 2008.¹ The United Nations (hereinafter UN) General Assembly has also adopted resolutions on North Korean human rights every year since 2005, expressing grave concerns regarding the human rights situation in North Korea.² In accordance with the UNHRC resolution, the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (hereinafter COI) was

1_ The UNHRC adopted a resolution on North Korean human rights by consensus on 24 March 2017. UN Doc. A/HRC/RES/34/24 (2017).

2_ The UN General Assembly adopted a resolution on North Korean human rights by consensus on 19 December 2017. UN Doc. A/RES/72/188 (2017).

established in March 2013. After a year of investigation, the COI reported that systematic, widespread, and grave human rights violations exist in North Korea, many of them constituting crimes against humanity. In June 2015, a field office on North Korean Human Rights under the Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR) was established in Seoul as part of the follow-up measures to the COI report. Meanwhile, the UN Security Council discussed North Korean human rights issues for four consecutive years, from 2014 to 2017.³ The international community's discussion on how to improve human rights conditions in North Korea will continue, and an objective investigation and analysis is crucial in supporting such endeavors.

The Korea Institute for National Unification (hereinafter KINU) has conducted in-depth research and professional, systematic collection and management of data on North Korean human rights. Since 1996, it has annually published the *White Paper on Human Rights in North Korea* in Korean and English. This *White Paper* aims to raise awareness of North Korean human rights issues in South Korea and abroad, and provide relevant basic materials for discussion and action by objectively conducting investigations

³The UN Security Council with human rights issue in North Korea as agenda was not convened in 2018. In order to convene a Security Council meeting at least nine out of 15 members of the council shall cast a vote for a meeting but back then seven members voted against a meeting including China, permanent member, and the Ivory Coast, non-permanent member.

and analysis of the North Korean human rights situation, while handling those issues comprehensively and systematically.

2

Research Methodology

This *White Paper* examines the human rights situations in North Korea within the framework of international human rights standards. North Korea is a State Party to the International Covenant on Civil and Political Rights (hereinafter ICCPR); the International Covenant on Economic, Social, and Cultural Rights (hereinafter ICESCR); the Convention on the Rights of the Child (hereinafter CRC) and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (hereinafter CRC-OP2); the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW); and the Convention on the Rights of Persons with Disabilities (hereinafter CRPD).

Table I -1 Ratification of or Accession to International Human Rights Treaties by North Korea

Treaty	Status	Date of Accession Ratification (based on date of notification/deposit)	Effective Date	Remark
ICCPR	Acceded ⁴	14 September 1981	14 December 1981	
ICESCR	Acceded	14 September 1981	14 December 1981	
CRC	Ratified	21 September 1990	21 October 1990	
CRC-OP2	Ratified	10 November 2014	10 December 2014	
CEDAW	Acceded	27 February 2001	29 March 2001	Reservation to Article 29, Paragraph 1
CRPD	Ratified	6 December 2016	5 January 2017	

According to the Vienna Convention on the Law of Treaties, a State Party has a duty to faithfully fulfill a treaty (Article 26). The Universal Declaration of Human Rights (hereinafter UDHR), which stipulates a minimum universal standard for human dignity and rights, is not legally binding, as it was adopted by a UN General Assembly resolution. However, significant portions are considered to have developed into today's international customary law.

International human rights treaties, which North Korea joined or ratified, stipulate that a State Party shall take necessary measures

⁴ North Korea announced its withdrawal from the ICCPR in 1997 to protest the first adoption of a resolution on North Korean human rights at the UN Sub-Commission on the Promotion and Protection of Human Rights. The UN Secretary-General, however, stated in his aide-mémoire to the North on 23 September 1997, that any withdrawal from the Covenant was impossible unless all the other parties agreed. North Korea later normally resumed its activities in the Human Rights Committee, thereby recognizing its status and obligations as a State Party to the ICCPR.

to implement the rights listed in those treaties. As public administration and jurisdiction are conducted based on laws, legislation is considered to be the most important measure in implementing treaties. Therefore, we first review the relevant laws and regulations in North Korea and then examine whether the rights recognized by each treaty are respected and protected. If the laws and regulations in North Korea go against the treaties, it is difficult to conclude that the treaties are being faithfully implemented. If regulations in North Korea coincide with the treaties but in reality are not complied with, it is also difficult to regard the treaties as being faithfully carried out. Such analysis is meaningful, in that we can examine the extent to which North Korea is carrying out its international duties as a State Party, as well as the laws it enacts on its own.

The human rights situation of a particular country needs to be examined through direct access to that country. The international community has been requesting North Korean authorities to allow continuous access in order to determine the human rights conditions. However, the North Korean authorities have refused visits by the UN Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea (hereinafter DPRK). Therefore, it is impossible to monitor human rights conditions in North Korea independently or to directly access internal information. KINU conducts its investigation of the reality of North Korean human rights against this backdrop and publishes the *White*

Paper based on the following methods.

First, KINU uses in-depth interviews with North Korean defectors who have settled in South Korea as the most important tool for investigation. The *White Paper on Human Rights in North Korea 2019* is based on interviews with 135 North Korean defectors. They were selected based on their demographic and social backgrounds (area of residence, experience in detention facilities, etc.), centering on those who had stayed in North Korea until most recently. The following is the demographic profile of the 135 defectors with whom we conducted in-depth interviews in 2018.

Table I -2 Demographic Profile of In-Depth Interviewees in 2018

Category	Details	Events (persons)	Percentage (percent)
Gender	Male	29	21.48
	Female	106	78.52
Total		135	100
Year of Last Defection	Before 2013	17	12.59
	2014	11	8.15
	2015	17	12.59
	2016	12	8.89
	2017	31	22.96
	2018	47	34.81
Total		135	100
Date of Arrival in South Korea	2017	13	9.63
	2018	122	90.37
Total		135	100
Age Groups	Teens (1998~)	0	0.00
	20s (1988~1997)	52	38.52
	30s (1978~1987)	35	25.93
	40s (1968~1977)	27	20.00
	50s (1958~1967)	20	14.81
	60 or over(~1957)	1	0.74
Total		135	

Category	Details	Events (persons)	Percentage (percent)
Number of River Crossing	Once	110	65.09
	Twice	16	9.47
	Three Times	4	2.37
	Four Times or More	3	1.77
	No response	2	1.18
Total		135	100
Place of Last Residence	Pyongyang	8	5.93
	South Pyeongan Province	5	3.70
	North Pyeongan Province	4	2.96
	Jagang Province	3	2.22
	South Hwanghae Province	0	0.00
	North Hwanghae Province	2	1.48
	Gangwon Province	1	0.74
	South Hamgyeong Province	7	5.19
	North Hamgyeong Province	22	16.30
	Yanggang Province	78	57.78
	Gaeseong Industrial District	0	0.00
	No Response	5	3.70
	Total		135

KINU systematically manages this data by assigning personal identification numbers (e.g., NKHR2018000000) to all North Korean defectors who were interviewed. When citing their responses in the *White Paper*, we use identification numbers to protect their personal information. When more interviews were needed to obtain information on certain rights or topics in addition to the in-depth interviews held in the early stages of entering South Korea, additional interviews were conducted. For these additional interviews, the sources of information were indicated as “a North Korea defector interviewed on [Month] [Day], [Year], in Seoul.” Moreover, memoirs written by North Korean defectors were used as supplementary data.

Second, KINU utilized official North Korean documents, such as North Korean laws, proclamations by the Ministry of People's Security (hereinafter MPS), and written judgments.

Third, KINU also used UN documents on North Korean human rights, including reports submitted to UN human rights organizations by North Korean authorities; General Comments and Concluding Observations of the UN Human Rights Committee and the UN Committee on Economic, Social, and Cultural Rights; documents related to Universal Periodic Review (hereinafter UPR); and the COI reports.

Fourth, survey results and statistics from the World Health Organization (hereinafter WHO), the UN Children's Fund (hereinafter UNICEF), the World Food Programme (hereinafter WFP), UN High Commissioner for Refugees (hereinafter UNHCR), Statistics Korea (South Korea), and other organizations were also used.

Fifth, KINU utilized major North Korean media including the Korean Central News Agency (hereinafter KCNA) and the *Rodong Shinmun*, etc.

Sixth, KINU compared and verified the information obtained through reports and thesis papers on North Korean human rights in South Korea and abroad.

Seventh, when necessary, KINU utilized major media in South Korea and abroad that reported on North Korean human rights.

The *White Paper on Human Rights in North Korea 2019* is written in accordance with the following principles:

(1) The *White Paper* focuses on describing the information obtained in the 2018 survey. However, when KINU considers that a previous survey is necessary for suggesting a tendency or trend in changes, the result of surveys prior to 2018 is included. Moreover, the *White Paper* uses surveys obtained prior to 2018 when dealing with topics that do not have sufficient information.

(2) In order to look into relatively recent human rights situations in North Korea, we used events that took place within five years of the survey for our research and analysis. In other words, the *White Paper on Human Rights in North Korea 2019*, which is based on the 2018 survey, only looks into events that took place between 2014 and 2018. However, if certain events that took place prior to 2014 were considered to be particularly meaningful, they were also included as exceptions.

(3) We only included the testimonies of North Korean defectors on what they directly experienced or witnessed, in order to guarantee the objectivity and reliability of the investigation. However, testimonies that are considered to be credible—for example, when the interviewees have information obtained directly from others who experienced or witnessed certain events—are also included. In such cases, the *White Paper* clearly states that the testimony is second-hand information.

(4) The latest North Korean laws and regulations obtained were used. However, when it was necessary to refer to previous laws, it is noted in the *White Paper* with a clear statement that it is a previous law.

(5) The *White Paper* uses the most up-to-date names of North Korean organizations, except when interviewees referred to them by their former names.



White Paper on Human Rights
in North Korea 2019



Part II

The Reality of Civil and Political Rights

1. Right to Life
 2. Right Not to be Tortured or Receive Inhumane Treatment
 3. Right Not to be Forced into Labor
 4. Right to Liberty and Security of Person
 5. Right to Humane Treatment of Person in Detention
 6. Right to Freedom of Movement and Residence
 7. Right to a Fair Trial
 8. Right to Privacy
 9. Right to Freedom of Thought, Conscience, and Religion
 10. Right to Freedom of Expression
 11. Right to Freedom of Assembly and Association
 12. Right to Political Participation
 13. Right to Equality
-

1

Right to Life

All human rights are meaningless unless the right to life is effectively protected. Therefore, the right to life is the supreme right, as well as the foundation of all other human rights. Hence, key international documents on human rights both at the universal and regional levels, without exception, include regulations to improve and protect the right to life. Article 3 of the UDHR, which is the first of the provisions on substantive rights, stipulates that everyone has the right to life. Likewise, the ICCPR also stipulates the right to life in Article 6, which is first among its provisions on substantive rights.

Table II-1

Article 6 of the ICCPR

Paragraph 1	Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
Paragraph 2	In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
Paragraph 3	When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
Paragraph 4	Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
Paragraph 5	Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
Paragraph 6	Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

This chapter will now examine the situation in North Korea related to the right to life by major issue.

A. Extrajudicial, Summary, or Arbitrary Execution

Article 6, paragraph 1 of the ICCPR states that “no one shall be arbitrarily deprived of his life” and stipulates protection of the right to life. The UN Human Rights Committee has emphasized that protection against arbitrary deprivation of life is of paramount importance, and pointed out that deprivation of life by the State

authorities, in particular, is a matter of the utmost gravity and thus should be strictly controlled and limited by laws.⁵ The meaning of “arbitrary” is somewhat ambiguous; however, it can be understood as a broader concept than simply “illegal.” In other words, even the deprivation of life regarded as “legal” under the domestic laws of a State Party could be considered as “arbitrary” under Article 6 of the ICCPR. Ultimately, prohibition against the “arbitrary” deprivation of life means that life should not be deprived unreasonably. According to the provisions of Article 6 of the ICCPR, Article 14 of the ICCPR (which stipulates the right to a fair trial), and Article 15 of the ICCPR (which stipulates the principle of non-retroactivity of punishment), extrajudicial, summary, or arbitrary execution is prohibited.

In North Korea, it has often been identified that extrajudicial, summary, or arbitrary executions are conducted particularly in detention facilities. A North Korean defector witnessed that in 2013, two inmates fought in Jeongeori *Kyohwaso* and one died as a result. The camp shot the other inmate in front of all the inmates without any trial process.⁶ Although in many cases such executions are held in public to incite fear among detainees and impose tighter control, testimonies have confirmed that they are sometimes conducted in secret. There are some cases where the death penalty

5_ UN Human Rights Committee, General Comment, No. 6 (1982), para. 3.

6_ NKHR2017000044 2017-07-03.

is sentenced through open trial in prison camps (*kyohwaso*).⁷ However, the trial may be meaningless if it is only perfunctory in nature.

Sometimes extrajudicial, summary, or arbitrary executions are conducted in a general context, not in the context of escaping while imprisoned. In some cases, trials are not held, while in other cases, trials are held in a perfunctory manner with no respect for even the most minimum rights for the accused. Since Kim Jong Un came to power, we have confirmed continuous cases of purges of high-ranking officials such as Jang Song-thaek, Hyon Yong-chol, Ri Yong-ho and Kim Yong-jin. In most cases, such purges are identified as extrajudicial, summary, or arbitrary executions.

B. Broad Imposition of Death Sentence for Crimes

Article 6, paragraph 2 of the ICCPR states that in countries which have not abolished the death penalty, a death sentence can only be imposed for the most serious crimes based on the law in force at the time of the commission of the crime. The “law” here is generally understood as law in a formal sense, and the expression “the most serious crimes” may be difficult to define due to its ambiguity. However, the Human Rights Committee explained in its General Comment on the right to life that it should be restrictively

7_NKHR2015000031 2015-02-10.

interpreted to mean that the death penalty should be an exceptional measure.⁸ Moreover, in its Concluding Observation on multiple national reports, the Committee pointed out that sentencing the death penalty for treason, piracy, robbery, trading of toxic or hazardous substances, narcotics-related crimes, draft dodging, property crimes, economic crimes, adultery, corruption, and political crimes violates Article 6 of the ICCPR, as these offenses do not constitute the “most serious crimes.” This leaves premeditated murder or attempted murder, and deliberate infliction of serious injury to be classified as the “most serious crimes.”

The current North Korean Criminal Law stipulates the death penalty as the most severe statutory punishment for conspiracy to overturn the State, terrorism, treason against the fatherland, crimes of clandestine destruction, treason against the people, illegal cultivation of opium/manufacturing of narcotics, trafficking/distribution of narcotics, and premeditated murder. The following <Table II-2> indicates crimes punishable by death under the Criminal Law, and their legal requirements and related statutory penalties.

8_ UN Human Rights Committee, General Comment, No. 6 (1982), para. 7.

Table II-2

Crimes Subject to Capital Punishment under the Criminal Law and their Legal Requirements and Statutory Penalties

Conspiracy to overturn the State (Article 60)	Extremely serious cases of participation in political revolts, civil disturbances, demonstrations or violent attacks, and conspiracies for anti-state purposes.	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Terrorism (Article 61)	Extremely serious cases of murder, kidnapping or harming of officials or citizens for anti-state purposes.	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Treason against the fatherland (Article 63)	Extremely serious cases of betraying the fatherland by fleeing and surrendering to another country; betraying the fatherland or turn over secrets to the enemy.	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Crime of clandestine destruction (Article 65)	Extremely serious cases of disloyal destruction for anti-state purposes	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Treason against the people (Article 68)	Extremely serious cases of treason against nationals where Korean nationals, living under imperialist rule, engage in persecution of North Korea's National Liberation Movement, hinder the struggle for unification of the fatherland, or sell the benefits of Korean nationals to imperialists.	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Illegal cultivation of opium and manufacturing of narcotics (Article 206)	Extremely serious cases of cultivating large amounts of opium or manufacturing of narcotics.	Unlimited-term correctional labor punishment or death penalty
Trafficking/distribution of narcotics (Article 208)	Extremely serious cases of trafficking/distribution of large amounts of narcotics.	Unlimited-term correctional labor punishment or death penalty
Premeditated murder (Article 266)	Extremely serious cases of premeditated murder based on greed, jealousy or other despicable motivation.	Unlimited-term correctional labor punishment or death penalty

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In particular, it should be noted that the death penalty was added as the statutory penalty for crimes related to the cultivation of opium and manufacturing of narcotics in the 2013 Criminal Law. As cases of illegal cultivation of opium or manufacturing of narcotics are increasing, it seems that the punishment for such crimes has been reinforced.

Table II-3 Change of Provisions in Criminal Law Related to the Cultivation of Opium and Manufacturing of Narcotics

<p>Criminal Law of 2012</p>	<p>Article 206 (Crime of illegal cultivation of opium, manufacturing of narcotics/toxic materials) Those who illegally cultivated opium or manufactured narcotics/toxic materials shall be subject to up to one year of labor training punishment. In cases where the above paragraph's act is serious, they shall be subject to up to five years of correctional labor punishment.</p>
<p>Criminal Law of 2013</p>	<p>Article 206 (Crime of illegal cultivation of opium, manufacturing of narcotics/toxic materials) Those who illegally cultivated opium or manufactured narcotics/toxic materials shall be subject to up to one year of labor training punishment. Those who cultivated large amounts of opium or narcotics/toxic materials shall be subject to up to five years of correctional labor punishment. Those who cultivated particularly large amounts of opium or narcotics shall be subject to five years or more and up to ten years of correctional labor punishment. When the case is serious, they shall be subject to ten years or more of correctional labor punishment. When the act in Paragraph 3 is particularly serious, they shall be subject to lifetime correctional labor punishment or the death penalty.</p>
<p>Criminal Law of 2015</p>	<p>Article 206 (Crime of illegal cultivation of opium, manufacturing of narcotics) Those who illegally cultivated opium or manufactured narcotics/toxic materials shall be subject to up to one year of labor training punishment. Those who cultivated large amounts of opium or narcotics/toxic materials shall be subject to up to five years of correctional labor punishment. Those who cultivated particularly large amounts of opium or narcotics shall be subject to five years or more and up to ten years of correctional labor punishment. When the case is serious, they shall be subject to ten years or more of correctional labor punishment. When the act in Paragraph 3 is particularly serious, they shall be subject to unlimited-term correctional labor punishment or the death penalty.</p>

Meanwhile, North Korea established a unique supplementary provision, the Addendum to the Criminal Law (General Crimes), in 2007. The Addendum reinforced the punishment for general crimes, some of which are subject to the death penalty or the death penalty together with confiscation of property. Moreover, the Addendum to the Criminal Law stipulates that “cases where multiple crimes committed by a single criminal are extremely serious or the criminal displays no feeling of remorse (*gaejunseong*)”⁹ at all are punishable by the death penalty. This is a serious issue, as it means that the range of crimes for which the death penalty is applicable can be broadly expanded. However, according to the 2010 Addendum to the Criminal Law, which was obtained in 2017, North Korea decreased the number of crimes punishable by death, and the unlimited-term of correctional labor punishment was added to the crimes that were previously only punishable by death or the death penalty together with confiscation of property.¹⁰ This is a slight improvement, considering that the number of crimes subject to the death penalty decreased, and certain crimes are punishable not just by the death penalty but also by restricting physical freedom. Crimes subject to capital punishment under the Addendum to the Criminal Law (General Crimes) of 2007 and 2010, and their statutory penalties, can be seen in <Table II-4>.

9_ The word *gaejunseong* seems to mean *gaejeon*, which refers to a sense of remorse and a change of heart.

10_ The provision was revised on 26 October 2010, according to the ordinance 1152 and order 44 of the Supreme People’s Assembly.

Table II-4 Crimes Subject to Capital Punishment under the Addendum to the Criminal Law (General Crimes) of 2007 and 2010 and their Statutory Penalties

Addendum to the Criminal Law of 2007	Extremely serious willful destruction of combat equipment and military facilities (Article 1)	Death penalty
	Extremely serious plundering of state property (Article 2)	Death penalty with confiscation of property
	Extremely serious theft of state property (Article 3)	Death penalty with confiscation of property
	Extremely serious willful destruction or damaging of state property (Article 4)	Death penalty
	Extremely serious counterfeiting of currency (Article 5)	Death penalty
	Extremely serious smuggling/trafficking of precious or colored metals (Article 6)	Death penalty with confiscation of property
	Smuggling of state resources (Article 8)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
	Extremely serious smuggling/trafficking or narcotics (Article 11)	Death penalty with confiscation of property
	Extremely serious escape by a prisoner (Article 14)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious misdemeanor (Article 17)	Unlimited-term correctional labor punishment or death penalty
	Operation of unlawful business (Article 18)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious deliberate infliction of serious injury (Article 19)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious kidnapping (Article 20)	Death penalty

	Extremely serious rape (Article 21)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious theft of private property (Article 22)	Death penalty with confiscation of property
	Other exceptional crimes subject to unlimited-term correctional labor punishment or death penalty (Article 23)	Unlimited-term correctional labor punishment or death penalty
Addendum to the Criminal Law of 2010	Extremely serious willful destruction of combat equipment and military facilities (Article 1)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious plundering of state property (Article 2)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
	Extremely serious theft of state property (Article 3)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
	Extremely serious willful destruction or damaging of state property (Article 4)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious counterfeiting of currency (Article 5)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious smuggling/trafficking of precious or colored metals (Article 6)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
	Extremely serious escape by a prisoner (Article 7)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious kidnapping (Article 8)	Unlimited-term correctional labor punishment or death penalty

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Extremely serious rape (Article 9)	Unlimited-term correctional labor punishment or death penalty
Extremely serious theft of private property (Article 10)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
Other exceptional crimes subject to unlimited-term correctional labor punishment or death penalty (Article 11)	Unlimited-term correctional labor punishment or death penalty

How the laws and regulations on capital punishment are actually implemented is confirmed based on the testimonies of North Korean defectors who personally witnessed public executions. Several defectors claimed to have witnessed people being executed for narcotics transactions, watching/distributing South Korean video recordings, murder, plundering, stealing or destroying State property, human trafficking, sexual violence, etc.

What is noteworthy here is that the number of executions due to narcotics transactions or watching/distributing South Korean video recordings has risen over the last few years. Similar testimonies were collected in the 2018 survey. A North Korean man in his 40s who lived in Hyesan City, Yanggang Province and defected in 2018 testified that a man was shot to death at an airfield in Yeonbong-dong for distributing South Korean recordings.¹¹ Another North Korean woman who lived in Hyesan City, Yanggang

11_NKHR2018000114 2018-10-13.

Province and defected in 2017 testified that three men were shot to death in October 2014 at an airfield in Yeonbong-dong for distributing South Korean recordings.¹² Another defector testified that a man was given an open trial and was shot to death in Hwaryongcheon, Hamheung City, South Hamgyeong Province for drug trading.¹³ This *White Paper* assesses that the North Korean authorities are reinforcing their crackdowns and punishments on such cases because narcotics are spreading across North Korea and an increasing number of North Koreans are watching/distributing South Korean video recordings.

Table II-5 Testimonies of Death Penalty Executions Related to Narcotics or South Korean Recordings

Testimonies	Testifier ID
In October 2013, a man in his 40s or 50s was shot to death in Chongjin, North Hamgyeong Province after open trial for transporting narcotics and Korean CDs.	NKHR2016000091 2016-06-14
In the winter of 2013, two men were shot to death in Yeonbong-dong, Hyesan, Yanggang Province, for watching/distributing South Korean recordings.	NKHR2017000112 2017-11-20
In 2014, two men were shot to death for watching Korean drama and crimes related to narcotics at an airfield in Hyesan, Yanggang Province.	NKHR2015000027 2015-02-10
In May 2014, two men were shot to death for trading drugs (<i>bingdu</i>) in hop farm, Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2015000039 2015-02-24
In March, 2015, five men in their 30s to 40s were shot to death in Pyeongsong City, South Hamgyeong Province, after an open trial for watching South Korean recordings and drug trading.	NKHR2017000083 2017-09-25
In February, 2017, around 20 people were shot to death in Byeoksong County, South Hwanghae Province, for watching and distributing South Korean recordings and drug trading.	NKHR2017000073 2017-08-28

12_NKHR2018000098 2018-10-01.

13_NKHR2018000095 2018-08-27.

Meanwhile, in the 2018 survey, there were testimonies by those who witnessed the execution of the death penalty of rapists. A North Korean woman in her 20s who lived in Hyesan City, Yanggang Province testified that several men were shot to death at an airfield in Yeonbong-dong for sexual assault on a minor.¹⁴ A North Korean man in his 20s who lived in Pyongsong City, South Pyongan Province testified that three men were shot to death in Hadan-dong, Pyongyang for rape and embezzlement of national assets.¹⁵ In addition, in the 2018 survey, there were cases of a man who was shot to death in Hyesan City, Yanggang Province in 2017 for contacting South Korea via phone and helping others go to South Korea¹⁶ and of a woman who was shot to death in Onsong County, North Hamgyeong Province in December, 2017 for killing a child next door.¹⁷

Recently, cases of the death penalty in the military have been continuously collected. A North Korean man in his 30s who lived in Pyongyang and defected in 2018 testified that he had witnessed the execution of the death penalty three times in his 10 years of military service.¹⁸ He said that the last time he witnessed one in the military was in 2013 when a chief officer of an institute

14_ NKHR2018000060 2018-07-02.

15_ NKHR2018000113 2018-10-13.

16_ NKHR2018000114 2018-10-13.

17_ NKHR2018000107 2018-10-01.

18_ NKHR2018000045 2018-06-06.

designing peoples' military was shot to death at Gangcheon total military officer academy in Sunan region of Pyongyang over the exhibition of the Korean People's Army Arms and Equipment.

C. Death Sentence to Juvenile Offenders and Execution of Pregnant Women

Article 6, paragraph 5 of the ICCPR prohibits sentencing the death penalty for crimes committed by persons under eighteen years of age and executing the death penalty for pregnant women. What is noteworthy, however, is that the prohibition of sentencing the death penalty to juveniles is based on their age at the time they committed the crime, not at the time of sentencing.

North Korea added a provision for limiting the death penalty for juveniles and pregnant women in the 1999 revision of the Criminal Law. Article 29 of the current Criminal Law stipulates that “those below the age of eighteen at the time of commission of a crime shall not be subject to the death penalty; the death penalty shall not be executed on pregnant women.” In terms of legislation, North Korea appears to be appropriately implementing Article 6, paragraph 5 of the ICCPR. In KINU's previous surveys, some incompliant cases were identified. However, cases of the death sentence on juveniles and execution of the death penalty on pregnant women were not found in the recent surveys.

D. Other Infringements on the Right to Life

Article 6, paragraph 1, of the ICCPR states that the “inherent right to life (...) shall be protected by law.” The UN Human Rights Committee pointed out in its General Comments the tendency in North Korea to interpret the right to life extremely narrowly, and stressed that the expression “inherent right to life” cannot be fully understood in such a restrictive manner and that the protection of this right requires the State to actively take measures.¹⁹ From this perspective, there are many violations related to the right to life in North Korea. As will be examined in later chapters, cases of death continue to occur in detention facilities due to violence and mistreatment, poor nutrition, and sanitation and health care conditions. This issue will be examined in more detail in Part II, Chapter 5, “Right to Humane Treatment in Detention.”

E. Evaluation

It appears that the right to life of the North Korean people is still not properly protected. The unique form of law in the Addendum to the Criminal Law (General Crimes) allows an extensive range of crimes to be punishable by death in North Korea. Frequent execution of the death penalty violates Article 6, paragraph 2 of the ICCPR, which stipulates that in a country with a death penalty

19_ UN Human Rights Committee, General Comment, No. 6 (1982), para. 5.

system, the death sentence shall only be imposed in cases of “the most serious crimes.” The 2018 survey also collected cases of the death penalty imposed for drug trading, and watching or distributing South Korean recordings. Other cases for the death penalty include rape, embezzlement of national assets, and assisting defection to South Korea.

2

Right Not to be Tortured or Receive Inhumane Treatment

Article 5 of the UDHR states that “no one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment,” in order to protect dignity and physical and mental integrity. As in the UDHR, Article 7 of the ICCPR also prohibits torture and inhumane treatment, and even goes a step further by prohibiting medical and scientific experiments. Article 7 of the ICCPR is complemented by Article 10, paragraph 1, of the ICCPR, which stipulates that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

Table II-6 Article 7 of the ICCPR

No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

This chapter will examine the major issues related to the situations in North Korea regarding the right not to be tortured or be subjected to inhumane treatment.

A. Torture and Inhumane Treatment in the Handling of Criminal Cases

According to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (hereinafter CAT), torture is defined as an act of willfully inflicting extreme physical and/or mental pain on individuals by public officials for the specific purposes of obtaining information or a confession, imposing punishment, etc. Other acts of inflicting harsh pain that are not considered to be torture due to a lack of key elements, such as specific purposes, intentional nature, or severe pain, are regarded as cruel, inhumane, or degrading treatment or punishment. While the difference between “torture” and “cruel, inhuman, or degrading treatment or punishment” may be unclear in terms of their definitions, both are clear violations of Article 7 of the ICCPR.

North Korea has regulations on torture and inhumane treatment in its Criminal Law and Criminal Procedure Law. Article 242 of the Criminal Law stipulates that “law enforcement workers conducting any illegal interrogation or exaggerating/fabricating cases shall be subject to labor training punishment of one year or less,” and if such actions cause any serious injury or loss of life, or falsely hold

someone criminally liable, those responsible shall be subject to correctional labor punishment of five years or less, and in serious cases, five years or more to ten years or less of such a punishment. Article 6 of the Criminal Procedure Law stipulates that “the country shall strictly guarantee human rights in the handling of criminal cases,” and Article 37 of the same law states that “the testimony of the accused obtained through force and inducement cannot be used as evidence.” Article 166 also points out that “preliminary examination officers shall not forcibly make the accused admit their guilt or induce statements.” Moreover, Article 225 stipulates that witnesses are protected from threats or coercion during interrogation.

Despite these regulations in North Korea’s Criminal Law and Criminal Procedure Law, torture and inhumane treatment frequently occur in the actual process of handling criminal cases. Furthermore, torture is prevalent as it is established as one of the investigation methods for obtaining confessions from suspects during interrogation.²⁰ A North Korean woman in her 20s who defected in 2018 testified that she was monitored and caught while working as a remittance broker and was severely beaten during the investigation process by the MSS in Hyesan City, Yanggang Province in 2015.²¹ Another defector also testified that while being investigated in Onsong

20_Dong-ho Han *et al.*, *Torture and Inhumane Treatment in North Korea* (Seoul: KINU, 2016), p. 9.

21 NKHR2018000049 2018-06-04.

County Security Department, North Hamgyeong Province for a human trafficking charge in February 2015, he/she was frequently beaten.²² According to the testifier, there were people who were bruised all over the body and whose flesh was all rotten. A North Korean man in his 20s who was questioned for 15 days at the Onsong County Security Department, North Hamgyeong Province testified that the officers beat him hard until he finally confessed and admitted everything.²³ He was investigated with his arms and legs shackled to the chair. When he refused to confess, the officers kicked the chair, making him fall down with the chair.

Table II-7 Testimonies on Torture and Inhumane Treatment in the Process of Handling Criminal Cases

Testimonies	Testifier ID
A North Korean defector who was arrested for illegal border-crossing and detained in the Musan County Security Department, North Hamgyeong Province, for 20 days in 2014 was severely abused during the investigation process. The testifier still has scars on his/her head, which were developed because an agent in charge hit his or her head hit against the steel bars several times.	NKHR2017000020 2017-05-08
A North Korean defector who was investigated at the Yanggang Province Security Department in 2014 testified to having been forced to admit making a call to South Korea, not China. After refusing to admit it, the testifier was beaten with a wooden stick, and four of his/her front teeth were broken.	NKHR2017000058 2017-07-31
Investigation went on for 10 days in May 2014 at Manpo City Security Department of Jagang Province. There was no beating during the investigation but after entering into the detention center, correctional officer beat him saying "Hey! Torment him" and forced him to stay awake.	NKHR2018000074 2018-07-30

22_NKHR2018000074 2018-07-30.

23_NKHR2018000109 2018-10-06.

Testimonies	Testifier ID
A North Korean defector who was investigated for distributing Korean recordings when living in Onsong County, North Hamgyeong Province, in 2015 said that the preliminary examination officer did not let him/her sleep or move. The testifier's legs were beaten with a right-angle ruler.	NKHR2017000042 2017-07-03
At the Hyesan City Security Department of Yanggang Province, a North Korean defector was investigated for 15 days for illegal use of mobile phone in October, 2015. Four security agents beat him frequently with their fists and feet.	NKHR2018000127 2018-11-19
A North Korean defector who was investigated in the Pyongseong City Security Department in, South Pyeongan Province, in January 2016, for his/her daughter having escaped from North Korea, said that the investigator in charge grabbed his/her head and hit it against a wall, and kicked his/her legs.	NKHR2017000059 2017-07-31
A North Korean defector was investigated for 8 days in May, 2016 at a holding center in Samjiyeon County of Yanggang Province. The Defector was bruised all over the body after being beaten up for not admitting the fact that he/she wished to go to South Korea. The beating was even worse for his/her father as he lost all his teeth, and the blood vessels in his eyes burst.	NKHR2018000129 2018-11-19
A North Korean defector who was investigated for five days in August 2016 at the Samjiyeon County Security Department in Yanggang Province, testified to having been beaten severely for three days for not admitting to charges of illegal border-crossing.	NKHR2017000057 2017-07-31
A North Korean defector was beaten up frequently in November, 2016 while being detained for 20 days in the Onsong County Security Department in North Hamgyeong Province. Those officers often beat him while on methamphetamine (Bindu).	NKHR2017000099 2017-10-23
A North Korean defector was investigated for 20 days in November, 2016 at the Chongjin City Security Department in City of North Hamgyeong Province. He/she was severely beaten up during the investigation with a thick club and square rulers.	NKHR2017000054 2017-07-31

B. Public Execution of the Death Penalty

Even countries that allow the death penalty can violate Article 7 of the ICCPR depending on the method of execution. The UN

Human Rights Committee stated in its General Comments on the prohibition of torture and inhumane treatment that States must execute the death penalty in such a way as to cause the least possible physical and mental suffering.²⁴ Against this backdrop, it must be considered that being executed publicly constitutes a cruel, inhumane, or degrading punishment for the person subject to the execution, which thereby violates Article 7.²⁵ In this case, “execution of the death penalty in public” refers to cases where the death penalty is conducted in public, with the committed crimes stipulated in the Criminal Law to be punishable by death and the execution to be carried out according to certain procedures. If it is an extrajudicial, summary, or arbitrary execution and is carried out in public, it would violate both Article 6 and Article 7 of the ICCPR. Meanwhile, regardless of whether an execution is due to the death penalty or is an extrajudicial, summary, or arbitrary execution, it is bound to be seen by the general population if it is carried out in public. Furthermore, from the perspective of those who witness the execution, the act may constitute cruel, inhumane,

24_ UN Human Rights Committee, General Comment, No. 20 (1992), para. 6.

25_ The UN Human Rights Committee expressed concern over public execution of the death penalty in some national reports including the one by North Korea. UN HRC, Concluding Observations: Islamic Republic of Iran, UN Doc. CCPR/C/IRN/CO/3 (2011); Democratic People’s Republic of Korea, 27 August 2001, UN Doc. CCPR/CO/72/PRK; Nigeria, UN Doc. CCPR/C/79/Add.65 (1996). The UN Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment also pointed out the issue of public execution of the death penalty. Note by Secretary-General, Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN Doc. A/67/279 (2012).

or degrading treatment, which violates Article 7.²⁶

Although North Korea has provisions for procedures and methods of carrying out the death penalty in its Criminal Procedure Law and Sentence and Decisions Enforcement Law,²⁷ it does not have explicit stipulations for making the execution of the death penalty public. According to the testimonies of North Korean defectors, public executions are still conducted in North Korea. Public execution cases have also been recorded in the 2018 survey, which include the testimonies of: People's Unit disclosing the time and place of public execution in advance but not making attendance mandatory²⁸; people being mobilized in school or at work to go and see the execution²⁹; and those considered rebellious elements (so-called "*Aerosaeng*") being separately mobilized to force them to see the execution.³⁰ However, it seems that the number of

26_ The COI also stated the following in its report of the detailed findings, "Especially for young children and relatives of the victim, the experience of [watching such killings] is often so horrifying, that the witnesses must themselves also be considered victims of inhuman and cruel treatment in contravention of Article 7 of the ICCPR." OHCHR, "Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, UN Doc. A/HRC/25/CRP.1 (2014), para. 830.

27_ Article 421 of the North Korean Criminal Procedure Law stipulates that the death penalty ruling shall be conducted by the punishment enforcement institution that received the death penalty document on direction of enforcement and a certified copy of the written judgment issued by the Supreme Court. Article 32 of the Sentencing and Decisions Enforcement Law has the same provisions as the Criminal Procedure Law and stipulates that the death penalty is to be "conducted in the same way as death by shooting."

28_ NKHR2018000060 2018-07-02.

29_ NKHR2018000098 2018-10-01.

30_ NKHR2018000114 2018-10-13.

residents going to see the public execution has decreased compared to the past.

Table II-8 Cases of Public Execution by Shooting

Testimonies	Testifier ID
In May 2014, two men were publicly executed by shooting at a hop farm, Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2015000039 2015-02-24
In May 2014, two men were publicly executed by shooting in Hyesan, Yanggang Province.	NKHR2015000040 2015-02-24
In August 2014, three men in their 20s were publicly executed in a highschool yard in Daeheungri, Kimhyongjik County, Yanggang Province.	NKHR2016000123 2016-08-09
In October 2014, three men were publicly executed by shooting at an airfield in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2018000098 2018-10-01
In the fall of 2014, two men were publicly shot dead at Hyesan Airfield, Yanggang Province.	NKHR2015000027 2015-02-10
In February, 2015, five men were shot dead at the stadium in Phyongsong City, South Pyeongan Province.	NKHR2017000083 2017-09-25
In the summer of 2014, a city party official was publicly executed by shooting in Hyesan, Yanggang Province.	NKHR2016000158 2016-09-20
In October 2016, three men and four women were publicly executed by shooting at an airfield in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2017000073 2017-08-28
In 2017, two men were shot dead at an airfield in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2018000114 2018-10-13
In February 2017, approximately twenty people were publicly executed by shooting in Pyoksong County, South Hwanghae Province.	NKHR2017000073 2017-08-28
In December 2017 one woman was publicly shot dead at Onsong County, North Hamgyeong Province.	NKHR2018000107 2018-10-01

Due to limited information, it is not easy to clearly divide the collected cases into those where public execution of the death penalty were conducted and those where extrajudicial, summary or arbitrary executions were conducted in public. However, aside

from protecting the minimum legal rights of defendants, such as trial procedures, carrying out an execution by shooting in “public” itself is inhumane under Article 7 of the ICCPR. In this context, the above cases violate, at the very least, Article 7 of the ICCPR. However, in the 2018 survey, as with 2017, there were testimonies that public executions have recently decreased.³¹ Regarding the decrease in the number of public executions, more detailed observation is required to determine if it means that there are more private executions or more summary executions taking place in secret.

By region, executions are most witnessed in Hyesan, Yanggang Province. In general, public executions of the death penalty are more concentrated in border areas than in inland areas, and in city areas than in rural areas. This may be because there are relatively more illegal activities in border regions and cities, and the North Korean authorities are trying to warn and incite fear among residents in those regions through public executions.

C. Enforced Disappearances

The UN Human Rights Committee has found that enforced disappearances may constitute torture and/or inhumane treatment of the person who is made to disappear and his or her family.³²

³¹_NKHR2017000006 2017-04-10; NKHR2017000111 2017-11-20; NKHR2018000115 2018-10-22.

People in enforced disappearances would be detained and separated from their families for a long time, and their families would live in worry and concern without knowing the person’s whereabouts or whether he/she is alive or dead. Therefore, both the people who are subject to enforced disappearance and their family are victims of torture and/or inhumane treatment. This topic will be examined in more detail in Part II, Chapter 4, “Right to Liberty and Security of Person”; Part II, Chapter 7, “Right to a Fair Trial”; Part V, Chapter 1, “Political Prison Camps”; Part V, Chapter 5, “Separated Families, Abductees, and Korean War POWs.”

D. Evaluation

Unlike what has been stipulated in North Korea’s Criminal Law and Criminal Procedure Law, torture and inhumane treatment seem to be prevalent in the process of handling cases. In 2018, there were many testimonies that the State Security Departments along the border region imposed severe violence in a frequent manner during the investigation process. Public executions and forced witnessing of public executions are still in place. This constitutes cruel, inhumane, or degrading punishment from the

32_ For example, Committee on Civil and Political Rights Communications 950/2000, *Sarma v. Sri Lanka*, 31 July 2003, para. 9.5; 1295/2004, *El Alwani v. Libyan Arab Jamahiriya*, 11 July 2007, paras. 6.5 and 6.6; and 1327/2004, *Grioua v. Algeria*, 10 July 2007, paras. 7.6. and 7.7.

perspective of the executed and also cruel, inhumane, and degrading treatment of those who are forced to witness the execution. Meanwhile, in the 2018 survey, there were testimonies that public executions have decreased recently, but it is unclear whether this is related to the increase of non-public executions and secret summary executions.

3

Right Not to be Forced into Labor

Article 4 of the UDHR stipulates that no one shall be held in slavery or servitude, and that slavery and the slave trade shall be prohibited in all their forms. Article 8 of the ICCPR prohibits slavery and the slave trade, servitude and forced labor. However, while there are no exceptions regarding the prohibition against slavery, trading of slaves, and servitude, exceptions exist for the prohibition against forced labor.

Table II-9 Article 8 of the ICCPR

Paragraph 1	No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
Paragraph 2	No one shall be held in servitude.
Paragraph 3	(a) No one shall be required to perform forced or compulsory labour. (b) Paragraph 3 (a) shall not be held to preclude, 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. (c) For the purpose of this paragraph the term “forced or compulsory labour” shall not include: (i) Any work or service, not referred to in sub-paragraph (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

This chapter will examine the situation in North Korea regarding the right not to be forced into labor.

A. Labor Training Punishment for Minor Offenses

Article 8, paragraph 3 (a) of the ICCPR prohibits forced labor. However, Article 8, paragraph 3 (b) states that in countries where crimes are punishable by imprisonment with hard labor, it is not prohibited to force labor on criminals if they were sentenced with such punishment by a competent court. Moreover, according to Article 8, paragraph 3 (c), “forced or compulsory labour” does not include any work or service normally required of a person who is under lawful detention or of a person during conditional release from such detention, any service of a military nature, any service exacted in cases of emergency or calamity, or any work or service that forms part of normal civil obligations. “Lawful detention” refers to all types of detention in consequence of a lawful order of a court, including detention before a trial is held, and “any work or service normally required of a person who is under lawful detention” can be interpreted as daily tasks in detention facilities and work to assist detainees’ return to society.

Punishments depriving personal liberty and imposing prescribed labor in the North Korean Criminal Law include correctional labor punishment- i.e., unlimited-term correctional labor punishment and limited-term correctional labor punishment- and labor training punishment (Article 27). Unlimited-term/limited-term correctional labor punishment detains criminals in prison camps (*kyohwaso*) and forces them to work, with the period of limited-term correctional labor punishment ranging from one year to fifteen years (Article 30). Labor training punishment sends criminals to certain places where they are forced to work with the term ranging from six months to one year (Article 31). According to Article 8, paragraph 3 (b), of the ICCPR, detaining those who are sentenced by courts to correctional labor punishment or labor training punishment in prison camps or other places and imposing labor upon them does not constitute as prohibited “forced labor.” While it is generally interpreted as inappropriate to impose imprisonment with hard labor for minor offenses, the North Korean Criminal Law states that labor training punishment, which falls into the category of “imprisonment with hard labor,” can be sentenced for relatively minor offenses. Therefore, this issue can be raised as a violation of Article 8, paragraph 3, of the ICCPR. Moreover, imposing excessive labor on convicted prisoners may not comply with Article 10, paragraph 3, of the ICCPR, which states that appropriate treatment of convicted prisoners shall be carried out. (See Part II, Chapter 5, “Right to Humane Treatment in Detention”).

B. Re-educational Labor Discipline

North Korean Administrative Penalty Law requires more attention than any other law in regards to Article 8 of the ICCPR, the right not to be forced into labor. Article 14 of the same law stipulates re-educational labor discipline as a type of administrative penalty. Moreover, Article 17 states that “re-educational labor discipline is an administrative legal restriction for those who committed a crime that is not serious enough to be imposed with labor training punishment,” and that re-educational labor discipline cannot be executed on women who are three months before or seven months after childbirth, and patients who are seriously ill or have infectious diseases. According to the Law, the period of the discipline is five days or more to six months or less. Re-educational labor was added when the Administrative Penalty Law was amended on 16 October 2011. The current Administrative Law states that there are a total of 162 activities punishable by re-educational labor discipline. Re-educational labor discipline can be imposed by the Socialist Law-Abiding Life Guidance Committee, prosecutor’s office, judicial organs, and the MPS (Articles 230, 232, 233, and 235).

Table II-10 Re-educational Labor Discipline under the Administrative Penalty Law

<p>Article 230 (Authority of the Socialist Law-Abiding Life Guidance Committee to Impose Administrative Penalty)</p>	<p>In case the workers of state agency, company, or group commit illegal activities, the Socialist Law-Abiding Life Guidance Committee can impose them admonitions, stern warnings, unpaid labor, re-educational labor, demotion, removal from jobs, loss of jobs, fines, suspension, demand for compensation, confiscation, suspension of qualifications, degradation, or deprivation of qualifications.</p>
<p>Article 232 (Authority of the Prosecutor's Office to Impose Administrative Penalty)</p>	<p>Prosecutor's Office can impose fines, suspension, compensation, confiscation, re-educational labor discipline for the illegal activities identified in the process of prosecutor investigating.</p>
<p>Article 233 (Authority of the Trial Institutions to Impose Administrative Penalty)</p>	<p>Trial institutions can impose fines, compensation, confiscation, or re-educational labor discipline, for the students, who was validated to have committed illegal activities.</p>
<p>Article 235 (Authority of the MPS branch to Impose Administrative Penalty)</p>	<p>The MPS can impose fines, suspension, compensation, confiscation for the illegal for the cases identified during the process of citizen crack-down.</p>

In addition to the Administrative Penalty Law, the People's Security Enforcement Law stipulates that the MPS and Responsible Workers' Association have the authority to impose re-educational labor discipline. (Article 57 of the People's Security Enforcement Law).

Re-educational labor discipline does not fall into the aforementioned exceptions regarding the prohibition against forced labor, and therefore, is a more serious issue. In the 2018 survey, relevant cases have been reported: a woman in her 20s from Yanggang Province said that she was mobilized to various works including papering the wall, building fences, hardening the ground for stadium of Samjiyeon County, and weeding after being sentenced

to be accommodated in the disciplinary labor center in Samjiyeon County for a month.³³ According to her testimony, when going out of the center, she was accompanied by a supervisor. Life Review Sessions took place every Saturday and the inmates were required to recite the Ten Principles and the Regulations of the Labor Training Camp.

Table II-11 Cases of Re-educational Discipline

Testimonies	Testifier ID
In July 2015, the testifier was detained in a labor training camp in Samjiyeon County, Yanggang Province, and did farm work for 12 hours per day.	NKHR2016000015 2016-01-26
In August 2016, the testifier was imprisoned in a labor training camp in Hoeryeong, North Hamgyeong Province, and was forced to do construction work, work at restaurants, hang new wallpaper at the manager's house, etc.	NKHR2017000086 2017-09-25
From August to September 2016, the testifier did logging and cooking at the disciplinary labor center in Bocheon Town, Bocheon County, Yanggang Province. She was able to commute out of consideration for her young daughter at home.	NKHR2018000120 2018-10-22
In November 2016, political committee members and police officers decided to punish the testifier with disciplinary labor for six months after the testifier was absent from work without notice and they had him detained in the Disciplinary Labor Center in Hyesan City, Yanggang Province. The testifier was put in the construction field to build Hyesan City middle school academy and worked from 7am to 9pm.	NKHR2017000095 2017-10-23

33_NKHR2018000129 2018-11-19.

C. Labor Exploitation of Prisoners in Holding Centers (*jipkyulso*)

A holding center is a place of investigation and detention for travelers who have left their designated region or stayed beyond their authorized duration, homeless children, those whose cases are pending, and defectors who have been repatriated. When a holding center notifies the MPS/MSS branch in charge of the residence area of the detainees, relevant MPS/MSS officers of that area comes to the holding center and transfers the detainees to their residence area. A number of North Korean defectors testified that some holding centers force their detainees into labor. Depending on the time of notification from the holding center to the MPS branch in charge of the detainees' residence area, detainees stay in holding centers for three to six months and some holding centers intentionally send notifications belatedly to exploit the detainees' labor. One testifier who was detained in Administrative Detention Center, Chongjin City, North Hamgyeong Province for 20 days in 2017 said that he/she was mobilized to build factory fences and harvest in the field. The testifier was able to return home earlier thanks to his/her family. Without such effort, the detention center does not let them go without at least three months of labor.³⁴ The testifier said the length of stay in the center depends on how well

34_NKHR2018000098 2018-10-01.

inmates' family members do "business(*Saeop*)" to the police officer in charge. Another North Korean defector who had been detained in the Administrative Detention Center in Nanam region from May to July in 2015 said that he/she was mobilized to frame the pavement blocks for about 12 hours a day.³⁵ According to his/her testimony, the administrative detention center is likely to call the relevant MPS when a person in question does not have money. However, for those with money, the director and officers of the center do not call the police right away as they do not want to split the money that can come directly to their pocket. According to the testimony, those repatriated from China had to stay in the holding center longer than others as they had a lot of clothing, money, and valuables. Another North Korean defector who stayed in the holding center in Hyesan City, Yanggang Province for a month in April 2014 testified that he/she was mobilized to pile up gunny sacks for rationing since day one.³⁶ According to the testifier, those forcefully repatriated from China had to work with shackles on and even children were mobilized to work on tasks, such as planting trees.

35_NKHR2018000074 2018-07-30.

36_NKHR2018000010 2018-03-12.

Table II-12 Cases of Forced Labor in Holding Centers

Testimonies	Testifier ID
In 2014, the testifier weeded dry fields in the holding center in Chongjin City, North Hamgyeong Province for four months. The holding center did not notify the Daehongdan County Security Department, Yanggang Province (which had the jurisdiction over the testifier) fast as the holding center did not have enough manpower to do the job.	NKHR2017000093 2017-10-23
In May 2014, the testifier did weeding and transporting the excrement from the toilet for 15 days at the holding center in Hyesan City, Yanggang Province. Whenever the testifier was not doing the job well or caught the eyes of correctional officers, he/she was kicked or beaten up with thick club or shovel.	NKHR2018000077 2018-07-30
In July and August 2014, the testifier was mobilized for cement construction work when detained in the holding center in Hyesan, Yanggang Province.	NKHR2016000025 2016-03-08
In September 2015, the testifier was mobilized in the construction work when he/she was detained in the Yongsan holding center in Nason Special City, North Hamgyeong Province.	NKHR2018000001 2018-03-12
In December 2016, the testifier was forced to participate in making fertilizer with human manure when he/she was detained in a holding center for travelers in Chongjin, North Hamgyeong Province.	NKHR2017000054 2017-07-31
From December 2016 to March 2017, the testifier was mobilized in making soccer balls and gathering firewood when he/she was detained in Songpyeong Jipkyulso in Chongjin, North Hamgyeong Province.	NKHR2017000099 2017-10-23

D. Evaluation

It is found that North Korea continues to practice forced labor prohibited by Article 8, paragraph 3 of the ICCPR. Key examples include imposing labor training punishment for relatively minor offenses, imposing re-educational labor discipline under the Administrative Penalty Law and the People’s Security Enforcement

Law, and forcing labor on those who are temporarily detained in holding centers. Relevant cases were reported in the 2018 survey as well. In particular, holding centers located in the border areas appear to impose severe labor on its detainees.

4

Right to Liberty and Security of Person

The UDHR stipulates the right to liberty and security of person along with the right to life in Article 3, which is the first provision on substantive rights. “Liberty” refers to freedom from physical restrictions, not general freedom of action, and “security” refers to freedom from mental and physical injury, or the maintenance of physical and mental integrity. Article 9 of the ICCPR defines the right to liberty and security of person in five paragraphs. Paragraph 1 states that arrest or detention should not be arbitrary or illegal. Paragraphs 2 to 5 stipulate procedural protections to secure liberty and security; part of paragraph 2 and paragraph 3 only apply to criminal procedures while the rest of the paragraphs apply to all those whose liberty is deprived.

Table II-13 Article 9 of the ICCPR

Paragraph 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.
Paragraph 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.
Paragraph 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.
Paragraph 4	Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
Paragraph 5	Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

The following sections examine the situations in North Korea by major issues related to liberty and security.

A. Arbitrary or Unlawful Arrest/Detention

Article 9, paragraph 1 of the ICCPR prohibits arbitrary or unlawful arrest or detention, which refers to the arrest or detention imposed without legal grounds or lawful procedures.³⁷ The term ‘arbitrary’ is broader in scope compared to ‘unlawful.’ It encompasses

³⁷UN Human Rights Committee, General Comment, No. 35 (2014), para. 11.

elements of inappropriateness, injustice and lack of predictability, legal procedures, reasonableness, necessity, and proportionality.³⁸ Therefore, prohibition against arbitrary arrest/detention can overlap with the prohibition against unlawful arrest or detention. According to the General Comments of the UN Human Rights Committee, even though the issue of detainee treatment is dealt with in Articles 7 and 10 of the ICCPR, the question of arbitrary detention can be raised if those who are detained are treated in a manner that is not related to the purpose of their detention.³⁹ Moreover, arrest or detention as a punishment for the legitimate exercise of freedom of opinion and expression, freedom of assembly and association, freedom of religion, and the right to privacy – all of which are protected by the ICCPR - is considered to be arbitrary, as are arrest or detention on discriminatory grounds, and detention in violation of the principle of non-retroactivity of punishment. In particular, enforced disappearances constitute a serious form of arbitrary detention, as they violate numerous substantive and procedural provisions of the ICCPR.⁴⁰

The North Korean Constitution stipulates that its citizens are protected in terms of their inviolability as persons, and that citizens shall not be detained or arrested without legal grounds (Article

38_ *Ibid.*, para. 12.

39_ *Ibid.*, para. 14.

40_ *Ibid.*, para. 17.

79). The North Korean Criminal Procedure Law distinguishes the investigation procedure for identifying criminals and criminal facts from the preliminary examination to confirm criminals and criminal facts. According to the law, compulsory measures, including arrest and detention, are taken during the preliminary examination in principle; however, the arrest of criminal suspects or criminals during the investigation process is allowed only in exceptional cases (Article 142). Regarding arrest or detention during the preliminary examination, the North Korean Criminal Procedure Law stipulates that the “preliminary examination officer can arrest or detain the person undergoing preliminary examination to prevent avoidance of the preliminary examination or trial or disturbance of the investigation” (Article 175). The law also states that “citizens shall not be arrested or detained for reasons not prescribed in the laws or without following the procedures prescribed in law” (Article 176). Moreover, it underlines the time, reasons, duration, etc. of arrest and detention (Articles 177 to 190). On the other hand, the North Korean Criminal Law states that law enforcement agents who unlawfully arrest, detain, or apprehend people shall receive labor training punishment of one year or less, and those who repeatedly commits such acts or cause serious results shall be punished by correctional labor of five years or less (Article 241).

In spite of such provisions, it appears that arbitrary or unlawful arrest and detention are still prevalent in North Korea. As will be

examined in detail later, detaining people in political prison camps without following lawful procedures for criticizing the regime or insulting the “head of state (*Suryong*),” attempting to enter South Korea, or engaging in religious activities is both arbitrary and unlawful. Moreover, arresting and detaining people who “unlawfully enter/exit borders” while not recognizing the freedom to leave the country and requiring people to hold travel permits when leaving the city or county in which they reside and arresting and detaining them in holding centers (*jipkyulso*) when they leave the authorized travel district or travel beyond the permitted duration of travel are also considered to be arbitrary arrest and detention (see Part II, Chapter 6, “Right to Freedom of Movement and Residence”). Arresting and detaining people for watching/distributing South Korean recordings constitutes arbitrary arrest and detention as well (see Part II, Chapter 10, “Freedom of Expression”). This is due to the fact that although there are provisions for control and punishment in North Korean laws, those arrests and detentions were to punish the legitimate exercise of rights that are protected by the ICCPR. If the above provisions on arrest and detention in the North Korean Criminal Procedure Law are not properly complied with, arrest and detention may be considered to be unlawful. According to an investigation conducted by the Korean Bar Association, most criminal suspects in North Korea are investigated under arrest or detention, and in many cases, the detention period exceeds the prescribed duration.⁴¹ Even when lifting the detention status, it

was emphasized that Kim Jong Un was being merciful rather than presenting relevant legal grounds. A female North Korean defector from Hyesan, Yanggang Province, who escaped in August 2016 testified that she was investigated for five months at the MSS provincial bureau after getting caught by the border defense unit attempting to escape in February 2015. According to her testimony, she was released because of Kim Jong Un’s policy to “spare one’s life if the person has 1 percent conscience despite the 99 percent guilt,” and her detention was not recorded anywhere.⁴²

B. Insufficient Procedural Guarantee of Liberty and Security of Person

Article 9, paragraph 2 of the ICCPR stipulates that one should be notified upon arrest the reasons for arrest and the facts of the alleged crimes. The North Korean Criminal Procedure Law stipulates that notification of arrest and detention shall be provided in the preliminary examination stage (Article 182), although not in the investigation stage. Therefore, the right of arrested persons to be informed, based on Article 9, paragraph 2 of the ICCPR, are not properly protected. Relevant cases were collected in the 2018 survey including a testimony by a woman in her 50s who lived in

41_ Korean Bar Association, *2016 White Paper on Human Rights in North Korea* (Seoul: Korean Bar Association, 2016), pp. 196-208.

42_ NKHR2017000001 2017-04-10.

Hyesan City, Yanggang Province who said that her son was dragged by an unidentified man in January 2016 and released after investigation.⁴³ According to the testifier, she later found out that the man who had dragged her son was an SSD agent. Another North Korean defector testified that her husband was arrested by an SSD agent, and investigated for about 15 days without being notified of the reason for arrest.⁴⁴

Meanwhile, Article 9, paragraph 3 of the ICCPR states that criminal suspects arrested or detained on a criminal charge shall be brought promptly before a judge or an authority who can exercise judicial power, and shall have the right to receive a trial or be released within a reasonable time frame. The Article also states that detention before trial is, at all times, an exceptional case. North Korea does not hold an investigation to determine a warrant's validity. Regardless, according to the North Korean Criminal Procedure Law, when suspects are arrested during the investigation stage, they should be immediately released if there is no approval by a prosecutor within 48 hours or if there is no validation within ten days that the suspects are guilty (Article 143). Moreover, if they are arrested in the process of the preliminary examination, approval by prosecutor is required to determine whether to detain them or not (Article 185). According to the

43_NKHR2018000089 2018-08-27.

44_NKHR2018000099 2018-10-01.

ICCPR, in order to be recognized as an authority with the power to exercise judicial power, independence, objectivity and fairness must be satisfied. However, it is noteworthy that prosecutors do not fall under this category.⁴⁵ In addition, the North Korean Criminal Procedure Law stipulates the length of time suspects may be imprisoned in each stage of investigation, preliminary examination and prosecution. Still, the period of detention for a preliminary examination may last up to five months, which is excessively long for a detention duration before trial. Moreover, according to the surveys thus far, many cases have been identified in which even the period regulated by law was not complied with. A man in his 30s from Yanggang Province testified that he was sentenced to correctional labor after being detained in the detention center for nine months.⁴⁶ However, the period he was detained in the detention center was excluded from the correction period.

45_UN Human Rights Committee, General Comment, No. 35 (2014), para. 32.

46_NKHR2018000034 2018-05-07.

Table II-14

Period of Investigation, Preliminary Examination and Prosecution, and Imprisonment Period of Suspects

Investigation Stage	Criminal Procedure Law Article 143	Investigation agent shall gain approval of prosecutor by preparing detention decision document in 48 hours from arrest when detaining a criminal suspect or criminals based on Article 142 of this Law and hand-over the person to preliminary examination by investigating the person within 10 days from the arrest. When failing to gain approval from prosecutor or confirming that the person is a criminal within ten days from arrest, the person shall be released. (The rest is omitted)
Preliminary Examination Stage	Criminal Procedure Law Article 150	Preliminary examination shall be finished within two months from the starting date of preliminary examination of a crime case. Preliminary examination of a crime case where labor training punishment can be applied shall be finished within ten days. (The rest is omitted)
	Criminal Procedure Law Article 151	Preliminary examination of especially complicated crime cases for which preliminary examination can be finished in the period stipulated in Article 150, paragraph 1 of this Law, preliminary examination can be conducted for up to 5 months from the starting date of the preliminary examination based on the regulations in Article 187, paragraph 1 and 2 of this Law. If preliminary examination of a crime case where labor training punishment can be applied cannot be finished in the stipulated period in Article 150, paragraph 2 of this Law for an inevitable reason, the period can be extended by five days with approval of prosecutor.
	Criminal Procedure Law Article 186	Those undergoing preliminary examination cannot be detained for preliminary examination for more than two months. (The rest is omitted)
	Criminal Procedure Law Article 187	As for criminal cases for which preliminary examination cannot be finished in the regulated period in Article 150, paragraph 1 of this Law, detention period for those undergoing preliminary examination can be extended by one month by city (district)/county preliminary examination officer and province (municipality directly under central authority) preliminary officer through obtaining approval from the head of Public Prosecutors Office of province (municipality directly under central authority) and by central preliminary

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		<p>examination officer through gaining approval from Supreme Public Prosecutors Office.</p> <p>As for complicated crime cases where labor training punishment can be applied but for which preliminary examination cannot be finished in the regulated period in Article 150, paragraph 2 of this Law, the detention period for those undergoing preliminary examination can be extended by 5 days with approval of prosecutor.</p> <p>* Supreme Public Prosecutors Office was changed to Central Public Prosecutors Office in the fourth meeting of the 13th Supreme People’s Assembly (June 29, 2016.)</p>
<p>Prosecution Stage</p>	<p>Criminal Procedure Law Article 261</p>	<p>The prosecutor who received case records from preliminary examination officer shall make case review decision and review and process the case within 10 days. However, in the case of especially complicated or serious cases for which reviewing and processing within ten days is impossible, the period can be extended by five days.</p> <p>Records of crime cases where labor training punishment can be applied shall be reviewed/ processed within five days.</p>
	<p>Criminal Procedure Law Article 262</p>	<p>Those undergoing preliminary examination shall be detained for prosecution for ten days. However, as for especially complicated or serious cases, the period can be extended by five days.</p> <p>Those undergoing preliminary examination for cases for which labor training punishment can be applied shall be detained for five days.</p>

Article 9, paragraph 4 of the ICCPR stipulates the right to claim that the legality of an arrest or detention be reviewed, and paragraph 5 states the right to compensation for unlawful arrest or detention. However, the right to claim a review of the legality of an arrest or detention does not seem to be recognized in North Korea. As for claiming criminal compensation, it is hard to find relevant regulation. However, North Korea mentioned the “Regulation on Criminal Compensation” in its implementation report for the ICCPR,

submitted to the UNHRC in 2000.⁴⁷ North Korea stated that Article 2 of the same regulation stipulates 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 judiciary institutions.” In the Common Core Documents submitted to the UN in 2016, North Korea also mentioned a compensation system for those whose rights are infringed upon.⁴⁸

C. Evaluation

It appears that arbitrary or unlawful arrest, which is prohibited by Article 9, paragraph 1 of the ICCPR, continues to occur in North Korea. Detention of political criminals is a representative case of both arbitrary and unlawful arrests and detention. As will be examined specifically in the sections on individual rights, arrest and detention are frequently used in North Korea as punishment for the legitimate exercise of the rights guaranteed in the ICCPR. It is also assessed that the procedural guarantee of personal liberty and security is insufficient. The North Korean Criminal Procedure Laws does not have a provision for informing the suspect of the

47_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).

48_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.

reasons for his or her arrest and the facts of the charge. It also does not include a system to review the validity of a warrant by a judge. Moreover, the detention period before trial is excessively long. For example, the detention for preliminary examination may last up to five months, but even this is not properly complied with. It seems that North Korea also does not recognize the right to claim a review of the legality of arrest and detention.

5

Right to Humane Treatment of Persons in Detention

Article 10 of the ICCPR stipulates the humane treatment of persons who are deprived of liberty, whether unconvicted or convicted.

Table II-15 Article 10 of the ICCPR

Paragraph 1	All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
Paragraph 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 imprisoned persons. (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
Paragraph 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.

This chapter will examine the situation in North Korea by major issues related to the right to humane treatment in detention.

A. Inhumane Treatment of Persons Deprived of Liberty

Article 10, paragraph 1 of the ICCPR stipulates that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” This provision applies to those who are deprived of liberty by the laws and authority of the State Party when they are kept in prisons, hospitals (particularly psychiatric hospitals), detention centers, correctional institutions, and other facilities.⁴⁹ Article 10, paragraph 1 of the ICCPR supplements the ban on torture or other cruel, inhumane, or degrading treatment or punishment specified in Article 7 of the ICCPR, by imposing on State Parties an active obligation toward persons who are vulnerable when their liberty is deprived.⁵⁰ Therefore, persons deprived of their liberty shall not be treated in any way contrary to Article 7 of the ICCPR or be subject to any hardships or pressure other than that which results from the deprivation of liberty. Persons deprived of their liberty must have their dignity respected under the same conditions as those of free persons and must enjoy all the rights set forth in the ICCPR, subject to the restrictions that are unavoidable in a closed environment.⁵¹

49_ UN Human Rights Committee, General Comment, No. 21 (1992), para. 2.

50_ *Ibid.*, para. 3.

51_ *Ibid.*

(1) Situation in Detention Facilities

Detention facilities in North Korea include prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*), detention centers (*guryujang*), and political prison camps (*kwanliso*).

(a) Prison Camps

Prison camps are correctional facilities of the MPS Correctional Education Bureau, which is directly under the State Affairs Commission (hereinafter SAC), and facilities for detaining those who are sentenced to correctional labor by a court.⁵² Based on the testimonies of North Korean defectors and satellite images, the 2018 *White Paper* has identified a total of nineteen prison camps that are operated in North Korea, as can be seen in <Figure II-1>.⁵³

52_ The North Korean Criminal Law stipulates that correctional labor punishment is to detain criminals in prison camps and have them engage in labor. The punishment can be divided into unlimited-term correctional labor punishment and limited-term correctional labor punishment (Article 30). The current North Korean Criminal Law imposes unlimited-term correctional labor punishment for a total of eight crimes (conspiracy to overturn the State, terrorism, treason against the fatherland, clandestine destruction, treason against the people, illegal cultivation of opium and manufacturing of narcotics, smuggling and trafficking of narcotics, and premeditated murder) (Article 60, 61, 63, 65, 68, 206, 208 and 266). For the most general crimes, limited-term correctional labor punishment is imposed. The term of limited-term correctional labor punishment is from one year or more to fifteen years or less. Even when crimes are merged or prison terms are combined, the total term cannot exceed fifteen years, and one day of detention before rendition of judgment is calculated as one day of limited-term correctional labor punishment (Article 30). During the term of unlimited-term correctional labor punishment and limited-term correctional labor punishment, the rights of citizens are partially suspended (Article 30).

53_ Dong-ho Han *et al.*, *Prison Camps in North Korea* (Seoul: KINU, 2016), p. 16.

Figure II-1 Location of Prison Camps



Defectors who were forcibly repatriated to North Korea are detained mostly in Jeongeori *Kyohwaso* and Gaecheon *Kyohwaso* after being sentenced to correctional labor punishment for illegal border-crossing⁵⁴ under the provision of the North Korean Criminal Law. Therefore, many of the testimonies collected relate to the two prison camps.

- Jeongeori *Kyohwaso*

Jeongeori *Kyohwaso* is a prison camp under the MPS provincial bureau in North Hamgyeong Province and is located in Musan-ri,

54_Article 221 of the North Korean Criminal Law stipulates that people convicted of illegal entry of borders shall be sentenced to one year or less of labor training punishment, and those convicted of serious charges shall be sentenced to five years or less of correctional labor punishment.

Hoeryeong, North Hamgyeong Province (42.2103 degrees north latitude and 129.7536 degrees east longitude).

Figure II-2 Satellite View of Jeongeori *Kyohwaso*

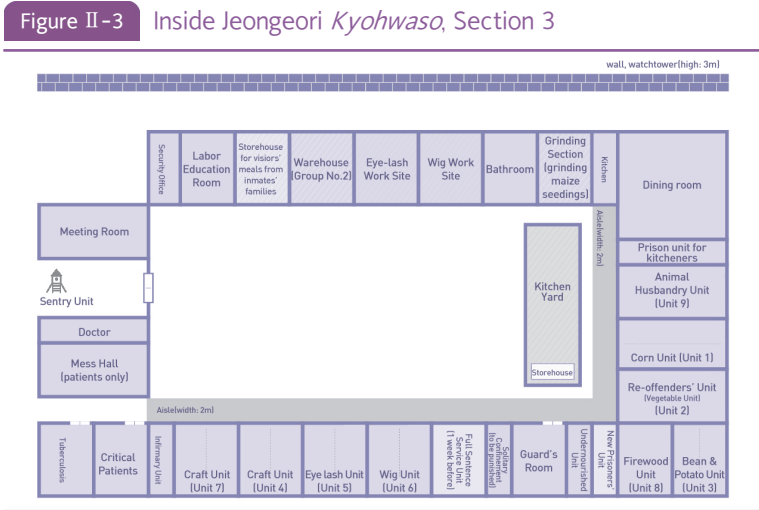


Jeongeori *Kyohwaso* manages convicted prisoners by dividing them into sections numbered 1 to 5. Convicted male prisoners are placed in Section No. 1, 2, 4, and 5, while convicted female prisoners are assigned to Section No. 3.⁵⁵ Each section is classified again into units. Testimonies indicate Section No. 1 has around twelve units, Section No. 2 and 3 around 10 units, and Section No. 4 around 4 units.⁵⁶ Many North Korean defectors who were detained in Jeongeori *Kyohwaso* are female, and based on their

55_NKHR2012000185 2012-09-11; NKHR2013000040 2013-03-05; NKHR2013000046 2013-03-05 and many other testimonies.

56_NKHR2012000185 2012-09-11.

testimonies, it was possible to examine Section No. 3 in more detail, since that is the female detention facility. According to the testimonies, there are three prison staff for Section No. 3, including the head of the section, secretary, and doctor, and three female guards.⁵⁷ The section is divided into a potato unit, a vegetable unit, a bean unit, a corn unit, a rock collection unit, a wig/eyelash unit, a firewood unit, an animal husbandry unit, a cooking unit, and an undernourished unit.⁵⁸ <Figure II-3> shows the inside of the physical structure of Section No. 3 at Jeongeori *Kyohwaso*, which has been reconstructed based on testimonies.⁵⁹



57_ NKHR2014000048 2014-05-13.

58_ NKHR2011000248 2011-12-20; NKHR2014000048 2014-05-13.

59_ NKHR2014000031 2014-04-15; NKHR2014000040 2014-04-29; NKHR2015000036 2015-02-10.

- Gaechon *Kyohwaso*

Gaechon *Kyohwaso* is one of the prison camps under the MPS provincial bureau in South Pyeongan Province and is located in Yaksu-dong, Gaechon, South Pyeongan Province (39.7083 degrees north latitude and 125.9233 degrees east longitude).

Figure II-4 Satellite View of Gaechon *Kyohwaso*



Gaechon *Kyohwaso* is divided into male and female zones. The female zone is again divided into unlimited-term and limited-term zones in which prisoners sentenced to unlimited-term correctional labor punishment and limited-term correctional labor punishment reside respectively.⁶⁰ Testimonies indicate that female unlimited-term and limited-term areas are in separate buildings.⁶¹ Given that convicted female prisoners sentenced to unlimited-term correctional

60_NKHR2014000175 2013-10-21; NKHR2015000186 2015-12-15.

61_Above testimonies.

labor punishment are detained here, Gaecheon *Kyohwaso* seems to be a detention facility for criminals charged with serious crimes. According to testimonies, the female prisoners at Gaecheon *Kyohwaso* are divided into a farming unit, a livestock unit, a knitting unit, a vegetable unit, a fruit unit, and a plowing unit.⁶² A North Korean defector testified that the farming, livestock and fruit units lived in single-story houses, while the knitting unit lived in a two-story building near the guards' buildings. According to the testifier, the knitting unit comprised those who were sentenced to unlimited-term correctional labor punishment and those with a higher risk of escape, including those convicted of illegal border-crossing and human trafficking.⁶³ According to a North Korean defector who was imprisoned in Gaecheon *Kyohwaso* from 2011 to 2013, re-offenders were placed in the vegetable unit for high-intensity work.⁶⁴ Testifiers said that convicted male prisoners at Gaecheon *Kyohwaso* worked in brick units and leather units (making shoes, belts, holsters, military boots and loafers) or mined coal at nearby mines.⁶⁵ A man in his 30s who was once detained in Gaecheon *Kyohwaso* in 2015 testified that those with short detention periods, meaning no possibility of running away, were assigned to mining work.⁶⁶

62_ NKHR2013000156 2013-08-20.

63_ NKHR2013000121 2013-06-25; NKHR2016000014 2016-01-26.

64_ NKHR2017000130 2017-12-18.

65_ NKHR2013000115 2013-06-11; NKHR2013000195 2013-10-29.

66_ NKHR2018000034 2018-05-07.

(B) Labor Training Camps

Labor training camps are where those sentenced to labor training punishment (from six months or more to one year or less) by the court or those sentenced with re-educational labor discipline (from five days or more to six months or more) as an administrative punishment by the People's Security Agency, etc. It appears that those sentenced to labor training punishment are detained in labor training camps under the jurisdiction of the MPS and those sentenced to re-educational labor discipline are detained in labor training camps at the city, county and district levels under the Labor Mobilization Division of the People's Committee. There are testimonies about labor training camps in Wonsan, Gangwon Province and in Jeungsan County, South Pyeongan Province, being under the jurisdiction of the MPS.⁶⁷ Considering the testimonies saying that they were sentenced to correctional labor and sent to the correctional labor camp located in the Gaecheon *Kyohwaso*, it can be assumed⁶⁸ that there is a correctional labor camp in Gaecheon *Kyohwaso* controlled by the MPS. It has also been reported that the military operates its own internal labor training camps.⁶⁹

67_NKHR2014000065 2014-06-03; NKHR2015000121 2015-09-08.

68_NKHR2016000026 2016-03-08; NKHR2017000005 2017-04-10; NKHR2018000049 2018-06-04; NKHR2018000080 2018-07-30.

69_NKHR2015000119 2015-09-08.

(C) Holding Centers

A holding center investigates and detains travelers who go beyond authorized regions and stay beyond their authorized duration, homeless children, those whose cases are pending and repatriated defectors. When holding centers send notifications to the MPS city/county branch in charge of the residence area of a prisoner, the MPS officers in charge come to the holding centers and transport the detainees to his or her residence areas. It has been ascertained that holding centers under the jurisdiction of the MSS are located across North Korea, and that there are holding centers operated by the MSS in the border region. It has also been found that the holding centers operated by the MSS in the border region are for detaining those who attempt to cross the border illegally to defect to China or South Korea.

(D) Detention Centers

Detention centers are where suspects are detained for investigation before their trial. According to the North Korean Criminal Procedure Law, MSS investigators and preliminary examination officers are in charge of conducting the investigation and preliminary examination of cases related to crimes against the State or the people. In the case of general crimes, the MPS investigators and preliminary examination officers are in charge (Articles 46 and 48). Hence, detention centers are divided into MSS detention centers and MPS detention centers. The MSS organization is

divided into central, provincial and city/county levels, and there are detention centers at each level. The MPS is divided into central, provincial, city/county and dong/li levels, and there are detention centers for each level.

(E) Political Prison Camps

Political prison camps are where political criminals are imprisoned. Although North Korea officially denies their existence, a total of five political prison camps are confirmed to be in operation. As political prison camps have been fundamentally different in nature from the aforementioned detention facilities, they will be examined separately.

(2) Treatment in Detention Facilities

According to defector testimonies, there are continuous cases of violence and mistreatment in prison camps, labor training camps, holding centers, and detention centers in North Korea, and many prisoners suffer from poor nutrition, sanitation and health care. Cases were reported that many prisoners die from such inhumane treatment.

(A) Prison Camps

In the 2018 survey, there were testimonies on violence and severe treatment in prison camps. A man in his 30s who was

detained in the Gaecheon *Kyohwaso* from 2012 to January 2015 testified that he would be beaten when he stole produce whilst farming, when he failed his crops as a result of misusing the fertilizer, or when he did not do his work properly. He also testified that he would be put in solitary confinement or denied access to the food that his family would bring to visits.⁷⁰ However, it is worth examining if there have been meaningful changes regarding the human rights situation in prison camps since there are testimonies that violence and severe treatment in prison camps have substantially decreased. One North Korean defector who had been detained in the Gaecheon *Kyohwaso* two times in 2008 and 2015, testified that compared to what he experienced in 2008, there was much less violence and severe treatment in 2015.⁷¹ MPS officers tried not to use violence since they were punished and forced to write self-criticism reports when using violence against inmates. The testifier said that this measure was intended to abide by the policy of not infringing on the rights of the inmates at prison camps.

70_NKHR2018000050 2018-06-04.

71_NKHR2018000034 2018-05-07.

Table II-16 Testimonies on Violence and Mistreatment in Prison Camps

Testimonies	Testifier ID
The testifier who was imprisoned in Jeongeori <i>Kyohwaso</i> , in 2014, witnessed frequent beatings. Prisoners were kicked with shoed feet, and soup bowls were thrown into the face of prisoners.	NKHR2017000044 2017-07-03
In Summer 2014, when detained in Gaecheon <i>Kyohwaso</i> , the officer sexually assaulted inmates.	NKHR2018000050 2018-06-04
The testifier who was imprisoned in Jeongeori <i>Kyohwaso</i> from April 2014 to March 2015 experienced frequent violence whenever he/she could not work well or comply with the rules. The testifier is still suffering from the effects of violence.	NKHR2016000184 2016-12-13
The testifier who was imprisoned in Gaecheon <i>Kyohwaso</i> from August 2014 to July 2015 witnessed other inmates beating another inmate after the instructor ordered them to “educate that one” because he/she did not satisfy the labor quota.	NKHR2016000114 2016-07-12
When detained in Gaecheon <i>Kyohwaso</i> in 2016, it was a routine for the inmates to be trampled with shoes and hit with hands or fists. When not following orders or making mistakes, the inmates are punished by being denied access to meals or being kept awake.	NKHR2017000122 2017-11-20

Nutrition, hygiene, and medical situation inside prison camps still appear dire. The aforementioned testifier who was detained in the Gaecheon *Kyohwaso* two times in 2008 and 2015 said that although violence and severe treatment were reduced, there was no improvement in nutrition, hygiene, and medical situations.⁷² Meals were served only with lumps of corn and bean and thus, the inmates were only able to subsist by relying on food brought by their family members during visitation. However, not many inmates had family members visiting them during the detention period. Another North Korean defector who was detained in the Gaecheon

.....
72_Above testimony.

Kyohwaso from September 2014 to June 2015 said that there were many inmates who died of poor health.⁷³ Cases have been continuously reported that when inmates were found dead, the prison camps handled the disposing of the bodies without notifying the death to his/her family.

Table II-17 Testimonies on Poor Nutrition, Sanitation, and Health Care in Prison Camps

Testimonies	Testifier ID
From February 2013 to January 2015, when the testifier was detained at Jeongeori <i>Kyohwaso</i> , soup boiled with rotten cabbage and steamed rice mixed with sand were provided and the testifier picked grass and ate it to relieve his/her hunger.	NKHR2015000123 2015-09-08
The testifier who was detained in the Gaecheon <i>Kyohwaso</i> from 2013 to 2014 was given a very small portion of meal when failing to finish the daily assigned work. He/she often had stomach pains after eating a meal made of rotten beans and was so hungry that he/she had to eat mice or insects. Inmates often died of weak health. The prison camp then incinerates the body and does not inform the family of the deceased.	NKHR2017000047 2017-07-03
The testifier, who was imprisoned in the Gaecheon <i>Kyohwaso</i> from August 2014 to July 2015, said that he/she was given just 450 grams of corn and 30 grams of rice and beans per day to eat. 80 percent of the prisoners were weak. Only those who suffer TB, weakness and hepatitis, and were close to death were allowed to be hospitalized.	NKHR2016000114 2016-07-12
In December 2014, the testifier's mother died of disease while being detained in the Gaecheon <i>Kyohwaso</i> . The prison camp did not hand over the body to the family and took care of it by itself.	NKHR2018000073 2018-07-30
In June 2015, when being detained in the Gaecheon <i>Kyohwaso</i> the pit was collapsed and three men lost their lives. Their bodies were incinerated at a mountain nearby and their families were informed of the fact when they visited the prison camp.	NKHR2018000034 2018-05-07

73_NKHR2018000081 2018-07-30.

Testimonies	Testifier ID
The testifier was detained in Jeongeori <i>Kyohwaso</i> from 2015 to August 2016 and saw many cases where inmates died of weak health. The dead bodies were incinerated in <i>Bulmangsan</i> Mountain. The incineration facility was so narrow that they had to fold and crook the dead bodies in order to put in as many as possible.	NKHR2017000047 2017-07-03

(B) Labor Training Camps

As was the case in the 2017 survey, the 2018 survey also reported testimonies claiming that violence and severe treatment in labor training camps have decreased. A North Korean defector who was detained in a labor training camp in Samjiyeon County, Yanggang Province in August 2016 said that the guidelines in the camp included “one should not violate human rights;” “one should not fight with other inmates;” and “one should not steal or rob others.”⁷⁴ According to the testifier, in the labor training camp, harsh verbal exchanges or beating others may constitute “human rights violation,” and during his stay in the camp, he experienced no beating nor did he hear any profanity. Another North Korean defector who was detained in the labor training camp in Onsong County, North Hamgyeong Province testified that the MPS officers in the camp did not beat the inmates as Kim Jong Un had set the no violence and beating policy.⁷⁵

74_NKHR2018000129 2018-11-19.

75_NKHR2018000074 2018-07-30.

Table II-18 Testimonies on Violence and Mistreatment in Labor Training Camps

Testimonies	Testifier ID
In 2014, when the testifier was detained in the labor training camp in Hoeryeong, North Hamgyeong Province, the inmates were not beaten when they made a mistake, rather, they were instructed to run laps around the tracks.	NKHR2017000093 2017-10-23
The testifier, who was imprisoned in a labor training camp in Hyesan, Yanggang Province, in March 2014, said that he/she was slapped in the face for not doing a good job in monitoring work and his/her eardrum was damaged.	NKHR2016000108 2016-07-12
In March 2014, the testifier was detained at the labor training camp in Samjiyeon County, Yanggang Province, with the purpose of training people with labor, those who did not work well were punished and beaten every day. Seniors were not exempt from such treatment.	NKHR2016000114 2016-07-12
In 2016, the testifier was sentenced to labor training and sent to the labor training camp within the Gaecheon <i>Kyohwaso</i> . There was no violence or severe treatment.	NKHR2018000049 2018-06-04
The testifier was in the labor training camp in Hyesan City, Yanggang Province from November 2016 to May 2017. Officers (Jidowon) swore at him when he did not do the work well but there was no beating.	NKHR2017000095 2017-10-23

There were also testimonies on the poor state of nutrition, sanitation, and health care in labor training camps. A North Korean defector who was detained in a labor training camp in Samjiyeon County, Yanggang Province in August 2016 testified that the camp provided three meals a day but there were all corns and dried radish soup. The testifier said it was very difficult to endure the hunger.⁷⁶ However, when there were sick inmates, the camp gave medicine or took them to the hospital. Another North Korean defector who was in a labor training camp in Onsong County, North Hamgyeong Province for two months from March 2015

76_NKHR2018000129 2018-11-19.

testified that corn rice, clear soybean soup, and salty radish soup were provided as meals.⁷⁷ According to the testifier, those repatriated from China were not provided with work outside the camp as they might escape, and were given very little food. Those taken in after committing a crime around the local area near the camp have more food to eat as they can get food from their family members during visitation, and can also work outside the camp.

Table II-19 Testimonies on Poor Nutrition, Sanitation, and Health Care in Labor Training Camps

Testimonies	Testifier ID
In 2014, the testifier was detained in the labor training camp in Hoeryeong City, North Hamgyeong Province where more or less 50 women stayed in one room, having corn rice and salty soup as their meals.	NKHR2017000093 2017-10-23
In 2016 when the testifier was detained in the labor training camp of Gaechon <i>Kyohwaso</i> in Gaechon City, South Pyongan Province, he/she was provided corn and lettuce salty soybean soup as meals.	NKHR2018000049 2018-06-04
In August 2016, the testifier was detained in the labor training camp in Hoeryeong City, North Hamgyeong Province for a month. 50-60 people stayed in one room having 130 grams of corn rice and salty soup as meals. Some ran away because they were too hungry. The situation was better for those whose family members gave grounded corn kernels (food made with heated corn) or those who had brought food for themselves.	NKHR2017000086 2017-09-25
From November 2016 to May 2017, when the testifier was detained at a labor training camp in Hyesan, Yanggang Province, corn was provided as meals. If a family brought food to the camp, meals were better. Not much heating was provided, but as there were many people gathered in a small place, it was not too cold. When a military doctor gave a diagnosis, family members brought medicine.	NKHR2017000095 2017-10-23

77_NKHR2018000074 2018-07-30.

(C) Holding Centers

One North Korean defector who was detained in a holding center in Hyesan City, Yanggang Province in November 2014 testified that he/she was beaten for not being a good worker.⁷⁸

Another North Korean defector who was detained in a holding center in Sinuiju, North Pyeongan Province in July 2013, also said that most of the inmates in the holding center were beaten for being poor workers.⁷⁹

Table II-20 Testimonies on Violence and Mistreatment in Holding Centers

Testimonies	Testifier ID
In 2014 at a holding center in Hyesan, Yanggang Province, the testifier was kicked and punched. The testifier was also in a labor training camp in Hyesan and the mistreatment was more serious there.	NKHR2016000025 2016-03-08
From March to June 2014, the testifier was detained in a holding center in Chongjin, North Hamgyeong Province. The testifier was kicked in the rib and beaten on the back of the hand with a metal wire for guns. Sound of another prisoner getting beaten up with a wooden stick was heard from the room next door. The testifier was threatened, “do you also want to be beaten up like that?”	NKHR2017000093 2017-10-23
The testifier was detained in a holding center in Hyesan City, Yanggang Province for 15 days in May, 2014 and when his/her eyes met the eyes of the guard, he/she was beaten with stick or shovel or was kicked.	NKHR2018000077 2018-07-30

78_ NKHR2018000080 2018-07-30.

79_ NKHR2018000023 2018-04-09.

Testimonies	Testifier ID
In November 2014, a testifier was at the holding center in Hyesan, Yanggang Province, for 40 days and was forced to remain in a fixed posture, and when one of the prisoners did something wrong, all of those in the room got punished. One of the women who was in the same room could not walk well when she was discharged due to serious injuries to her head and legs caused by continuous beating.	NKHR2016000094 2016-06-14
In December 2014, when the testifier was repatriated from China to a holding center in Sinuiju, North Pyongan Province, there was a woman three months into pregnancy who was forced to abort a baby because the father was Chinese. The testifier was also detained in a holding center in Hyesan, Yanggang Province, in February 2015. He/she was forced to maintain a fixed posture for long time and was beaten, for example, by a club.	NKHR2016000051 2016-04-19
From February 28 to March 20, 2015, the testifier was detained in a holding center in Hyesan, Yanggang Province. The testifier was severely beaten by officers during a simple investigation.	NKHR2017000001 2017-04-10
The testifier was detained in the Ungsan holding center for 20 days in Rajin, North Hamgyeong Province in September 2015. He/she was beaten for not doing work properly or being disobedient.	NKHR2018000001 2018-03-12
The testifier was at a holding center in, Hyesan City, Yanggang Province for 30 days in December 2016 and an inmate there had forced abortion at 4 months of pregnancy. Right after the curettage(<i>Sopa susul</i>), she was mobilized to cut woods.	NKHR2017000128 2017-12-18

The nutrition, sanitation, and health care situations in holding centers were also found to be poor. A North Korean defector, who was in a holding center in the Nanam district of Chongjin City, North Hamgyeong Province from May to July 2015, testified that he/she worked for 12 hours a day but all he/she had as a meal was corn kernel rice, salty soup, and salty dried radish greens.⁸⁰ Another North Korean defector, who was in a holding center in Hyesan

80_NKHR2018000074 2018-07-30.

City, Yanggang Province for a month in April 2014, testified that corn kernels were provided as a meal and could not stop working even when he/she had fever.⁸¹

Table II-21 Testimonies on Poor Nutrition, Sanitation, and Health Care in Holding Centers

Testimonies	Testifier ID
From October 2014 to March 2015, the testifier was detained at a holding center in Hyesan, Yanggang Province. Corn kernels and cabbage soup were provided, and heating was provided only when detainees' family sent firewood.	NKHR2015000170 2015-12-01
From February 28 to March 20, 2015, the testifier was detained in the MSS holding center in Hyesan, Yanggang Province. Corn kernels and cabbage soup were provided as meal, and family visit with food (food at visit) was allowed.	NKHR2017000001 2017-04-10
A testifier received noodles for a meal when he/she was detained in the Ungsan holding center, Najin, North Hamgyeong Province in September, 2015 but had to eat it with his/her hands, not chopsticks. He/she picked tree branches to use as chopsticks on his/her way to work.	NKHR2018000001 2018-03-12
From December 2016 to March 2017, the testifier was detained in the Songpyeong <i>Jipkyulsa</i> , Chongjin, North Hamgyeong Province. 200g of corn rice, soup made with dried radish greens, and kimchi were provided as a meal. Sometimes, pureed soybean was served. When the testifier was mobilized to gather firewood, he/she was injured because the feet bumped into a tree, but no treatment was provided.	NKHR2017000099 2017-10-23

(D) Detention Centers

The 2018 survey also saw many testimonies on violence and severe treatment in the detention centers. A North Korean woman in her 40s who was detained in the Onsong County Security

81_NKHR2018000010 2018-03-12.

Department detention center in North Hamgyeong Province testified that she had to routinely maintain a fixed posture from dawn to night.⁸² If she made even the slightest movement, she was forced to stand staring at the wall for three hours. Another North Korean defector who was arrested for attempting to defect was detained in the Hyesan City Security Department detention center in Yanggang Province from 12 July to 1 August, 2017, testified that when he/she was interrogated, detainees who broke the rules, by not maintaining a fixed posture for example would be hit by a ruler.⁸³ According to her, a woman who was with her in the same room was kicked by the soles of the shoes and her head was swollen and bruised from head to eyes. Another North Korean defector who was detained in the detention center in Hyesan City, Yanggang Province said that maintaining a fixed posture was so hard that he/she would rather be beaten instead.⁸⁴

82_NKHR2018000074 2018-07-30.

83_NKHR2018000089 2018-08-27.

84_NKHR2018000058 2018-07-02.

Table II-22 Testimonies on Violence and Mistreatment at Detention Centers

Testimonies	Testifier ID
In April 2014, the testifier was beaten severely to the extent where his/her teeth were broken at the MSS detention center in Hyesan, Yanggang Province.	NKHR2016000103 2016-06-28
In December 2014, the testifier was forced to be in a fixed posture at the detention center in the Samjiyeon County Security Department, Yanggang Province and was frequently beaten up in arms, legs, and back with a wooden bar.	NKHR2018000116 2018-10-22
From March to June of 2015, the testifier was detained and investigated in an MSS detention center in Hyesan, Yanggang Province, and was forced to maintain fixed posture. If the testifier moved just a little, he/she was punished with 5,000 "pumps." Many weak people passed out during such physical punishment. Moreover, beating was frequent, and it was so severe that pus came out of the ear.	NKHR2016000051 2016-04-19
In December 2015, the testifier was forced to remain in a fixed posture at an MSS detention center in Hyesan, Yanggang Province. Guards installed cameras for surveillance and when the testifier moved even very slightly, the guards had the testifier hold out his/her head or hands and frequently beat him or her with oak clubs. The testifier sometimes fainted when beaten severely.	NKHR2016000078 2016-05-31
In 2016, the testifier was forced to maintain fixed posture in an MSS detention center in Hyesan, Yanggang Province. There was a monitoring camera that ran 24 hours, and if the testifier moved just a little, correctional officers imposed physical punishment such as handstand. Sometimes they hit the palm 100 to 200 times with a stick. Due to such hardship in the detention center, the testifier lost 10kg of body weight, and suffered for 6 months.	NKHR2017000001 2017-04-10
In June 2016, the testifier underwent a uterus examination at the detention camp in Manpo City Security Department, Jaggang Province, which was painful and humiliating.	NKHR2017000045 2017-07-03
In October 2016, the testifier was forced to stay in a fixed posture all day at the detention center in Hyesan, Yanggang Province. They monitored the testifier by setting up cameras and beat him/her when there was a slight change in posture.	NKHR2018000109 2018-10-06
In December 2016, the testifier was forced to stay in a fixed posture all day at the detention center in Hoeryeong, North Hamgyeong Province. They beat the testifier if there was a slight change in posture and had him/her do 1000 squats.	NKHR2017000054 2017-07-31

Testimonies on the poor state of nutrition, sanitation, and health care in detention centers have been continuously collected. The aforementioned woman in her 40s who was detained in the Onsong County Security Department, North Hamgyeong Province in February 2015 said that rice porridge, kimchi, and bean sprouts were provided as meals but as spoons were not included they had to make a spoon with plastic by themselves.⁸⁵ According to the testifier, there was no heating even in the wintertime, and the cold was as severe as to freeze people's feet. There was no leniency on patients either. Another testifier detained in a detention center Hyesan City MPS in Yanggang Province in May 2017 testified that a meal only included 50 corns that smelled like fungus.⁸⁶

Table II-23 Testimonies on Poor Nutrition, Sanitation, and Health Care at Detention Centers

Testimonies	Testifier ID
In 2014, the testifier was given half a bowl of corn rice at the detention center in Manpo, Jagang Province, however, it had husk and stone mixed with it.	NKHR2017000025 2017-05-08
From January 9 to 21, 2014, the testifier was at the MSS detention center in Hyesan, Yanggang Province and from January 21 to March 8, 2014, at the MSS detention center in Kimjongsuk County, Yanggang Province. The meals at the detention center in Hyesan were very poor as only 120 kernels of corn were provided. The meals at the detention center in Kimjongsuk County were relatively better.	NKHR2014000203 2014-12-02
In June 2014, the testifier was provided with boiled corn kernel and salted cabbage as a meal in the detention center of the Hyesan City MSS in Yanggang Province.	NKHR2018000116 2018-10-22

85_NKHR2018000074 2018-07-30.

86_NKHR2018000091 2018-08-27.

Testimonies	Testifier ID
From March to June 2015, the testifier was subjected to investigation under detention at an MSS detention center in Hyesan, Yanggang Province, and boiled whole corns kernels, salted soup and cabbage were provided as meals.	NKHR2016000051 2016-04-19
From May 8 to October 30, 2015, the testifier was held in a detention center in Samjiyeon County, Yanggang Province, was given about 100g of slightly salted corn. People got sick because the detention center provided corn without washing it, even though corn had sprouts and was eaten by insects. A meal on Sunday could be substituted with the powder meal delivered by family members, however, one had to bribe the officer with a pack of cigarette in order to be allowed to get the food from family.	NKHR2017000005 2017-04-10
In December 2015, the testifier was held in an MSS detention center in Hyesan, Yanggang Province and was provided with rotten corn with fungus and cabbage soup as a meal. It was very cold during winter because heating was not provided, and it was uncomfortable sleeping as 10 to 15 people slept together in a small room.	NKHR2016000078 2016-05-31
In 2016, the testifier was held in an MSS detention center in Hyesan, Yanggang Province, and was provided with corn and cabbage soup as a meal. People had difficult time because the food was not sufficient.	NKHR2017000125 2017-11-20
In June, 2016, the testifier was held in an MSS detention center in Hyesan, Yanggang Province, and was provided with just a handful of boiled corn and watery soup. There was a toilet inside the detention center, but no water supply. Everyday, people had to carry water in a 30 liter bucket, and used the water to flush the toilet and to wash dishes. They consistently suffered from lack of water, and if they used too much water, they were criticized and punished.	NKHR2017000108 2017-11-20
The testifier was detained in the detention center of the Hoeryeong City MSS in North Hamgyeong Province from November to December 2016 and was given corn rice that had a fungus smell and salty water or soybean water.	NKHR2017000054 2017-07-31
In October 2017, the testifier was detained in the detention center of the Gyeongwon County Security Department in North Hamgyeong Province and was given corn rice, salty pepper, and cucumber as a meal.	NKHR2018000098 2018-10-01

B. Issues Related to Treatment of Unconvicted Prisoners

Article 10, paragraph 2 (a) of the ICCPR stipulates that defendants shall, save in exceptional circumstances, be segregated from convicted prisoners and shall be subject to separate treatment appropriate to their status as unconvicted prisoners. This aims to stress the status of unconvicted prisoners who have the right to be presumed innocent as stipulated in Article 14, paragraph 2 of the ICCPR.⁸⁷

The North Korean Constitution and Criminal Procedure Law do not specify that criminal defendants shall be presumed innocent until proven guilty. Neither include provisions on separate confinement of unconvicted prisoners and convicted prisoners, and treatment of unconvicted prisoners.⁸⁸ As discussed above, the basic separation of unconvicted and convicted prisoners seems to be in place; the facilities for those sentenced to correctional labor punishment, labor training punishment, or labor training discipline are different from the facilities for criminal suspects or defendants. A more detailed survey seems to be required to better identify whether

87_UN Human Rights Committee, General Comment, No. 21 (1992), para. 9.

88_In South Korea, for example, the Administration and Treatment of Correctional Institution Inmates Act stipulates separate confinement of unconvicted prisoners and convicted prisoners and exceptions, and includes detailed provisions on the principles of treating unconvicted prisoners, the prohibition against visits, the wearing of plain clothes, haircuts, interviews with defence counsel, the receiving of correspondence, special rules in investigation, work, edification, etc.

unconvicted detainees are receiving appropriate treatment distinguished from those of convicted prisoners. However, it appears unlikely, given that some holding centers force prisoners into labor (see Part II, Chapter 3 “Right Not to Be Forced into Labor”) and that access to a defense counsel is not effectively guaranteed (see Part II, Chapter 7, “Right to a Fair Trial”), etc.

C. Issues Related to Treatment of Convicted Prisoners

According to Article 10, paragraph 3 of the ICCPR, correctional systems should include activities for the correction and rehabilitation of prisoners. Therefore, convicted prisoners should be provided with correction/rehabilitation programs, work activities, vocational training, etc., in order to promote their ability to re-adapt to life in general society.

First of all, it appears that there are no separate provisions on the treatment of convicted prisoners in the North Korean laws.⁸⁹ Provisions related to punishment in the North Korean Criminal Law seem to be pursuing the education of convicted prisoners through labor in prison camps, etc. However, the inhumane labor environment and imposition of excessive labor, as has been

89_ In South Korea, for example, the Administration and Treatment of Correctional Institution Inmates Act has specific provisions on the principles of treating convicted prisoners, classification review, education and edification programs, work and vocational training, temporary release, etc.

testified by many North Korean defectors, do not seem to be promoting the correction and rehabilitation of convicted prisoners. In the 2018 survey, testimonies on the inhumane working environment and excessive labor in prison camps were once again collected. A North Korean defector who was detained in Gaecheon *Kyohwaso* from September 2014 to June 2015 said that she worked in the eyelash unit and knitting unit for five months respectively. When failing to finish the assigned work, the team leader was punished so the team leader would keep the inmates from going to bed so that they would finish the work.⁹⁰ Another North Korean defector who was detained in the Gaecheon *Kyohwaso* in June 2015 said that he/she had to work from 8am to 5pm without a break except for a 30 minute lunch break. The defector testified that the tasks were very labor intensive.⁹¹

Table II-24 Labor Situation in Prison Camps

Testimonies	Testifier ID
In September 2014, the testifier was held in Gaecheon <i>Kyohwaso</i> and was forced to carry 2,000 anthracite coal briquettes a day, tie up cabbages, and make ropes. All the male prisoners were forced to work for the construction unit. There were some who bribed officers in order to avoid working by being sent to infirmity unit.	NKHR2017000058 2017-07-31
From August 2014 to July 2015, prisoners in Gaecheon <i>Kyohwaso</i> were forced to work 14 hours a day because too much work was assigned. If people could not finish their job, they were beaten severely and were not allowed to sleep.	NKHR2016000114 2016-07-12

90_NKHR2018000081 2018-07-30.

91_NKHR2018000034 2018-05-07.

Testimonies	Testifier ID
The testifier was detained in the Gaecheon <i>Kyohwaso</i> from May to August in 2015 and worked for seven hours a day in the vegetation unit.	NKHR2018000080 2018-07-30
The testifier was in Jeongeori <i>Kyohwaso</i> from 2015 to August, 2016 and worked to drag 3 meters long tree when he/she was very weak. It took two hours to climb up the mountain, and six hours to come down. He/she was beaten up when failing to meet the daily labor goal and some died immediately after being crushed by a tree while dragging it to the ground.	NKHR2017000047 2017-07-03
In 2016, the testifier was held in Gaecheon <i>Kyohwaso</i> and was mobilized for various works including mining coal, farming, carrying stones, painting limestone, putting up steel bar, etc.	NKHR2017000122 2017-11-20

D. Issues Related to Treatment of Unconvicted and Convicted Juvenile Prisoners

Article 10, paragraph 2 (b) of the ICCPR stipulates that accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. Moreover, the latter part of Article 10, paragraph 3 of the ICCPR states that juvenile offenders shall be segregated from adults and treated appropriately to their age and legal status. While Article 10 does not specify the age of juveniles, the UN Human Rights Committee has stated that all persons under the age of 18 should be treated as juveniles at least in matters relating to criminal justice, as stipulated in Article 6, paragraph 5 of the ICCPR in General Comments.⁹²

In the current North Korean laws, provisions for unconvicted/

⁹²_UN Human Rights Committee, General Comment, No. 21 (1992), para. 13.

convicted juvenile prisoners are hard to find. As was the case in the 2017 survey, the 2018 survey had testimonies where one witnessed children being mobilized for labor in the holding centers.⁹³ It appears there is a need for a more detailed survey on juvenile convicted and unconvicted prisoners.

E. Evaluation

Violation on human rights is ongoing in various detention facilities in North Korea. Violence and harsh treatment have long become a routine in all kinds of detention facilities such as prison camps, labor training camps, holding centers, and detention centers. In particular, the level of violence and harsh treatment imposed in the MSS holding centers and detention centers located in border areas is extremely serious. Many violence and harsh treatment cases were collected in the 2018 survey. However, there were testimonies that in the case of labor training camps and prison camps which imprison those whose punishments have been decided, the level of violence and harsh treatment has markedly decreased compared to the past. Therefore, there is a need to consistently observe whether the human rights situation in North Korea's detention facilities is undergoing changes. Meanwhile, nutrition, sanitation, and health care situations in detention centers

93_NKHR2017000130 2017-12-18; NKHR2018000010 2018-03-12.

are still very poor. These constitute a violation of Article 10, paragraph 1 of the ICCPR, which stipulates humane treatment of people deprived of their freedom. Violence and mistreatment at detention facilities may also constitute violations of Article 7 of the ICCPR (which prohibits torture and inhumane treatment), and deaths at detention facilities may constitute violation of Article 6 of the ICCPR (which stipulates protection of the right to life). The treatment of unconvicted prisoners seems to be poorly protected except for the fact that unconvicted and convicted prisoners are confined separately. The treatment of convicted prisoners do not seem to be in accordance with the purpose of the correctional system, including imposing excessive labor.

6

Right to Freedom of Movement and Residence

The right to freedom of movement and residence is one of the fundamental rights of people. Exercising one’s freedom of movement, including choosing where to live and move, can further ensure other aspects of human rights. In this context, major international human rights standards also underline the legitimacy of protecting freedom of movement. Article 13 of the UDHR stipulates that “everyone has the right to freedom of movement and residence within the borders of each state,” while Article 12 of the ICCPR states the right to freedom of residence and movement, as detailed in the following table.

Table II-25 Article 12 of the ICCPR

Paragraph 1	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.
Paragraph 2	Everyone shall be free to leave any country, including his own.
Paragraph 3	The above-mentioned rights shall not be subject to any restrictions, except those which are provided by law, that are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
Paragraph 4	No one shall be arbitrarily deprived of the right to enter his own country.

This chapter will examine the situation in North Korea by major issues related to the right to freedom of movement and residence.

A. Using Travel Permits to Control People and Restrict Movement

Article 12, paragraph 1 of the ICCPR stipulates the following: “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.” “Everyone” includes not only nationals but also foreigners who are temporarily staying in a country. With regard to the freedom of movement and residence, North Korea amended its Constitution in September 1998, adding that “citizens shall have the right to freedom of residence and travel (Article 75).” However, regardless of such changes in the legal system, the North Korean authorities have continued to limit people’s movement.

Article 30 of the People’s Security Enforcement Law, which is

the representative law that regulates the daily lives of the North Korean people, stipulates that “the People’s Security Agency shall exercise control over violations of travel regulations and disorderly wandering on the streets.” According to Article 194 of the Administrative Penalty Law, people who violate travel regulations or unlawfully enter controlled districts are subject to punishment by the authorities, including warnings, fines, unpaid labor, etc. Under-aged persons without a People’s Registration Card cannot receive travel permits for themselves, and must be accompanied by an adult who has a permit. Those traveling for public business can obtain a business travel permit and travel within North Korea. Soldiers and government/enterprise workers can travel for business trips or be dispatched across North Korea if they have a business travel permit issued by the organization they are affiliated with. Patients who have a doctor’s certificate can obtain a permit to travel to the provincial capital for treatment or to a place where immediate family members can take care of them.

When people are moving within a province, travel permits are issued by the MPS city/county branch. However, for moving outside a province, permits are issued by Section 2 Office of the People’s Committee.⁹⁴ While legal issuance of travel permits is free and takes around five to seven days, many North Koreans pay

94_ NKHR2017000069 2017-08-28; NKHR2017000092 2017-09-25; NKHR2018000041 2018-06-04; NKHR2018000058 2018-07-02; NKHR2018000096 2018-08-27; NKHR2018000110 2018-10-06; NKHR2018000114 2018-10-13.

cigarettes or 10,000~20,000 North Korean won per permit as a bribe to obtain them immediately.⁹⁵ Moreover, surveys indicate that the color of the lines on the permit differs by region, and the authorities change these colors frequently to prevent counterfeit permits. According to testimonies, it is relatively easier to obtain travel permits except for special districts, including Pyongyang, the border regions, etc.⁹⁶ Travelers who obtain a travel permit must report to the people's unit (*inminban*) chief of the region after arriving at the travel destination and register on the travel roster, and then obtain a travel pass stamped by the MPS. If a traveler is caught without a permit, the people's unit chief is required to report it to the local MPS officer.

Meanwhile, because authorities impose strict control over the freedom of movement, North Korean residents resort to other means, such as bribery, to exercise their rights. An increasing number of people simply carry their People's Registration Card without a travel permit, when they are traveling within a province. If they are caught, they are able to get away by paying a bribe.⁹⁷ People's

95_ NKHR2017000127 2017-12-18; NKHR2018000050 2018-07-02; NKHR2018000096 2018-08-27 and other testimonies.

96_ NKHR2016000001 2016-01-12; NKHR2016000029 2016-03-08. Of course, "easy" is a relative term. Some testifiers believe that the issuance of the travel permit to be very complicated and demanding as it takes quite a long time to obtain it legally. Therefore, this testimony may be given in relative comparison with the use of bribery.

97_ NKHR2016000017 2016-01-26; NKHR2016000033 2016-03-22; NKHR2016000049 2016-04-19; NKHR2016000137 2016-08-23; NKHR2016000098 2016-06-14; NKHR2017000052 2017-07-03; NKHR2018000004 2018-03-12; NKHR2018000064 2018-07-11; NKHR2018000092 2018-08-27.

mobility appears to have improved as social corruption based on bribery became widespread. However, senior officials of the Korean Workers' Party (hereinafter KWP), unlike the general public, can travel preferentially if they possess party-stamped credentials.⁹⁸ Moreover, given that North Korean authorities only turn a blind eye to those who have the financial capacity to offer bribes demonstrates that freedom is still granted on a discriminatory basis. Bribery will be examined further in Part V, Chapter 2, "Corruption."

Table II-26 Testimonies Related to Travel Permits

Testimonies	Testifier ID
Travel permits for border areas had two blue lines and an MSS code number.	NKHR2014000056 2014-05-20
Those living in border areas could move with a People's Registration Card without travel permits, except when traveling to Najin. When people residing in other provinces, including Chongjin, wished to enter border areas, including Hoeryeong, a travel permit was required.	NKHR2015000101 2015-05-19
The level of bribe for issuing a travel permit varies depending on destination. 20~50 yuan for general region, and 100 yuan for special areas requiring an approval number.	NKHR2018000110 2018-10-06
In 2015, travel permits were issued in Kimjongsuk County, Yanggang Province. Although travel permits for the border areas of Pyongyang/Rason were restricted, one could obtain a permit immediately by giving 1~5 packs of cigarettes to MPS city/county branch No. 2. It was usually possible to secure 15~30 days of travel by giving them 2 packs of cigarettes. It was also possible to extend the travel time through bribes.	NKHR2015000142 2015-10-06
In 2015, the testifier travelled from Hyesan, Yanggang Province, to South Hamgyeong Province, without a travel permit. As the testifier knew the train crew, the testifier moved without a ticket and certificate documents but was eventually caught and paid a fine of 10,000 won (North Korean currency).	NKHR2016000081 2016-05-30

98_NKHR2016000013 2016-01-26.

Testimonies	Testifier ID
In 2015, the testifier obtained a travel permit by bribing to go to border region so that she can receive money sent by her older sister in South Korea.	NKHR2017000063 2017-07-31
The testifier's uncle died in 2015 and the testifier was issued a travel permit by paying 20 yuan. It took 1~2 days to get the permit.	NKHR2018000098 2018-08-27
The testifier was issued a travel permit on two occasions to go to a hospital in Pyongyang in 2015 and paid cigarette and 8 yuan to show gratitude.	NKHR2018000016 2018-04-09
In January 2015, the testifier obtained a travel permit by bribing an officer with a pack of cigarettes, in order to go to Chongjin from Onsung, North Hamgyeong Province.	NKHR2017000092 2017-09-25
In March 2015, the testifier obtained a travel permit to Chongjin, North Hamgyeong Province, after stating the purpose as visiting his/her brother in Hyesan, Yanggang Province. The testifier applied for it at the MPS city/county No. 2, and there was no commission fee as it was obtained through legal procedures, and it took a month.	NKHR2016000171 2016-11-01
In October 2015, the testifier obtained certification documents (unit, business travel order, verification letters) through his/her company to visit relatives in Onsung, North Hamgyeong Province, from Chongjin, North Hamgyeong Province.	NKHR2016000155 2016-09-20
The testifier obtained a travel permit to attend a wedding of his/her acquaintance living in Pyongyang in April, 2017. He/she gave 100 yuan to the person in charge of People's Committee and received a permit in two days. There was a red line drawn diagonally while a permit on other provinces had a blue line.	NKHR2018000058 2018-07-02
In June 2017, the testifier obtained a travel permit by bribing an officer with a pack of cigarettes to go to relative's house in Gimchaek, North Hamgyeong Province from Hyesan Yanggang Province. After arrival, the testifier registered the location of the stay with people's unit chief.	NKHR2017000126 2017-12-18

B. Restriction of Access to Certain Areas and Forced Deportation

Regarding the right to freedom of movement and residence, Article 12, paragraph 3 of the ICCPR stipulates that “The above-

mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.” The UN Human Rights Committee stated in General Comments that domestic law has to clearly indicate the conditions under which the right to freedom of movement and residence may be limited, and that these conditions would not be met, for example, if an individual were prevented from leaving a country merely on the grounds that he/she is the holder of state secrets, or from traveling within the country because he/she does not have a specific permit.⁹⁹ In effect, Article 12, paragraph 3 of the ICCPR indicates that the right to freedom of movement and residence can be restricted only when there are legitimate and reasonable reasons in terms of national policies.

In North Korea, however, the problem is that such provisions are interpreted arbitrarily by the authorities. North Korea has designated certain areas as approval number areas, including the capital Pyongyang, border areas, war-front zones (areas surrounding the Military Demarcation Line) and free trade zones, including Najin and Sonbong, and prohibits access by the general public. In order to travel to this region, one needs to be in possession of a travel permit issued by the County of one’s residence. This travel permit needs to be marked with the approval number of the

99_UN Human Rights Committee, General Comment, No. 27 (1999). paras. 12, 16.

relevant province's Section 2 office of the provincial People's Committee (in North Hamyeong Province, Jagang Province, Yanggang Province, North Pyongan Province, Pyongyang, etc.). The travel permit for approval number areas is clearly differentiated with other certificates since it has many lines with different colors and the MSS password.¹⁰⁰

Issuing a Pyongyang travel permit is more difficult, requiring a higher amount of bribes and it is said that without paying bribes, one cannot even have the permit issued.¹⁰¹ It is not issued at all when there is a big event scheduled in Pyongyang or when it is politically unstable. One exception is if the purpose of the visit is to receive a medical treatment.¹⁰² In the case of Pyongyang, it is impossible to travel only with one's national identification card and bribing MPS officers; one must carry his/her travel permit.¹⁰³ The control is stricter in border areas than in Pyongyang,¹⁰⁴ and it is said that having a travel permit issued is more difficult when moving from inland to border areas than moving from border areas to the inland.¹⁰⁵

Such broad restrictions on public access to many special

100_Dong-ho Han *et al.*, *Freedom of Movement in North Korea* (Seoul: KINU, 2017), pp. 22~25.

101_NKHR2018000058 2018-07-02; NKHR2018000110 2018-10-06.

102_NKHR2018000016 2018-04-09.

103_NKHR2018000092 2018-08-27.

104_NKHR2018000041 2018-06-04.

105_NKHR2014000127 2014-08-26; NKHR2018000003 2018-03-12.

districts violate the right to freedom of movement and residence stipulated in Article 12, paragraph 1 of the ICCPR. Although North Korean authorities argue that access to certain districts are controlled for national security reasons, this is an unreasonable claim. For example, there is no other country that controls and regulates its own citizens' visits to the capital city.

If the restriction of access to certain areas through a strict travel permit issuing process constitutes a passive infringement of the right to freedom of movement and residence, forced deportation conducted by the North Korean authorities is a form of active infringement. The UN Human Rights Committee interprets in its General Comments that the right to freedom of residence includes protection from “all forms of forced internal displacement” and “precludes preventing the entry or stay of persons in a defined part of the territory.”¹⁰⁶ The forced deportation by the North Korean authorities constitutes a representative example of forced displacement by the State.

North Korean authorities have been using forced deportation as a policy to control political reactionaries, anti-government individuals, and their families. In particular, people with disreputable backgrounds (*songbun*) have been expelled from Pyongyang to remote provinces. To begin, the Kim Jong Un regime has reduced Pyongyang's population and expanded benefits such as food

106_ UN Human Rights Committee, General Comment, No. 27 (1999), para. 7.

rations to its residents. It has been claimed that ex-convicts and the unemployed have been forcibly deported from the capital in order to strengthen control by effectively expelling people with disreputable backgrounds.¹⁰⁷ Moreover, forced deportation for similar reasons were also witnessed in Samjiyeon County, Yanggang Province. Samjiyeon County is the birthplace of Kim Jong Un and is also referred to as the ‘Holy Land of Revolution’ and the ‘Second Pyongyang.’ As such, former prisoners (ex-convicts) are deported on principle. One testimony claims that because Samjiyeon County is in the border region, many of the residents already have experience crossing the border. Therefore, those residents are deported in order to prevent future border crossing attempts.¹⁰⁸

Since Kim Jong Un came to power, there have been reports that residents of border areas have been forcibly deported in the process of tightening control over defection. Among the border regions, it is relatively easier to cross the river in Samjiyeon County, Yanggang Province, due to the thick woods growing behind the houses compared to Hyesan or Bocheon County. However, in 2015, around 200 households in Samjiyeon County’s border areas were forced to move, and in order to ensure effective control over defectors, the existing houses were demolished.¹⁰⁹ While this

107_Dong-ho Han *et al.*, *Freedom of Movement in North Korea* (Seoul: KINU, 2017), p. 36.

108_NKHR2017000122 2017-11-20.

109_NKHR2016000025 2016-03-08.

forced movement policy was used as political retaliation, it was a traditional form of forced deportation. In other words, forced movement to control border regions can be seen as a new form of forced deportation.

On the other hand, some testimonies stated that there were less cases of forced deportation among those who were caught defecting North Korea or forcibly repatriated from China.¹¹⁰ This does not necessarily mean punishment for defection has weakened, but rather it means there is a difficulty in deporting all the defectors and their families. A North Korean defector from Hoeryeong, North Hamgyeong Province, testified to having witnessed a whole family in the neighborhood being deported because one of its members had defected from North Korea. However, the family was returned in less than a month, because there were already too many people in the place where they were deported to.¹¹¹ In particular, Yanggang Province is near the border and, thus has many North Korean defectors. This means non-border regions within the province need to be designated as the destination for deportation. Therefore, a limited area ends up having to house too many of those who have been banished from their homes.¹¹²

110_NKHR2017000011 2017-04-10; NKHR2017000060 2017-07-31; NKHR2018000040 2018-05-08.

111_NKHR2015000035 2015-02-10.

112_Dong-ho Han *et al.*, *Freedom of Movement in North Korea* (Seoul: KINU, 2017), p. 40.

Table II-27 Cases Related to Forced Deportation

Testimonies	Testifier ID
It has been found that 30 percent of the residents in Sinmyong-ri, Poongseo County, Yanggang Province, are families of those who have been detained due to misspeaking. Many others are those deported from Pyongyang and Hyesan.	NKHR2014000055 2014-05-20
In Gyowon-ri, Chongam District, Chongjin, North Hamgyeong Province, more than 40 percent of the residents are deported families.	NKHR2014000078 2014-07-01
From late 2013 to early 2014, around seven households related to Jang Sung-taek were deported and assigned to the Kowon mine.	NKHR2015000051 2015-03-10
In 2014, a neighbor in Pyongyang was forcibly deported to Yonsa County, North Hamgyeong Province, due to reasons related to Jang Sung-taek.	NKHR2016000188 2016-12-27
In April 2014, the nephew of Jang Sung-taek and his family were deported from Seoheung-dong, Chongjin, North Hamgyeong Province, to Hwadae County, North Hamgyeong Province.	NKHR2014000077 2014-07-01
In spring 2015, around ten households were deported as they were caught smuggling items from China in Rimyongsugu, Samjiyeon County, Yanggang Province. They were mostly deported to the Poongseo and Baekam regions.	NKHR2017000033 2017-06-05
In September 2015, the testifier was deported from Bocheon County, Yanggang Province, to Sinchangri, Poongseo County, Yanggang Province, due to the crime committed by his wife. The enforcement agency was the MPS county branch of MPS, and MPS officers came suddenly in the early morning and packed up all the furniture and moved them.	NKHR2017000097 2017-10-23
A Communist Party personnel, who was ordered to be deported in 2015 for divorcing his wife, defected North Korea.	NKHR2016000063 2016-05-03
A testifier witnessed two members from Unhasu Orchestra who were deported to Kwibong-ri, Pungso County, Yanggang Province, from Pyongyang, in 2015.	NKHR2016000194 2016-12-27
In October 2016, a senior official of Yanggang Province was deported to Unhung County, Yanggang Province, for commenting that the performance by an artist group, whom Kim Jong Un complimented, was not good.	NKHR2017000126 2017-12-18

C. Restrictions on Entry to Border Areas and Prohibition against the Freedom to Leave

Article 12, paragraph 2 of the ICCPR stipulates “everyone shall be free to leave any country, including his own.” Here, “his own” (country) can be interpreted broadly than just one’s own country, and “free to leave” means that procedural legitimacy and freedom to leave the country should be guaranteed. The UN Human Rights Committee interprets Article 12, paragraph 2 of the ICCPR that a country has a duty to properly provide required documents for its citizens to leave the country, including a passport.¹¹³

However, North Korean authorities strictly control the issuance of documents required to leave the country to limit the freedom to movement. According to the Immigration Law, North Korean residents can get their passport and other required documents for public or private business (Article 11). There are three types of passports: diplomatic passport, government official passport, and traveler passport. Diplomats are issued diplomatic passports, government officials working at party organizations or espionage are issued government official passports, and residents traveling abroad, for example, to visit relatives are issued traveler passports. Traveler passports are limited to those who are visiting their relatives in China. Their personal documentation should provide

113_UN Human Rights Committee, General Comment, No. 27 (1999), para. 9.

basic information, such as the name and address of the relatives in China. North Koreans at the age of 70 and below can visit their relatives once every three years.¹¹⁴ There were testimonies that there is an internal regulation within the foreign affairs section of the MSS limiting the minimum age for passport issuance to 50.¹¹⁵ However, it appears that this regulation is ill-enforced because there are numerous cases where officials are bribed to bypass such rule.¹¹⁶ To be issued a passport, an invitation from China is required, and this invitation needs to be validated by a manager of a company/organization, MPS officer, MSS agent, etc. This is followed by final validation by an MSS foreign affairs officer and final approval by the vice leader of the MSS, which requires a statement from the applicant promising not to damage the reputation of the DPRK and to come back within the authorized period. In reality, however, passports are only issued to people of special ranks, including diplomats, public officials, people working overseas, and students studying overseas, while the general public would rarely get a chance to come across an actual passport. In fact, the interviewed North Korean defectors who had been issued a passport were those who were assigned to government work, and it was very rare that they got their passport for traveling or private

114_ NKHR2014000023 2014-04-01.

115_ NKHR2014000044 2014-04-29; NKHR2014000080 2014-07-01; NKHR2015000043 2015-02-24.

116_ The testifier was 35 years old by the time he/she obtained the passport and had to bribe the MSS officer to get the passport. NKHR2015000070 2015-04-07.

business.¹¹⁷

Other than a passport, there is a document called “border area immigration document.” The residents living in the border regions can receive this document when they are going abroad (China) for a short duration to visit their relatives or to carry out small-scale trading. According to Article 13 of the Immigration Law, North Korean residents can be issued a border area immigration document for public affairs or private matters. If the purpose of travel is to visit relatives in China, an invitation is required as is the case with traveler passports. For border trade, river-crossing pass (*dogangjeung*) are issued and this does not require an invitation from China. These river-crossing pass are known as a short-term pass that allows crossing of borderline for 24 to 48 hours. One thing that makes the border area immigration document different from a passport is that it is issued at both city and province level MSS, and not the central MSS. In this respect, it appears that this document is easier to obtain than passports.

Those who cross the border illegally without legitimate documents will be imposed a fine and will be forbidden to leave the country (Article 55 of the Immigration Law), and punished according to the Criminal Law. Article 221 of the North Korean Criminal Law (Charges of Illegal Border-Crossing) states that those who commit

117_NKHR2015000001 2015-01-13; NKHR2015000070 2015-04-07; NKHR2015000158 2015-11-17.

the crime of illegal border-crossing are subject to “labor training punishment up to a year.” If the crime is serious, they will be subject to “correctional labor punishment of five years or less.” Despite the prohibition and punishment, defection continues because there is no legal method to cross the border. Ultimately, North Koreans must resort to bribery to receive the necessary documents needed to cross borders. This ultimately leads to an increase of crossing-border price, resulting in a situation where North Koreans who went to China end up stay longer in order to earn more money to make up for the payment. Because of this, many of them are left in China as illegal aliens. North Korea has failed to carry out the obligations of a state to provide necessary documents for its residents to enter and exit the country. Such form of border control can be considered a grave violation of the freedom of movement.

D. Evaluation

The 2018 survey assesses that the right to freedom of movement and residence of the North Korean people is seriously infringed upon by the policies of the North Korean authorities. A case in point is the restrictions on the right to freedom of movement through maintenance of the travel permit system and crackdowns by zone. Forced deportation and restrictions of access by groups of people designated by the State continue to occur. Even though

it seems there has been a recent trend where somewhat fewer defectors and their families are being forcibly deported as a punishment for their defection, this does not mean human rights situations are improving, rather it points to the insufficient capacity of North Korean authorities to accommodate deported residents. In fact, a decrease in forced deportation has led to an increase in border control. In this respect, the freedom to movement for North Korean people still appears to be seriously infringed upon. The international community should make efforts to improve freedom of movement and residence in North Korea not only because it is a basic human right, but also because it would provide opportunities for North Koreans to change their way of thinking through contact with the outside world.

7

Right to a Fair Trial

Article 10 of the UDHR stipulates that “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them.” Article 14 of the ICCPR also stipulates that State Parties shall guarantee the right to a fair trial through each state’s judicial system. The right to a fair trial is a key element in protecting human rights and plays a role as a procedural tool to advocate the rule of law.¹¹⁸ Article 14, paragraph 1 guarantees the right to equality in trials, the right to a fair trial in all kinds of lawsuits, and the right to public trials. Articles 14, paragraphs 2 to 7 stipulates the minimum rights that should be granted to suspects and defendants in the procedure of criminal trials.

118_ UN Human Rights Committee, General Comment, No. 32 (2007), para. 2.

Table II -28

Article 14 of the ICCPR

Paragraph 1	All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. (The rest is omitted)
Paragraph 2	Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
Paragraph 3	In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: <ol style="list-style-type: none"> 1. To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; 2. To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; 3. To be tried without undue delay; 4. To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing (The rest is omitted); 5. To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; 6. To have the free assistance of an interpreter if he cannot understand or speak the language used in court; 7. Not to be compelled to testify against himself or to confess guilt
Paragraph 4	In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
Paragraph 5	Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
Paragraph 6	When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law. (The rest is omitted)
Paragraph 7	No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

This chapter will examine the major issues related to the right to a fair trial in North Korea.

A. Lack of Judicial Independence

Article 14, paragraph 1 of the ICCPR stipulates that all persons have the right to be tried at an “independent and impartial tribunal.” North Korea establishes its courts based on its Constitution and the Law on Constitution of Courts. The judicial system in North Korea consists of the Central Court, Provincial (direct-controlled municipality) Court, city (district) and county people’s courts, and Special Courts (Article 159 of the Constitution). Special criminal courts consist of military courts, railroad courts and military logistics courts (Article 3 of the Law on Constitution of Court, Article 52 of the Criminal Procedure Law). North Korea has a three-level court and double-trial system. Under North Korean regulations, judges are elected. In other words, the head of the Central Court is elected by the Supreme People’s Assembly (hereinafter SPA) (Article 91, sub paragraph 12 of the Constitution); Central Court judges by the Presidium of the SPA; and provincial (directly under central authority) court judges and people’s court judges by the People’s Assembly concerned (Article 4 of the Law on Constitution of Court). Moreover, the Central Court is also held accountable to the SPA, and the Presidium of the SPA when the SPA is in recess (Article 168 of the Constitution). However, according to the principle of Party supremacy and centralism, the KWP exercises de facto control over all institutions and organizations including the SPA, which is, nominally the highest sovereign

organization in North Korea. Thus, judicial agencies have a limited function, and are supervised and controlled by their higher authorities, the SPA and the KWP.¹¹⁹ Although there is a provision stating that “in the process of trials, the courts are independent, and conduct trials in accordance with law” (Article 166 of the Constitution; Article 271 of the Criminal Procedure Law), individual courts are only independent an organizational system, and not in terms of individual judges. Therefore, it cannot be regarded as independence of the judiciary in its true sense.¹²⁰

Meanwhile, North Korea has adopted the People’s Jury System. Under the system, laymen, who are not legal experts, form an *en banc* together with a judge to conduct trials, and fully participate in a trial as decent jury members of the court, as well as exercise equal rights to a judge, and decide a case through majority vote. People’s jurors participate in the first instance trials (Article 9 of the Law on Constitution of Courts). Judgments and decisions are adopted by majority vote of the judge and the people’s jurors (Article 17 thereof). Like judges, people’s jurors are also elected. People’s jurors of the Central Court are elected by the Presidium of the SPA, while people’s jurors at provincial courts (municipality directly under central authority) and people’s courts are elected by the respective People’s Assembly (Article 4 of the Law on

119_Kyu-chang Lee and Gwang-jin Chung, *The North Korean Criminal Trial System: Characteristics and Actual Practice* (Seoul: KINU, 2011), p. 49. (In Korean)

120_*ibid.*, pp. 49-53.

Constitution of Courts). In practice, only those who are loyal to the KWP are elected as people's jurors, and the elected people's jurors are naturally directed by the KWP. Against this backdrop, the People's Jury System is a means for the KWP to systematically control the courts.¹²¹

B. Unfair Trials

Article 14, paragraph 1 of the ICCPR stipulates that all persons are equal before the courts and have the right to a fair trial. However, trials in North Korea are not fair. This is well demonstrated in the perfunctory nature of its trials. Moreover, corruption that exists within the trial process also serves as one of the major factors that undermine the fairness of trials. The issue of corruption will be examined in further detail in Part V, Chapter 2. This section will discuss relevant provisions and reality regarding perfunctory trials.

North Korea has a unique system of preliminary examination held between the stages of investigation and prosecution. The purpose of preliminary examination is to determine the defendant and reveal the entire story of crime completely and accurately (Article 147 of the Criminal Procedure Law). However, contrary to this legal provision, testimonies indicate that sentences are decided prior to trials by the preliminary examination officers,

¹²¹ *Ibid.*, p. 54.

without the participation of a judge and the people’s jurors. A North Korean defector who underwent the preliminary examination and trial process in Onsung County, North Hamgyeong Province, from March to July 2010, testified that the MPS county branch’s preliminary examination officers normally decides what the sentence will be. When the preliminary examination was almost finished, a prosecutor came from the courthouse and asked whether he/she experienced any violence; if a sanitary environment was provided; or if there was anything he/she felt was unfair; or if there was any issue that he/she wanted to raise, etc. However, the defector stated that he/she was unable to raise objections because the guards had already intimidated him/her prior to the prosecutor’s arrival.¹²²

The first instance trial proceeds in five phases: court trial, factual inquiry, prosecution and defense, the defendant’s final testimony, and pronouncement of judgement (Article 300 of the Criminal Procedure Law). Generally, criminal trials are proceeded as a mere formality. One is determined guilty even if he/she does not answer the question, “do you admit to your crime of [...]?”, and the defendant is not allowed to speak or ask any questions.¹²³ The abovementioned North Korean defector, who went through the preliminary examination and trial process in Onsung County, North Hamgyeong Province, from March to July 2010, testified

122_NKHR2016000102 2016-06-28.

123_NKHR2012000036 2012-03-13.

that the trial only took 15 minutes and the testifier was sentenced to five years of fixed-term correctional labor punishment. Although the testifier tried to protest, the guards interrupted.¹²⁴ Another North Korean defector who went through a trial process in Hyesan, Yanggang Province, in 2010, reported that he/she had requested, and was promised, a witness for the trial. However, the trial went on without the witness, and the testifier was sentenced to three years and six months of correctional labor punishment for a crime the testifier did not even commit.¹²⁵ In the interviews, most North Korean defectors who went through trials said that judges, prosecutors, defense counsels and people's jurors attended the trials, but they had passive roles in the actual trials.¹²⁶ However, some testimonies provided a different story. A North Korean defector, who was tried for economic offense in Kimjongsuk County, Yanggang Province, in December 2011, commented that the judge was the most active and that the defense counsel and people's jurors were somewhat active, and that the prosecutors were average in their participation during the trial. In the end, the testifier was sentenced to five years of correctional labor punishment in the preliminary examination, but was sentenced to one year of labor training punishment through the trial.¹²⁷ A

124_NKHR2016000102 2016-06-28.

125_NKHR2017000104 2017-10-23.

126_NKHR2017000005 2017-04-10; NKHR2017000103 2017-10-23.

127_NKHR2016000113 2016-07-12.

North Korean defector, who tried illegal border-crossing in Hyesan, Yanggang Province in August 2012, replied that the role of judge was average, but that of the prosecutor, defense counsel, and people's jurors was very active. The testifier said that there was a witness testimony, and in the end, the testifier was sentenced to one-and-a-half years of correctional labor punishment.¹²⁸ Given the fact that according to the law, those who commit the crime of illegal border-crossing shall be sentenced to a maximum of five years of correctional labor punishment (Article 221 of Criminal law), one can presume that the discussion during the trial process may have affected the final sentence.

Meanwhile, North Korea operates a public trial system, a locally organized trial system to raise public awareness and prevent crimes. Heads of institutes, workplaces and associations can expose and condemn the wrongdoing of criminals (Article 285 of Criminal Procedure Law). Public trial is used as a tool for political propaganda or education for residents.¹²⁹ Recently, there has been an increasing number of trials on drug trades such as methamphetamine (*Bingdu*) and opium.¹³⁰ A public trial system has its advantages that it can more conveniently organize a trial at the local level. However, North Korea is not using the public trial system for purely holding

128_ NKHR2016000189 2016-12-27.

129_ NKHR2018000099 2018-10-01; NKHR2018000102 2018-10-01.

130_ NKHR2018000009 2018-03-12; NKHR2018000076 2018-07-30; NKHR2018000095 2018-08-27.

a trial but for disclosing and condemning the crime, thereby controlling them by raising awareness of residents and fostering fear. In addition, the public trial system goes against the fair trial principle. Although there have been inconsistent testimonies on whether judges, prosecutors, lawyers, and people's court judge attend the trial, making it difficult to grasp the reality, it has been stated that even if they are present, they do not play any particular role.¹³¹ In addition, violations on the right to life and personal liberty and security occur in the process of public trials. During a trial, those with the heaviest crime among all are sometimes shot dead.¹³² One North Korean defector received a public trial in front of the culture center in Potae district, Samjiyeon County, Yanggang Province in 2014 for the crime of illegal border-crossing. The testifier was severely beaten in the MSS detention center for 20 days and went on a public trial without preliminary examination with no judges, prosecutors, layers, and people's court judge in attendance.¹³³

C. Operation of Quasi-Judicial Systems

Article 14, paragraph 1 of the ICCPR stipulates that all persons have the right to be tried by “tribunal established by law.” However,

131_NKHR2018000014 2018-04-09; NKHR2018000095 2018-08-27.

132_NKHR2018000009 2018-03-12; NKHR2018000095 2018-08-27; NKHR2018000124 2018-10-27.

133_NKHR2018000081 2018-07-30.

North Korea operates a quasi-trial system, which is not an official trial system based on the court. Comrade Trials and MSS political criminal trials fall into this category, and many other organizations than trial institutions impose administrative penalties. Such operation of an alternative trial system constitutes a violation of the ICCPR.

(1) Comrade Trial System

North Korea has an independent and unique form of trial system called the Comrade Trial System, a social institution designed to control its population without having to go through formal trial organizations and proceedings. North Korea is said to have abolished the Crowd Trial System, which was temporarily enforced during the Korean War, and operated the Comrade Trial System by region since around 1972. The legal grounds for the System are found in the Prosecution and Surveillance Law. Article 40, paragraph 3 of the Law stipulates that a prosecutor may declare a comrade trial to rectify a violation of law or inquire into legal accountability when he/she intends to subject criminals to a preliminary examination, refer lawbreakers to the Socialist Law-Abiding Life Guidance Committee or the Comrade Trial Board, or penalize them with labor training or detention.

Subjects of a comrade trial are people who commit economic crimes, cause losses through negligence, or are involved in minor incidents hindering Kim Il Sung's Unitary Ideology, and other relevant offenders. At a comrade trial these people may be subject

to unpaid labor of six months or less, while perpetrators of economic improprieties may be subject to an administrative fine equal to ten to twenty times the undue gain in the form of deduction from their salaries; suspension of exercise of administrative rights; demotion; self-criticism; stern warnings; admonitions; and so forth. However, there seems to be no appellate procedures in place.¹³⁴ Comrade trials were held on every regular market day (once every ten days) in Yonsa County, North Hamgyeong Province, and as a result, most (90 percent) went to labor training camps (*rodongdanryundae*) and some (10 percent) went to prison camps (*kyohwaso*).¹³⁵

The Comrade Trial System is primarily carried out in the military.¹³⁶ A North Korean defector replied regarding comrade trial that their purpose is “criticizing those who did not do military service well.”¹³⁷

Comrade trials in the military are conducted at the battalion level and always with the presence of an immediate superior. The results are predetermined by a higher department, and a comrade trial is enforced to set an example. Most finish with education or criticism but in the worse case, one can be dishonorably discharged.¹³⁸

134_Court Administration Agency, *An Overview of North Korea's Juridical System* (Seoul: Court Administration Agency, 1996), pp. 630-637. (In Korean)

135_NKHR2016000188 2016-12-27.

136_NKHR2016000029 2016-03-08; NKHR2017000073 2017-08-28; NKHR2018000107 2018-10-01.

137_NKHR2016000001 2016-01-12.

Those who are dishonorably discharged are relocated to mines of farming villages with his/her family members.¹³⁹ Punishment is not imposed on-site for comrade trials. Preliminary examination procedures take place after comrade trials, and afterwards punishment based on the Criminal Law is imposed.¹⁴⁰ For instance for those causing social disturbance are stripped of their uniform and sent to a prison camp.¹⁴¹

(2) Political Criminal Trials by MSS

Numerous testimonies indicate that North Korea has maintained a policy of clearly differentiating the punishment for political crimes and general crimes. The North Korean Criminal Procedure Law stipulates that the cases related to crimes against the State or the people shall be subject to investigation and preliminary examination conducted by MSS institutions, and the first instance shall be held in a provincial court (or municipality directly under central authority). As such, cases related to crimes against the State or the people are handled differently than the cases of general crime (Article 46, 48 and 51).

However, according to one testimony, trials are conducted by

138_NKHR2013000154 2013-08-20; NKHR2018000107 2018-10-01.

139_NKHR2015000069 2015-04-07.

140_NKHR2015000119 2015-09-08; NKHR2015000131 2015-09-22; NKHR2015000172 2015-12-01.

141_NKHR2016000001 2016-01-12.

the MSS, which is contrary to the applicable provisions of the Criminal Procedure Law. A former MSS agent testified that if a preliminary examination process at an MSS provincial bureau reveals that the criminal fact is true, such as through interrogation, it is reported to the MSS prosecutor's office. If the prosecutor's office determines that the suspect has in fact committed the criminal act, he/she is tried at the place where the preliminary examination was held. A prosecutor at the MSS prosecutor's office renders a decision in the name of the Central Court, the trial is held behind closed doors, and a sentence is decided pursuant to the Criminal Law. The MSS also determines whether it would be appropriate to imprison all the family members, and whether the criminal will be imprisoned for life. However, there exists no literature that provides a basis for such determination. Senior officers hold a Case Council meeting to decide how to handle a case, including the scope and duration of imprisonment.¹⁴² Another North Korean defector, who previously conducted relevant work at the MSS, said that at the end of a preliminary examination, a prosecutor from the MSS prosecutor's office renders the final decision. In sum, political prisoners allegedly do not undergo formal legal proceedings.¹⁴³ A North Korean defector, who was forcibly repatriated from China to North Korea in 2010, explained that in

142_A North Korean defector, 19 April 2005, interviewed in Seoul.

143_A North Korean defector, 10 October 2005, interviewed in Seoul.

the Sinuiju MSS, political offenders are distinguished from general offenders through investigation, after repatriation. Those who attempted to go to South Korea, the United States and Japan, and those who received education from a church related institution were categorized as political offenders and sent to political prison camps (*kwanliso*) without any trial process, unlike general offenders who went through trials.¹⁴⁴

(3) Imposition of Administrative Penalties by Diverse Institutions

In North Korea, administrative penalties are imposed for violations of law that are not serious enough to be punished by the Criminal Law (Article 13 of the Administrative Penalty Law). Administrative penalties include warnings/stern warnings, unpaid labor, re-educational labor punishment, demotion/dismissal/loss of employment, fines, suspension penalty, compensation penalty, confiscation penalty, suspension of qualification/degradation/deprivation of qualification, etc. (Article 14 of the Administrative Penalty Law). However, in addition to judicial organizations, other institutions, including the Socialist Law-Abiding Life Guidance Committee, the Cabinet, institutions of the prosecutor's office, arbitration institutions, institutions of the MPS, censorship supervision institutions, and qualification-granting institutions,

144_NKHR2016000102 2016-06-28.

can impose administrative penalties. Enterprises and organizations can also impose administrative penalties (Article 229 of the Administrative Penalty Law). Administrative penalties are also stipulated in the People's Security Enforcement Law and the Prosecution and Surveillance Law. MPS institutions and the Responsible Workers' Association can impose re-educational labor, suspension, degradation and deprivation of qualifications, suspensions, and confiscations for violation of legal orders (Article 57 of the People's Security Enforcement Law).

In North Korea, a variety of administrative penalties, based on the Administrative Penalty Law, the People's Security Enforcement Law, and the Prosecution and Surveillance Law, are utilized as a means of exercising strict social control over the North Korean people. Among these administrative penalties, unpaid labor and re-educational labor, and in particular, labor training cannot be simply regarded as a form of administrative discipline. Rather, they exhibit characteristics of punitive action.

D. Infringement on the Right to Defense

Article 14, paragraph 3 of the ICCPR stipulates that everyone shall be entitled to contact a legal defense counsel of their own choosing and to rightful legal assistance during the process of determining criminal charge against them. However, North Korean people cannot personally choose their defense counsel.

According to the Criminal Procedure Law, those subject to preliminary examination, accused persons, their families, relatives or representatives of the organization to which they belongs can apply for a defense counsel, and the preliminary examination officer or judge who receives the application chooses a defense counsel for them (Article 65). This is a violation of the ICCPR, and the relevant system needs to be improved. Moreover, the right to contact and receive legal assistance from the defense counsel is only exercised perfunctorily. This section will examine the relevant regulations and the reality.

(1) Perfunctory Operation of the Right to Receive Assistance from Defense Counsel

Article 164 of the North Korean Constitution stipulates, “a trial shall be open and an accused person’s right to defense be guaranteed.” Moreover, the Criminal Procedure Law stipulates, “in handling criminal cases, the right to defense of the defendant or person accused of a crime shall be guaranteed” (Article 58). The Criminal Procedure Law also stipulates, “a person undergoing preliminary examination or person accused of a crime shall be entitled to legal assistance from a defense counsel of his choice” (Article 60). If a person undergoing preliminary examination who has not chosen a defense counsel is prosecuted, the judge shall request the Lawyers’ Association to appoint a lawyer (Article 63). The Law for the Protection of Children’s Rights also stipulates that

children aged 14 or older shall be entitled to assistance from a defense counsel (Article 50).

North Korean defectors testified that defense counsels were mostly present during trials. Some of them also said that defense counsels made statements in their favor. In particular, when the accused came from a good social background (*songbun*) or bribes counsels, they tended to play a more active role in defense. A North Korean defector, who was caught crossing the border illegally in July 2016, said that he/she was able to avoid correctional labor punishment because he/she came from a good family background and carried out some “business,” and that the counsel made an argument stating that the testifier was devoted to the society and community, and provided the judge with a certificate supporting the State as evidence. All these efforts worked in favor of the testifier.¹⁴⁵ However, testimonies indicate that, in general, even when defense counsels attended the trial process, they neither offered assistance nor provided actual defense. A North Korean defector who went through a trial in Samjiyeon County, Yanggang Province in 2015 said that the counsel and prosecutor found a false witness who would lie for them.¹⁴⁶ The testifier said that defense counsels work in favor of the State, not the defendants. Another North Korean defector who had a trial in

145_NKHR2017000125 2017-11-20.

146_NKHR2017000005 2017-04-10.

Samjiyeon County, Yanggang Province in May 2012, also testified that the defense counsel was only perfunctory and did not play any role for the defendant.¹⁴⁷ In March 2018, two brothers were suspected of murder and the younger brother was caught and sentenced to five years of correction while older brother ran away to China. During the trial, lawyer did not do much to reduce the sentence the defendant was to receive.¹⁴⁸ Perfunctory operation of the right to be supported by a lawyer is also apparent in the case of public trials. That is, even in cases where a lawyer attends a trial, in most cases, the lawyer does not defend the defendant.¹⁴⁹ According to the North Korean Criminal Procedure Law, the duties of defense counsel include “ensuring accurate handling of a criminal case and guaranteeing the rights of a person undergoing preliminary examination or person accused of a crime according to law” (Article 59 of the Criminal Procedure Law). The Lawyer’s Law also stipulates the rights and duties of defense counsels as “when a lawyer serves as counsel in a criminal case at the request of a person undergoing preliminary examination or a person accused of a crime or as commissioned by a court, he/she shall disclose the facts of the case accurately, help judges conduct an accurate analysis and render a fair decision, and guarantee the rights and interests of the person undergoing preliminary examination or the

147_NKHR2016000014 2016-01-26.

148_NKHR2018000107 2018-10-01.

149_NKHR2018000014 2018-04-09; NKHR2018000095 2018-08-27.

person accused of a crime” (Article 12). However, North Korean lawyers are mandated to uphold and carry through the policy of the State or the KWP, rather than protect the rights and interests of individuals. In other words, the role of a lawyer has more to do with persuading or inducing the accused to admit their crimes, rather than defending them.

(2) Perfunctory Access to a Defense Counsel

To receive assistance from a defense counsel, the right of access to a defense counsel must be guaranteed. The North Korean Criminal Procedure Law stipulates, “a selected defense counsel may contact and converse with a person undergoing preliminary examination or a person accused of a crime. A preliminary examination officer, judge and court shall allow the defense counsel and the person undergoing preliminary examination or the person accused of a crime to meet each other if either request” (Article 69). Moreover, the North Korean Lawyer’s Law states that a defense counsel is entitled to converse or correspond with a person undergoing preliminary examination or accused person of a crime (Article 9, subparagraph 1). As such, there appears to be access to defense counsel in some cases, but only in a perfunctory manner. A North Korean defector said that, while waiting for a trial in a detention center (*guryujang*) in Onsung, North Hamgyeong Province, a defense counsel came and asked the defector, “Do you have anything to say?” and “Did you experience any human

rights violation?” However, fearing retribution, he or she did not dare to say anything.¹⁵⁰ This defector said access to defense counsel was “extremely perfunctory.” Another North Korean defector, who was detained in a MPS detention center in South Pyeongan Province from September 2016 to February 2017, said an MPS officer asked him or her to meet a defense counsel during the preliminary examination, but threatened “I will kill you if you do anything foolish.”¹⁵¹ This defector met with a defense counsel ten days before the trial, and the counsel asked the testifier if he/she had been beaten or deprived of food in the MPS. When the testifier said these incidents did occur, the defense counsel said that he would reduce the punishment by explaining about the incidents, but asked for a bribe through his/her family. When the testifier said that his/her family did not have money for the bribe, the defense counsel acted in favor of the prosecutor during the actual trial.

E. Insufficient Guarantee of the Right to Appeal and Perfunctory Operation of the Appeal System

Article 14, paragraph 5 of the ICCPR stipulates that everyone convicted of a crime shall have the right to have the conviction and sentence reviewed by a higher tribunal, according to the law. In North Korea, appealing criminal judgments is possible. The

150_NKHR2017000044 2017-07-03.

151_NKHR2017000096 2017-10-23.

North Korean Criminal Procedure Law stipulates that any accused person, lawyer, or claimant for compensation who objects to a judgment or decision by a court of first instance may file an appeal with a higher tribunal (Article 356). However, appeals are carried out in a perfunctory manner, and it is extremely rare for appeals to be accepted. A North Korea defector who went through a trial in Samjiyeon County, Yanggang Province, in May 2012, said that he/she had been aware of the appeal procedure, but gave up because there were many cases in which appeals had resulted in disadvantages.¹⁵² Another North Korean defector, who also went through a trial in Samjiyeon County, Yanggang Province, in 2014, had heard that appeal is not possible even if the judgement does not seem right.¹⁵³

Some individuals have also testified that they did not appeal, thinking that they would not be able to stand staying in the detention center during the appeal process. A North Korean defector, who underwent a trial in Samjiyeon County, Yanggang Province, in August 2014, did not appeal the court decision because the process may take another one or two years. He or she also commented that the situation would become more difficult; he/she may end up malnourished because meals are not properly provided.¹⁵⁴ A North Korean defector, who underwent a trial in

152_NKHR2016000014 2016-01-26.

153_NKHR2017000058 2017-07-31.

Kimjongsuk County, Yanggang Province, in April 2014 gave up an appeal as well because the process would require three to four months of detention and he was not sure if he would be able to stand it.¹⁵⁵ As a result, the survey assesses that appeals are rarely conducted because North Koreans perceive that appeals are meaningless.¹⁵⁶

The surveys indicate that no appeals are generally lodged in the case of defection from North Korea. However, it is unclear whether this is because an appeal itself is impossible or because the appeal would lead to no practical benefit. Some have testified that those who illegally cross the border are not allowed to file appeals,¹⁵⁷ while others have testified that they do not ask for an appeal, in order to serve their prison term as quickly as possible, as illegal border-crossing is not an ambiguous matter and therefore is not disputable.¹⁵⁸

F. Infringement on Foreigners' Right to Trial

As of December 2017, 11 foreigners were involved in nine cases and went through criminal trial proceedings in North Korea: U.S. citizens including Euna Lee, Laura Ling, Aijalon Mali Gomes,

154_ NKHR2016000114 2016-07-12.

155_ NKHR2016000104 2016-06-28.

156_ NKHR2015000031 2015-02-10; NKHR2016000055 2016-05-03.

157_ NKHR2012000184 2012-09-11.

158_ NKHR2014000151 2014-09-23.

Kenneth Bae (Korean name: Jun-ho Bae), Matthew Todd Miller, Otto Frederick Wayuanier and Dong-chul Kim; South Korean citizens including Jeong-uk Kim, Guk-gi Kim and Chun-gil Choi and a Canadian citizen, Hyun-soo Lim.

Table II-29 Execution of Trial and Verdict Involving Foreigners in North Korea
(as of 2018-12-31)

Name	Nationality	Time of Arrest	Time of Trial	Charges	Punishment	Execution
Euna Lee, Laura Ling	USA	17 March 2009	4 June 2009	Hostile acts against the North Korean people, Illegal border-crossing	12 years of correctional labor	Specially pardoned and released after a trial (August 2009)
Aijalon Mahli Gomes	USA	25 January 2010	6 April 2010	Hostile acts against the North Korean people, Illegal border-crossing	8 years of correctional labor, 70 million won fine	Specially pardoned and released after a trial (August 2010)
Kenneth Bae	USA	3 November 2012	30 April 2013	Conspiracy to overturn the State	15 years of correctional labor	Specially pardoned and released while serving in prison (November 2014)
Jeong-uk Kim	S. Korea	7 November 2013	30 May 2014	Conspiracy to overturn the State, Crime of espionage, Instigation of anti-state propaganda, Illegal border-crossing	Unlimited-term correctional labor	Serving in prison
Matthew Todd Miller	USA	April 2014	14 September 2014	Hostile act against North Korea	6 years of correctional labor	Specially pardoned and released while serving in prison (November 2014)

Name	Nationality	Time of Arrest	Time of Trial	Charges	Punishment	Execution
Guk-gi Kim		1 October 2014		Conspiracy to overturn the State,		
Chun-gil Choi	S. Korea	December 2014	23 June 2015	Crime of espionage, Crime of clandestine destruction, Illegal border-crossing	Unlimited-term correctional labor	Serving in prison
Hyun-soo Lim	Canada	2 February 2015	16 December 2015	Conspiracy to overturn the State	Unlimited-term correctional labor	Specially pardoned and released while serving in prison (August 2017)
Otto Frederick Wayuanier	USA	22 January 2016	16 March 2016	Conspiracy to overturn the State	15 years of correctional labor	Specially pardoned and released while serving in prison, died after 6 days (June 2017)
Dong-chul Kim	USA	2 October 2015	29 April 2016	Conspiracy to overturn the State, Crime of espionage	10 years of correctional labor	Specially pardoned and released while serving in prison (May 2018)

Trials of foreigners in North Korea have the following characteristics:

First, as a formality, the defendants are informed of their right to receive legal assistance from a defense counsel. However, most foreigners do not seek such legal assistance because they suspect that North Korean defense counsels will not provide any substantive aid. In the case of Euna Lee, North Korean officials did advise her of her right to legal assistance, but she declined the offer because she was convinced that no North Korean defense

counsel would properly defend her.¹⁵⁹ Kenneth Bae also declined legal assistance.¹⁶⁰ As for the others, their choices remain unknown as related information has not been announced. Putting foreigners in a situation where they have to give up appointing a lawyer is a violation of the right to freely appoint a defense counsel, as stated in Article 14, paragraph 3 (b) of the ICCPR and ultimately also violates the overall right to a fair trial.

The second characteristic is the arbitrary limitation of the right of foreigners to consultation with the consul during their detention period. Article 36, paragraph 1 of the Vienna Convention on Consular Relations stipulates that when a national of the sending State is arrested in prison, custody or detention within a consular district, upon the request of the national, the authorities of the receiving country shall inform the consular post without delay of such a fact and any communication addressed to the consular post shall be forwarded by the appropriate authorities. The right to consultation with a consul by a person in the process of being investigated and tried is very important for protecting individual human rights. This right is a right of individuals and also of a State, recognized by customary international law.¹⁶¹ The International Court of Justice (hereinafter ICJ) has ruled that the Consular

159_ Euna Lee, *The World is Bigger Now* (New York: Broadway Books, 2010), p. 187.

160_ *Korean Central News Agency*, 9 May 2013.

161_ Kyu-chang Lee, "Criminal Trials against Foreigners in North Korea and Right to Consultation with a Consul," p. 49. (In Korean)

Convention has codified existing customary international laws on consular relations.¹⁶²

Table II-30 Right to Consultation with a Consul in the Consular Convention

<p>Article 36, paragraph 1</p>	<p>With a view to facilitating the exercise of consular functions relating to nationals of the sending State:</p> <p>(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;</p> <p>(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph.</p>
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During the investigation process of U.S. tourists Matthew Todd Miller and Jeffrey Edward Fowle, who were detained in North Korea in 2014, North Korea has announced that it was complying with the laws of relevant countries regarding the access to consul and treatment.¹⁶³ With no consular relations between the U.S. and North Korea, Sweden provided consular responsibilities as a protecting power for the U.S. North Korea granted meetings between the Swedish ambassador and the two female American

162_ "Case Concerning United States Diplomatic and Consular Staff in Tehran (USA v. Iran)," *ICJ/Reports 1980* (24 May 1980), p. 24. (para. 45)

163_ *Korean Central News Agency*, 30 June 2014.

reporters on 30 March, 15 May, 1 June, and 23 June, 2009. Representatives of the Swedish embassy were also present at the trial for Aijalon Mahli Gomes.¹⁶⁴ In the case of Kenneth Bae, it was said that the Swedish embassy was notified of his detention, and that he could meet with the consul.¹⁶⁵ However, while negotiations for his repatriation were carried out during his time in a foreigner prison camp near Pyongyang, there were periods where exchange of letters with the embassy was restricted. Furthermore, meetings would at times be restricted without notification.¹⁶⁶ Otto Frederick Wayuanier, who died in June 2017, met with the staff of the Swedish embassy once on 2 March, 2016; however, after which meetings were restricted. Canadian pastor Hyun-soo Lim had his first consultation with a Canadian diplomat on 18 December, 2015, two days after being sentenced to unlimited-term correctional labor punishment. Since Kenneth Bae incident, foreigners' right to consultation with a consul has been hampered.¹⁶⁷ Such limitation on the right to consultation with a consul may violate the right to a fair trial stated in Article 14 of the ICCPR, which should be guaranteed not only to a nation's own nationals but to foreign

164_ *Korean Central News Agency*, 7 April 2010.

165_ *Voice of America*, 1 June 2013.

166_ Kenneth Bae, 7 November 2016, interviewed in Seoul.

167_ "Treatment on the U.S citizens detained in North Korean got worse... Longest blocking from meeting consul," ¶ *Voice of America*, 8 August, 2016; "State Department failed to detect location of U.S citizens detained in North Korea... consul meetin blocked for one year and three months," ¶ *Voice of America*, 3 June, 2017.

nationals as well.

Third, foreigners are limited to a first-instance trial by North Korea's Central Court. It seems that there is a political intention to quickly finalize the process, considering the impact of such cases on the North Korean people. However, concluding a case with a first-instance trial violates foreigners' right to trial because all individuals are entitled to the right to appeal (Article 14, paragraph 5 of the ICCPR).

Meanwhile, for South Koreans detained in North Korea, there seems to be an infringement upon the overall right to a fair trial, including the right to receive assistance from defense counsel. On 12 May 2015 the National Human Rights Commission of Korea announced in a statement that North Korea should allow the communication of South Korean citizens detained in North Korea with the outside, including through phone calls and exchanges of letters, and should guarantee the right to receive assistance from defense counsel appointed by the South Korean government.¹⁶⁸ To date, the North Korean authorities have not taken any measures on this issue. On 9 October 2015, international human rights organization Amnesty International pointed out in a statement that the contents of the trials of South Koreans detained in North Korea were not disclosed, and that showing only the scenes of

168_ National Human Rights Commission of Korea, "Statement by the Chairman of National Human Rights Commission of Korea to protect the human rights of citizens of the Republic of Korea detained in North Korea," 12 May 2015.

them confessing anti-state crimes, including spy activities and conspiracy to overturn the State, constitute an infringement of the right to a fair trial.¹⁶⁹ As of December 2018, it is believed that six people from the Republic of Korea are detained in North Korea.

G. Evaluation

While North Korea stipulates judicial independence, they are denied in practice. Judicial agencies in North Korea have a limited function and are managed and supervised by their higher authorities, the SPA and the KWP. This may violate the right to be tried by an ‘independent’ tribunal. Considering that trials are held in a perfunctory manner, and that the roles of judge, prosecutor, lawyer, and people’s juror are merely passive, it is hard to say that trials are conducted fairly. The current local public trial system is also evaluated as going against the sense of fairness. Moreover, the operation of quasi-judicial systems, including the Comrade Trial System, MSS political criminal trials, the Socialist Law-Abiding Life Guidance Committee, etc., raise the question of a violation of the right to be tried by a tribunal established by law. In addition, the lack of choice of defense counsel for North Koreans violates Article 14, paragraph 3 of the ICCPR, which stipulates the right to choose one’s own defense counsel. The right

169_ *Voice of America*, 9 October 2015.

to have access to and to receive the legal assistance of a defense counsel does not seem to be protected in North Korea. Perfunctory operation of the appeals system continues as well. Meanwhile, in observance of the right of foreigners to have fair trials, North Korea appoints defense counsels for them in a perfunctory manner, and infringes upon the individuals' right to receive legal assistance from a defense counsel chosen on one's own, as stipulated in Article 14, paragraph 3 of the ICCPR. By arbitrarily limiting the right to consultation with consuls, the State also violates the right to a fair trial as stipulated in Article 14 of the ICCPR. Moreover, by not allowing foreigners to appeal their trials, the State also infringes upon the right to appeal as stated in Article 14, paragraph 5. With regard to South Koreans, there is an overall infringement of the right to a fair trial and the right to receive assistance from defense counsel.

8

Right to Privacy

All humans have the right to privacy. Article 12 of the UDHR stipulates the right to privacy as follows: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.” Article 17 of the ICCPR also stipulates the right to privacy.

Table II-31 Article 17 of the ICCPR

Paragraph 1	No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
Paragraph 2	Everyone has the right to the protection of the law against such interference or attacks.

As such, international standards on human rights state the right to prevent others from interfering with one’s own space, the right to not be forced into disclosing information if one does not wish to, and the right to stop one’s personal information from being leaked and distributed without permission. The concept of the

right to privacy can be understood passively as a legal guarantee to protect one's privacy from being arbitrarily forced to disclose information and to be left in peace and confidence, while it can be understood actively as the legal ability to manage and control one's own personal information.

This chapter will examine the major issues related to the right to privacy in North Korea.

A. Infringement on Privacy through the General System of Surveillance of the People

With regard to the right to privacy, the ICCPR stipulates that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence” (Article 17). The overall protection of this right rests on whether there exists a system of surveillance through state organizations and institutions. Infringement on privacy through state organizations and institutions can be as serious an infringement on human rights as physical violence by a state, if not more. Organizational and institutional surveillance by a state constitutes a serious threat to the independence, autonomy, and unique personality of the individual, and constitutes a form of psychological violence that leads to self-censorship.

Article 79 of the North Korean Constitution guarantees the prohibition of violations of privacy; it stipulates that “the inviolability of person and house, and secrecy of correspondence of citizens

shall be guaranteed. Without being based on law, one cannot imprison or arrest citizens, nor search residential houses.” To this end, illegal search of house by law enforcement personnel is stipulated as a criminal offense (Article 241 of Criminal law) and confiscation and search shall be conducted after prosecutor’s approval (Article 216 of Criminal Procedure Law). In addition, regarding freedom of communication, mail correspondence and electronic communications are guaranteed by law (Article 5 and 11 of the Communications Law), violation of which shall be faced with administrative/criminal punishment (Article 123 and 158 of Administrative Penalties Law). However, contrary to such provisions, there has been extensive surveillance and control by the State over the daily lives of people in an organized and systematic manner. In effect, there is no protection or guarantee of secrecy over one’s private life.

A case in point is the “five household surveillance system.” In this system, five households are grouped into one unit. Among them, the head of a household most loyal to the Party is designated as the propagandist in charge of the five households. The head has the authority to intervene and control the overall family lives of the rest of the households, including couples’ affection issues and problems between parents and their children. This system originated from a statement by Kim Il Sung in July 1958, during his visit to the Democratic Propaganda Office in Yaksu-li, Changseong County, North Pyeongan Province. He said, “Things will go well

if one paid official takes charge of five households and gives all the instructions on educational programs, economic tasks, etc. A local Party committee can assign the designated officials the tasks and manage their performance.” In the 1960s, this system was implemented throughout North Korea, under the name “Red Family Creation Campaign.” Since early 1974, it has been implemented as the “people’s unit (*inminban*) sub-work group system,” which expanded the number of households under a unit of joint responsibility from five to ten. The five household surveillance system serves as a path for the State not only to exploit labor but also to interfere with the people’s private lives.

The second example is the people’s unit system, which first started as a nationwide social cooperation unit of People’s Committees in the early stages of land reform in 1946. In North Korea, everyone with a residential registration is automatically registered to the people’s unit. The people’s unit groups 20 to 40 households into one unit and places that unit under the control of a regional People’s Committee, which provide guidance for their daily lives, monitor ideologies, and monitor visitors to the community, etc. Each people’s unit has a chief, a chief of heads of households, a chief of sanitation, instigation agents, a confidential informant (security agent), etc.¹⁷⁰ The people’s unit handles diverse issues in the

170_ The people’s unit chief is nominated by city/county (district) People’s Committees upon recommendation of the residents. In most cases, housewives who are loyal to the Party and do not work serve this position. The people’s unit chief is

residential area under its purview, including child care, labor mobilization, cleaning, maintenance of public order, spreading news on events and accidents, and delivers instructions through a Life Review Session (*saenghwalchonghwa*).¹⁷¹

Article 30 of the Law on City Administration stipulates that “People should voluntarily participate in the people’s unit to make family life sound and persons humble, and suitable for the socialist lifestyle.” Although this law uses the expression “voluntarily,” it de facto legitimizes interference in people’s family lives through the people’s unit system. The people’s unit chief usually visits each household without warning to carry out sanitary inspections, portrait inspections, and inspection of books related to Kim Il Sung’s family. This technically constitutes an unlawful house search. Moreover, the people’s unit system forces people to publicly criticize misdeeds of each household during numerous meetings, and monitors and controls the ideology and intimate privacy of families. In addition, this system imposes tasks on the people, such as road cleaning, mobilization of labor in farming villages,

responsible for the surveillance of movement of all the residents of the people’s unit. Chiefs of heads of households are appointed directly by the Party and they monitor husbands separately. They sometimes hold meetings and lectures for husbands and mobilize them for events, as well as control the people’s unit during election events and monitor the husbands’ movements after work. The sanitation chief is in charge of the people’s unit environment, while instigation agents are responsible for ideology education and take the responsibility of managing the Party sub-work group, composed of Party members of *inminban*. The separately-assigned secret informants (safety agents) are surveillance agents dispatched by the MSS or the MPS.

171_NKHR2014000014 2015-01-27.

and military support. The people's unit is a representative system of surveillance and control of people's privacy.

The third example is the Life Review Session system. The Life Review Session is held weekly, monthly, quarterly and annually within organizations one is involved with, such as the Party or labor organization. During the meeting, people reflect on their works and their public and private lives, and criticize each other.¹⁷² The system of "new Party Life Review Session" re-established by Kim Jong Il in 1967, was devised as a means of strictly dominating and controlling people's privacy. In the "Ten Principles for the Establishment of the Unitary Ideology System," declared in 1974, North Korea strengthened its control over the people by stipulating that they should participate actively in these sessions. These sessions were compulsory for students in the second grade or higher, regardless of age and gender.¹⁷³ Life Review Sessions are carried out by criticizing and reflecting on one's own mistakes through self-criticism and the criticism of others. It is a system in which people are encouraged to self-inspect and self-criticize how they have pursued their lives during the past week as part of an organization or the people's unit, as well as to point out others' mistakes. It is a system that forces people to open up and criticize their own lives. Right after these Life Review Sessions, people are

172_Institute for Unification Education, *Dictionary of Knowledge on North Korea* (Seoul: Institute for Unification Education, 2013), p. 385. (In Korean)

173_*Ibid.*, p. 387.

instructed to write what was criticized on that day based on the “message of Kim Il Sung and Kim Jong Il” in a “Life Review Session notebook.”¹⁷⁴ If someone is absent, sometimes he/she has to have a one-on-one “individual session (*gaebiyulchonghwa*)” with the Party cell secretary.¹⁷⁵ Although Life Review Sessions have become somewhat of a formality after the 1990s food crisis, they still work as a strong mechanism to control people’s lives. The right to privacy of the North Korean people is seriously infringed upon as each Life Review Session forces them to self-inspect, open up, and receive criticism on their private lives, for the rest of their lives.

Lastly, infringement of privacy occurs through the mobilization of “safety agents.” These clandestine “safety agents” operate in all organizations, and monitor colleagues and people of the organization to which they belong. People mostly call them “spies” or “informers.”¹⁷⁶ Safety agents are secretly selected from state institutions, factories and enterprises, farms and the people’s unit, etc. In every organization, one out of every 20 to 30 people is a safety agent. People who are secretly selected as safety agents make written or verbal oaths that they will report each and every irregularity in the organization to which they belong. Approximately

174_ NKHR2015000102 2015-05-19.

175_ NKHR2015000053 2015-03-10.

176_ Safety agents are said to be divided into informers who make written oaths and those who make verbal oaths. NKHR2015000040 2015-02-24.

every fifteen days, they submit policy and trend reports of around half a page of A4 paper to their superiors through a secret contact. For example, they secretly report the trends found in the speech and behaviors of people, such as who said what during the labor mobilization period in farming villages, who gained excessive profits through business, whether the head of section or committee chairman embezzled a subsidy, etc. Through these safety agents, every move, and the overall private lives of the people, are controlled and placed under scrutiny.

It appears that since the Kim Jong Un regime came to power, monitoring and violation of the people's private lives have been increased through the People's Unit and Life Review Sessions. Similar testimonies have continuously been reported in the 2018 survey. Monitoring and tapping on residents whose family members defected or those who have family members in South Korea continue to persist.

Table II-32 Cases of Monitoring and Social Control

Testimonies	Testifier ID
The testifier's mother had previously been to China and thus the <i>Inminban</i> chief occasionally checked whether she was traveling back and forth from China.	NKHR2018000030 2018-05-07
Those with criminal records are shadowed by the <i>Inminban</i> chief or someone else. If one has relatives in South Korea, his/her house is closely observed and monitored.	NKHR2018000034 2018-05-07
Since the beginning of Kim Jong Un regime, North Koreans have been monitoring each other. <i>Inminban</i> chiefs, health agents, head of the Women's Union are included in the monitoring targets and monitor each other.	NKHR2018000070 2018-07-04

Testimonies	Testifier ID
<i>Inminban</i> chiefs knock on the doors frequently to check the number of people inside. In a People's Unit, monitoring becomes a routine not only for the informants from Ministry of People's Security and Ministry of State Security but also for the neighbors living next to each other.	NKHR2018000124 2018-10-27
The testifier's father went missing in 2014 after leaving the house for China for work. Since then a watchman started to monitor the house. MPS officers visited the house about once a month and questioned the testifier if he/she did not go to work.	NKHR2018000003 2018-03-12

B. Violation of Privacy through Unlawful House Investigations & Communications Interference

Article 17, paragraph 1 of the ICCPR stipulates that no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence. The right to prevent others from entering into one's private space without permission is the most basic aspect of guaranteeing and protecting confidential information regarding one's private life. In particular, unlawful house searches conducted by the State in an organized manner constitute serious infringement on the inviolability of personal residential space. Article 79 of the North Korean Constitution guarantees this inviolability of residential space by stipulating that house searches without legal grounds cannot be conducted.

However, there is a wide gap between legal provisions and reality, as has been confirmed through the testimony of multiple individuals. Unlawful house investigations by judicial and civil police agents of the MPS, the MSS, prosecutor's office, and

permanent/non-permanent investigation organizations (*geuruppa*), etc., have long been common practice.

Many North Korean defectors have testified that unlawful house searches are common. In North Korea, house searches are supposedly only possible when a search warrant is issued by the Director of Prosecutors of the prosecutor's office, and approved by the regional Safety Committee. However, in most cases, the people's unit chief and MPS officers enter into and search a house without a warrant, stating that it is for the purpose of censoring "impure" recordings, etc.¹⁷⁷ As an example, there was a case where the Group 109 ambushed a house at 5am for a search and blatantly demanded a bribe.¹⁷⁸ In particular, in the border region known as the Yeonseon area, illegal house search and arbitrary interference on communications have been frequently conducted, allegedly to prevent defection. There was a case in which a defector was sentenced to one month at a labor training camp (*rodongdanryundae*) because the testifier was caught receiving a phone call from China, from the mother of a friend, during a random house search without warrant.¹⁷⁹ In August 2015, there were house searches by the *Inminban* chiefs and MPS officers every five to seven days to search for fugitives in the Rimyongsugu Workers' District, Samjiyeon County, Yanggang Province.¹⁸⁰ Those residing

177_NKHR2017000081 2017-09-25.

178_NKHR2018000069 2018-07-14.

179_NKHR2015000085 2015-04-21.

in the border regions are more directly affected by the reinforced surveillance system and are questioned randomly almost every month.¹⁸¹

Beginning around 2015, there have been consistent cases where people raised objections or protested against illegal house search. In the 2018 survey, there were, albeit limited, testimonies that showed North Koreans' improved awareness of human rights. Objections and protests are especially stronger and more frequent among the younger generations than the older generations. In some cases, the search squad gave up the search and retreated due to the harsh protest.

Table II-33 Cases of Objecting to an Illegal House Search

Testimonies	Testifier ID
The testifier demanded to see a warrant when faced with a house search.	NKHR2017000099 2017-10-23
In 2015, the testifier demanded a warrant to the squad team conducting a house search in Onsong County, North Hamgyeong Province and protested that a house search without a warrant was a human rights violation.	NKHR2017000042 2017-07-03
In 2016, Group 109 searched the testifier's house for holding rebellious recordings. The testifier protested, saying they did not have a warrant and that the <i>Inminban</i> chief was not present. The younger generation is particularly active in such protests. When the testifier argued that this was an abuse of power, the squad returned, without carrying out the search.	NKHR2018000001 2018-03-12

180_NKHR2016000063 2016-05-03.

181_NKHR2016000052 2016-04-19.

C. Evaluation

Although the right to privacy is stated in the Constitution, North Korean people's private lives are rarely respected. In particular, it seems that surveillance along the border regions and social control have been reinforced since Kim Jong Un came to power. In relation to this, house searches to crack down fugitives are being conducted, and arbitrary communication interference has increased. Moreover, the extensive and organized surveillance and control over the people's private lives by the State has been in place for a long time, demonstrating the seriousness of the situation. Privacy surveillance systems still exist at an institutional level as seen in "five household surveillance system," the "people's unit system," and the system of holding a "Life Review Session." In addition, testimonies from numerous individuals regarding unlawful house searches of residential space show that the inviolability of residential space is seriously infringed upon in the everyday lives of the people.

9

Right to Freedom of Thought, Conscience, and Religion

The right to freedom of thought, conscience and religion is related to the liberty of one's inner world and constitutes one of the most basic human rights. The basic rights of citizens in a democracy including free expression of belief and freedom to make decisions based on one's conscience are closely related to the right to freedom of thought, conscience and religion. Article 18 of the UDHR stipulates that "everyone has the right to freedom of thought, conscience and religion" while Article 18 of the ICCPR mentions the right to freedom of thought, conscience, and religion.

Table II -34 Article 18 of the ICCPR

Paragraph 1	Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
Paragraph 2	No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
Paragraph 3	Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
Paragraph 4	The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

This chapter will now examine the situation regarding the right to freedom of thought, conscience, and religion by major issues.

A. Maintaining the Unitary *Suryong* Ruling System and the Ten Principles

Article 18, paragraph 2 of the ICCPR stipulates that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” The UN Human Rights Committee has stated that if a set of beliefs is treated as official ideology in a state, this shall not result in any disadvantage or any discrimination against persons who do not accept the official ideology.¹⁸² This guarantees individuals’ inherent right to

182_ UN Human Rights Committee, General Comment, No. 22 (1993), para. 10.

freedom of thought in a state-individual relationship. This means that while having an official belief is acceptable, it cannot be used as grounds to infringe upon the freedom of thought and conscience of individuals. However, North Korea does not currently allow any ideology other than its official *Juche* Ideology. In addition, since the declaration of the Ten Principles to Safeguard the Party's Unitary Ideology System (hereinafter referred to as "Ten Principles of Unitary Ideology") in 1974, no exceptions are tolerated, further infringing upon individuals' freedom of thought and conscience.

Such situation is related to maintaining the Unitary Ruling System based on the *Juche* ideology that North Korea advocates. The North Korean Constitution does not include freedom of thought and conscience, and the basic concept of this freedom has not been established in its laws or institutions. The key reason North Korea does not guarantee freedom of thought and conscience is that its cult of personality originated from the Unitary *Suryong* Ruling System. Any ideology other than that centered around *Suryong* is regarded as a serious threat to the Unitary *Suryong* Ruling System. The North Korean Constitution declares that *Juche* ideology is the one and only "basic guarantee" for the operation of the State (Preamble), and that *Juche* ideology is a leading principle for all State activities (Article 3).

The reinforcement and idolization of the Unitary *Suryong* Ruling System is embodied through the Ten Principles of Unitary Ideology. Spelled out in this document are the principles that

mandate that everyone owes unconditional loyalty to Kim Il Sung and shall follow Kim Il Sung's instructions as absolutes. Since they were first announced in 1974, the Ten Principles of Unitary Ideology have sought to deify "the Great Leader" Kim Il Sung, and have spiritually commanded the behaviors of North Koreans more than any other laws or regulations. In June 2013, North Korea revised the Ten Principles of Unitary Ideology for the first time in the thirty-nine years since it was enacted on 14 April 1974. The name was changed to "the Ten Principles to Firmly Establish the Party's Unitary Leadership System" (hereinafter, "the Ten Principles"). In North Korea, the Ten Principles have superiority over the Constitution or the statutes of the KWP, and governs the standards that systematically safeguard Kim Jong Un's unitary dictatorship. The can be considered as guidelines that ideologically govern the North Korean system.¹⁸³

The revised Ten Principles focuses on the unitary leadership of Kim Jong Un, and demands that the entire Party strengthen its "unified ideological resolve and revolutionary unity around the leader" (Principle No. 6) in order to safeguard the unitary leadership system. Kim Jong Un himself gave a speech on safeguarding the unitary leadership system on 19 June 2013, in front of high-ranking officials of the Party, the military, and the Cabinet. The

183_Lee Ki-woo, *North Korea's Propaganda and Rodong Sinmun* (Seoul: Paradigm, 2015), p. 80. (In Korean)

KWP has published a collection of his speeches in a booklet entitled *On Absolutely Safeguarding the Unitary Leadership System Befitting the Needs for Revolutionary Development*.¹⁸⁴ The revised Ten Principles are particularly noteworthy because they seek to tighten ideological control over the population.

Table II-35 Ten Principles for the Establishment of the Party's One-Ideology System

Principle No. 1	All must struggle wholeheartedly to remake the entire society into "Kim Il Sung/Kim Jong Il-ism."
Principle No. 2	All must greatly revere Great Leader Kim Il Sung and Dear Leader Kim Jong Il as eternal Suryong (leaders) of our Party and people, and as the sons of.
Principle No. 3	All must safeguard with their lives and accept as absolute the authority of Great Leader Kim Il Sung and Dear Leader Kim Jong Il, and the authority of the Party.
Principle No. 4	All must absolutely arm themselves with revolutionary ideology of Great Leader Kim Il Sung and Dear Leader Kim Jong Il, and the Party's lines and policies, which are the specifics of that ideology.
Principle No. 5	All must absolutely observe the principles unconditionally in pursuing the teachings of Great Leader Kim Il Sung and Dear Leader Kim Jong Il and the Party's lines and policies.
Principle No. 6	All must strengthen in every possible way the Party's ideological unity and revolutionary cohesion around the Leader.
Principle No. 7	All must learn after Great Leader Kim Il Sung and Dear Leader Kim Jong Il and maintain refined mental and moral postures and revolutionary working methods, and people's working styles.
Principle No. 8	All must cherish the political life handed down by the Party and Suryong, and must repay the Party's trust and consideration with enhanced political self-respect and productive output.

184. In this booklet, Kim Jong Un emphasizes that the new "Ten Principles in Establishing the Party's Unitary Leadership System" is newly "enacted," succeeding and further developing the "Ten Principles in Establishing the Party's Unitary Ideology System." See, Kim Jong Un, *On Absolutely Safeguarding the Party's Unitary Leadership System Befitting the Needs for Party Development* (Pyongyang: KWP Publisher, 2013), pp. 5-6. (In Korean)

Principle No. 9	All must build strong organizational rules so that the entire Party, the nation, and the military can move together as one under the unitary leadership of the Party.
Principle No. 10	To the end, all must succeed in and complete the great task of the revolution and the great task of Military-first revolution that Great Leader Kim Il Sung launched and Dear Leader Kim Jong Il implemented.

Since the Ten Principles are open to arbitrary interpretation, North Korean authorities frequently utilize them to penalize those whom they hold political grudges by labeling them as political or ideological criminals. For example, the Ten Principles made it possible for an entire family to disappear when their second grade elementary school student (nine years old) scribbled on the faces of Kim Il Sung and Kim Jong Il in his/her textbook, or because an elderly woman used sheets of the *Rodong Shinmun*, which contained pictures of Kim Il Sung and Kim Jong Il, as wallpaper. North Korean authorities carry out ideological education, such as using the Ten Principles to force people to sacrifice their lives to save portraits of Kim Il Sung and Kim Jong Il.

However, in spite of North Korean authorities' emphasis on the Ten Principles, it seems rare that ordinary people, who are not Party members, are actually taught the Ten Principles. It is said that only Party members are taught the Ten Principles, and accordingly, it seems that to most North Koreans, who are not Party members, the Ten Principles do not hold much significance. Even for those who had learned about the Ten Principles as Party members, Life Review Sessions (*saenghwalchonghwa*) and the

Ten Principles were gradually weakening as their lives became more difficult in the face of economic hardship. Many testimonies claim that despite the education on the Ten Principles, they do not remember the content. However, an intensive education on the Ten Principles is given to North Koreans who are dispatched overseas. A North Korean defector said that he memorized each and every line of the Ten Principles before being dispatched to Oman.¹⁸⁵

Table II-36 Cases Related to the Ten Principles

Testimonies	Testifier ID
The testifier learned the Ten Principles in the military and labor training camps (<i>rodongdanryundaë</i>) instead of in schools.	NKHR2016000167 2016-11-01
The testifier recited the Ten Principles in the military before joining the Party.	NKHR2016000178 2016-11-29
The testifier did not remember the Ten Principles well. The testifier studied it twice a year by organizing a study review session that included asking questions and answering.	NKHR2017000053 2017-07-31
The testifier did learn the Ten Principles at the Democratic Women's Union after the revision, but does not remember them. People did not apply the Ten Principles in real life.	NKHR2017000060 2017-07-31
The testifier referred to the Ten Principles during Life Review Sessions, and studied them with related materials. People tend to work hard to learn it in the military.	NKHR2017000087 2017-09-25
A book on the Ten Principles was distributed in the workplace but the testifier can barely remember anything.	NKHR2018000056 2018-07-02
The Ten Principles was educated by a question and answer system and although the testifier worked hard to memorize it, he/she does not remember much.	NKHR2018000070 2018-07-14

185_NKHR2018000113 2018-10-13.

B. De Facto Restriction of Religious Freedom

Article 18, paragraph 1 of the ICCPR stipulates that “everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” In terms of freedom of religion, while Article 68 of the North Korean Constitution stipulates that “citizens shall have freedom of religion,” it is practically impossible for North Korean people to have a religion in their daily lives. Moreover, most North Korean defectors testified that they had never heard the word “religion” when they were in North Korea.

“The North Korean authorities call religion, as a whole, superstition. And all superstitious behaviors are prohibited.”¹⁸⁶ “North Korea oppresses religion, particularly Christianity, because of the sense that the one-person dictatorship can be undermined by religious faith.”¹⁸⁷ These testimonies demonstrate that although North Korean authorities have taken positive legal and institutional steps, for example, through Constitutional guarantee of religious freedom, the establishment of religious facilities and religious ceremonies, the operation of religious educational facilities, and

186_NKHR2015000018 2015-01-27.

187_NKHR2015000034 2015-02-10.

the establishment of religious organizations, actual freedom of religion has still not been granted in practical terms.

Religious freedom in North Korea can be evaluated from three different perspectives. First, no religious facilities, including Protestant or Catholic churches, exist in North Korea except in Pyongyang. This reflects the reality of North Korea, where freedom of religion is de facto restricted. As for the family churches that North Korea says exist, it is questionable how freely they are allowed to be operated in the provincial towns. Not one North Korean defector among those testified was aware of a family church. While few testifiers said that they were taught about religion through their grandparents or parents,¹⁸⁸ those cases do not indicate a change in policy, and it is difficult to regard them as a general phenomenon.

Such restrictions on religious activities comes from the State's persistent persecution of religion, based on Kim Il Sung's teaching that "religion is the opiate of the people."¹⁸⁹ North Korea views religion as an "imperialistic tool for invasion," which helps the ruling class to exploit the masses. The North Korean Dictionary on Philosophy states, "Religion was historically seized by the ruling class to deceive the masses and was used as a means to

188_ Above testimony.

189_ "Religion is a reactionary and unscientific world view. Religion is like an opium." See, Korean Workers' Party Publishers, *Selections from Kim Il Sung's Writings* (Pyongyang: Korean Workers' Party Publishers, 1972), p. 154. (In Korean)

exploit and oppress, and it has recently been used by the imperialists as an ideological tool to invade underdeveloped countries.”¹⁹⁰

Based on such perception, many religiously active people in North Korea are branded as disloyal, and are tortured or executed for their beliefs. Most religious people are categorized as anti-state and counter-revolutionary hostile elements and subjected to persecution, and Christians in particular are purged because the Christian religion is regarded as a tool for imperialist invasion. Moreover, taking advantage of anti-American sentiment that developed during the Korean War, North Korea strengthened its religious persecution and conducted personal background checks to stigmatize and oppose all religious persons and their families as anti-revolutionary elements.

Second, while North Korea continues its religious persecution, it uses Protestant churches, Catholic churches, and temples for political purposes and external propaganda for religious people from abroad and other occasional visitors to these religious facilities. According to testimonies, entry or access to the newly established facilities by local citizens is strictly prohibited, and ordinary citizens generally perceive these religious places as “sightseeing spots for foreigners.” In the case of Bongsu Protestant Church in Pyongyang, which was built in September 1988, it is said that

190_ The Academy of Social Science Philosophy Institute, *The Dictionary of Philosophy* (Pyongyang: The Academy of Social Science Press Philosophy Institute, 1985), p. 490. (In Korean)

only the building guard and his/her family lives there, but when foreign guests come to visit, several hundred citizens aged 40 to 50 years old are carefully selected and gathered to participate in fake church services. Foreign Christians who visited North Korea testified that they witnessed the door of the church being closed on Easter Sunday when they visited without prior consultation. Many foreign visitors said that church activities seemed to be staged.

Third, all defectors consistently testified that practicing religion on a personal level is harshly persecuted. The fundamental reason for North Korea's difficulty in guaranteeing freedom of religion stems from the belief that religion is a means of foreign encroachment and inflicts harm on North Korea's social disciplines as mentioned in its Constitution. In particular, during the famine of the 1990s, when an increasing number of people moved in search of food, North Korea strictly suppressed Christian missionary activities in the belief that the religion had detrimental impact on the maintenance of the North Korean regime.

The fact that freedom of religion is restricted is also shown by the cases of punishments for people involved in religion and defectors who are forcibly repatriated to North Korea. Increase in control over defection under the Kim Jong Un regime reflects the concern that the regime will grow unstable due to the inflow of external influence. It is also said that the punishment for those who had been in contact with Christians in China or South Koreans is heavier. Testifiers said that they did not get a chance to

experience religion in North Korea, however, by the time they escaped North Korea, they came to realize that punishment is severe when caught getting involved in religious activities.¹⁹¹

Table II -37 Cases of Infringement on the Freedom of Religion

Testimonies	Testifier ID
In 2013, the testifier's colleague's father, who learned about Buddhism from South Korea and believed in it for around ten years, introduced it to the people around him. Seventy percent of the 1,200 workers visited the colleague's place to practice Buddhism, bowing and praying every night. Sometimes he read people's fortunes by physiognomy. The testifier also saw him in possession of books on Buddhism. The colleague's father was sentenced to one year of correctional labor punishment and sent to Wonsan <i>Kyohwaso</i> , but he continued to believe in Buddhism after returning from the prison camp.	NKHR2015000067 2015-04-07
In 2015, a computer file of the Bible was circulated in Kimhyeongjik County, Yanggang Province, and the testifier understood religion as "an organization that follows God."	NKHR2015000122 2015-09-08
In December 2015, Samjiyeon County, Yanggang Province, the testifier witnessed a neighbor getting arrested by Provincial MSS after a Bible was found during the house search. The testifier assumed the neighbor was sent to a political prison camp (<i>kwanliso</i>) as the testifier did not get any news about the neighbor.	NKHR2016000056 2016-05-03
Among the smuggled items, there were also Bibles. If Bibles are found, most people in possession of them were given correctional labor punishment.	NKHR2015000091 2015-05-12
The testifier first learned about religion through the MSS interrogation process. When repatriated to North Korea and undergoing MSS interrogation, there were many cases of arrest related to "Christianity."	NKHR2017000012 2017-04-10

191_ NKHR2017000106 2017-11-11; NKHR2017000109 2017-11-20.

C. Heavier Punishment for Superstitious Behavior

While freedom of religion is de facto restricted in North Korea, superstitions are prevalent among the public. According to the Criminal Law of North Korea, superstitious behavior are subject to up to 7 years of correctional labor punishment (Article 256).

However, in reality, North Korean authorities do not consider punishment of superstitious activities to be at the same level as that of religious ones. In general, while punishment is very strict when North Koreans or North Korean defectors are involved with the Bible or Christian missionaries, when they are involved in superstitions, it appears they are mostly punished by labor training punishment of less than a year.¹⁹² Even this punishment can be avoidable by bribery.¹⁹³ Not many crack downs are conducted on superstitious activities. In the 2018 survey, the majority of interviewees answered that they went without punishment even after practicing superstitious activities since they were not cracked down.

D. Evaluation

The right to freedom of thought, conscience and religion of the North Korean people is seriously violated. In particular, the *Juche*

192_NKHR2017000040 2017-06-05 etc.

193_NKHR2017000046 2017-07-03; NKHR2017000133 2017-12-18; NKHR201800007 2018-10-01.

ideology and the Ten Principles of Unitary Leadership have a fundamental limitation, as they are incompatible with the right to freedom of thought, conscience, and religion. This can be seen from North Korea’s legal reality, in which the Constitution makes no reference to freedom of thought and conscience. Furthermore these concepts appear somewhat unfamiliar among its people. Although freedom of religion is stipulated as a legal right in the Constitution, there is a lack of freedom of religion as shown from the fact that most North Koreans have never heard the word “religion.” In reality, North Korea maintains its policy of restricting the freedom of religion, and imposes strong punishment and control over certain religions, such as Christianity.

10

Right to Freedom of Expression

Freedom of expression is an essential right to the full development of a democratic and free society and the person, and one of the most basic rights.¹⁹⁴ Article 19 of the UDHR stipulates that everyone has the right to freedom of opinion and expression and this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Article 19 of the ICCPR also stipulates that freedom of opinion and expression can be realized in diverse manners.

194_ UN Human Rights Committee, General Comment, No. 34 (2011), para. 2.

Table II -38 Article 19 of the ICCPR

Paragraph 1	Everyone shall have the right to hold opinions without interference.
Paragraph 2	Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart 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.
Paragraph 3	The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.

This chapter will examine the major issues related to the freedom of expression in North Korea.

A. Restrictions on Forming and Expressing Political Opinions

Article 19, paragraph 1 of the ICCPR stipulates the right to have opinions without interference. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature, and any form of effort to coerce the holding or not holding of any opinion is prohibited.¹⁹⁵ In general, the right to hold an opinion is infringed upon when a person is under undue influence while forming an opinion, and when this is carried out by coercion, threat or other similar means.¹⁹⁶

195_ UN Human Rights Committee, General Comment, No. 34 (2011), paras. 9-10.

196_ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary*, 2nd rev. ed., (Kehl am Rhein: N.P. Engel, 2005), p. 442.

Article 67 of the North Korean Constitution guarantees the freedom of the press and publication. In addition, the DPRK Association for Human Rights Studies Report strongly emphasizes that as freedom of the press and of publication is an indispensable element of democracy and an important aspect of political rights, all citizens exercise the right to freely express their opinions and intentions in various manners through diverse media.¹⁹⁷ However, in the North Korean Constitution, Article 10¹⁹⁸ and Articles 63,¹⁹⁹ 81,²⁰⁰ 85,²⁰¹ which stipulate the basic rights and obligations of citizens, emphasize the ‘whole,’ ‘unification of political ideology,’ ‘revolutionary awakening,’ and ‘security of the State,’ leaves open the possibility for institutional infringement of the rights in Article 19, paragraph 1 of the ICCPR. The system of mutual surveillance and informing among people²⁰² is also deeply rooted in daily life, making it difficult, and even fearful, to express political opinions

197_ DPRK Association for Human Rights Studies, “DPRK Association for Human Rights Studies Report,” in Materials by the Center for North Korean Human Rights Studies, KINU (13 September 2014), p. 49. (In Korean)

198_ “The Democratic People’s Republic of Korea is based on the political and ideological unification of all people based on the Worker–Peasant Alliance led by the labor class. The State revolutionizes all members and turns them into the labor class, and makes the whole of society a single group that is integrated as comrades.”

199_ “In the Democratic People’s Republic of Korea, the rights and duties of the citizens are based on the collectivism of (one for all, all for one).”

200_ “Citizens shall devotedly advocate the political and ideological unification and solidarity of the people.”

201_ “Citizens shall at all times raise the revolutionary alertness and fight with personal devotion for the security of the State.”

202_ NKHR2014000011 2014-03-04.

even to family members.²⁰³

In reality, expressions of political opinion that differ from those of the North Korean authorities, negative reference to the family of Kim Il Sung, Kim Jong Il, and Kim Jong Un, and positive reference to South Korea are all prohibited. These comments constitute “misspeaking” and those reported for misspeaking are accused of political crimes and dragged to political prison camps (*kwanliso*) or, “somewhere one cannot return alive from.”²⁰⁴ In general, many North Korean people have the perception that criticizing the regime will result in them being sent to political prison camps. Given the power of control that political prison camps have in North Korean society, it has been found that the freedom of North Korean people to express political opinions is seriously restricted. In contrast, some testimonies indicated that the control over expression of political opinions had relaxed. There were testimonies that criticism against Party policy has increased since the currency reforms²⁰⁵ and the testifier realized that North Korean society was changing as he/she heard a friend criticizing and cursing Ri Sol-ju right before defecting from North Korea in 2015.²⁰⁶ Moreover, there are testimonies that since Kim

203_NKHR2015000123 2015-09-08.

204_NKHR2014000047 2014-05-13; NKHR2015000007 2015-01-13 and many other testimonies.

205_NKHR2014000062 2014-05-23.

206_NKHR2015000123 2015-09-08.

Jong Un came to power, the reasons for detention at political prison camps are shifting from critical comments and misspeaking to attempts to defect from North Korea and enter South Korea, and having connections with South Korea.²⁰⁷ However, political remarks such as criticism of the North Korean regime remain as sensitive issues that should not be fundamentally tolerated.

B. Arbitrary Censorship and Control of the Press and Publication

According to Article 19, paragraph 2 of the ICCPR, press publication and other media that are means of expression should not be subject to interference and disturbance.²⁰⁸ However, the press in North Korea is utilized to strengthen the ideology and mobilize the population to idolizing Kim Il Sung, Kim Jong Il and Kim Jong Un.

All newspapers in North Korea are mouthpieces for the Party and Cabinet. They are official media published by various state-sponsored culture and arts propaganda organizations. They are written and published under administrative guidance of the Newspaper Department of the Publication Division of the Cabinet and simultaneously, are under the supervision of the Newspaper Department of the Propaganda and Agitation Division of the

207_NKHR2014000216 2014-12-30.

208_UN Human Rights Committee, General Comment, No. 34 (2011), para. 13.

KWP.²⁰⁹ Articles on Kim Il Sung, Kim Jong Il and Kim Jong Un are published on the front page and the names of Kim Il Sung, Kim Jong Il and Kim Jong Un are printed in bold type. The contents of all articles aim to remind people of the superiority of the North Korean regime, and criticism of the KWP or discussion on basic issues are non-existent. Indeed, any information that enhances people's right to information or nurture critical thinking is strictly prohibited.

Broadcasting in North Korea is also operated under the direction of the Korean Central Broadcasting Committee which is under the Cabinet. Similar to newspapers, broadcasting is used for propaganda and reporting of Party policies and domestic and international situations. The Korean Central Broadcasting Committee is in charge of both broadcasting and regulating as the institution that plans and manages all broadcasting tasks, with the broadcasting content controlled by the Propaganda and Agitation Division of the KWP and the United Front Department.²¹⁰

North Korea's Publication Law stipulates that "citizens shall have the right to freely engage in writing and creative activities" (Article 6). However, it limits the purpose of such activities to "safeguarding and promoting great Socialist projects based on a revolutionary tradition of publication" (Article 2). In order to

209_Institute for Unification Education, *2017 Understanding North Korea* (Seoul: Institute for Unification Education, 2016), p. 221. (In Korean)

210_*Ibid.*, p. 226.

operate a publishing business, the publisher must register with the Cabinet or the Publication Guidance Agency (Article 12), and all unregistered printing facilities shall be shut down (Article 49). The Publication Law stipulates that “the Publishing Guidance Agency and related agencies must ensure state secrets are not leaked, that any reactionary ideas, culture and lifestyles are not circulated, and that all publishing facilities should be registered and their use supervised,” thereby restricting publication (Article 47). Moreover, by stipulating that “all printed matter that can disclose state secrets or spread reactionary ideas, culture and lifestyles shall be confiscated and its production, publication, supply and transportation shall be suspended” (Article 48), it allows arbitrary censorship and control of publications by the North Korean authorities.

Private citizens or responsible workers at agencies, enterprises, organizations, whose actions have caused serious consequences by violating the Publication Law shall be held responsible in administrative or criminal terms (Article 50). The Administrative Penalty Law mandates the imposition of administrative penalties on those who violate the orders on publishing, printing, and circulation (Article 143). The North Korean Criminal Law also stipulates that up to one year of correctional labor punishment may be imposed on those who violate publication laws (Article 214). Consequently, all writings are ultimately subject to the censorship of the KWP’s Propaganda and Agitation Division. If a

North Korean citizens were to publish material in violation of censorship standards, authorities can charge him or her with anti-state propaganda and the crime of agitation based on Article 62 of the Criminal Law and impose up to five years of correctional labor punishment or in serious cases, five to ten years of correctional labor punishment. Consequently, it is impossible to publish any criticism of the Supreme Leader or the KWP through press or publication materials.

Only those with good family backgrounds can engage in any creative activity, which is, in any case, under the control of the KWP. In most cases, it is only children of high ranking officials that are allowed such activity.²¹¹ They also need to have qualifications such as graduating from a literature college or extolled as a heroic figure.²¹² As such, the opportunities to engage in publishing are applied in a discriminatory manner, and are restricted and under the control of the Party. However, there are also testimonies that even those who are qualified are reluctant to write due to the severe censorship.²¹³

Publications accessible by people have certification stamps as books approved by the State, and all other publications are subject to confiscation and punishment of all involved in crackdowns.²¹⁴

211_NKHR2012000007 2012-01-10.

212_NKHR2015000018 2015-01-27; NKHR2015000052 2015-03-10.

213_Above testimony.

214_NKHR2015000141 2015-10-06.

Many people, however, borrow and secretly read foreign books from the United States, China and Russia from book rental shops run by individuals,²¹⁵ and some testifiers said that with the growing use of mobile phones within North Korea, they saved and read South Korean books on their mobile phones in the form of e-book files.²¹⁶ It seems that the experience of having contact with external publications is mostly through acquaintances.²¹⁷ Numerous testimonies indicated that North Koreans have been deprived of freedom of the press as well as the opportunity to freely choose and read books they want to, due to the strict controls of the political authorities. However, it has also been confirmed that many of them gain access to books from foreign nations, including South Korea, in a wide variety of ways.

215_ NKHR2014000219 2014-12-30 and many other testimonies.

216_ NKHR2014000098 2014-07-15; NKHR2014000148 2014-09-23.

217_ NKHR2016000023 2016-01-26; NKHR2016000064 2016-05-03; NKHR2016000186 2016-12-13.

Table II -39

Testimonies of Crackdowns on South Korean/Foreign Publications

Testimonies	Testifier ID
In 2013, the testifier rented Japanese detective stories and U.S. fiction from local book stores in Hyesan, Yanggang Province. They were bundles of print-outs of the books translated in South Korea and accessed from the Internet or those translated by individuals in North Korea.	NKHR2015000009 2015-01-13
In 2014, the testifier illegally acquired a Korean-English dictionary produced in South Korea through Sambong Customs in Chongjin, North Hamgyeong Province. The dictionary was confiscated as it was discovered by the Book Inspection Bureau. The dictionary was returned with an inspection stamp, but the front page was torn off, where the publisher information had been.	NKHR2014000078 2014-07-01
When the testifier was living in Hyesan, Yanggang Province, he/she rented foreign books from libraries opened by individuals. The books included U.S. books such as <i>Gone with the Wind</i> , Japanese detective stories, and Chinese and Russian publications. The control was not very strict.	NKHR2014000219 2014-12-30
Many foreign books were read in electronic form on a USB stick in Wonsan, Gangwon Province. The <i>Godfather</i> and the autobiography of Chung Joo-young were popular.	NKHR2015000137 2015-09-22
The testifier experienced South Korean and foreign books and art/music through acquaintances when living in Hyesan, Yanggang Province. The testifier was caught during crackdown of geuruppa (Anti-Socialism Group) but avoided punishment through bribery.	NKHR2016000048 2016-04-19

C. Controlling People’s Right to Know by Blocking External Information

Article 19, paragraph 2 of the ICCPR stipulates that freedom of expression includes “the freedom to seek, receive and impart information and ideas of all kinds.” Therefore as a State Party of the ICCPR, all the residents of North Korea are eligible to seek, receive and impart diverse information and ideas utilizing diverse

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media. However, in reality, North Korean people cannot freely access external information and are punished if they are found to have received and/or imparted information and ideas (including video recordings) not authorized by the North Korean authorities.

Under such circumstances, there is only very limited access to external information. TV channels and radio frequencies are fixed to Korea Central Television, which is the public TV and radio broadcaster, and there are regular inspections of the seals on the dials to ensure they have not been broken.²¹⁸ As information that North Korean people can access through TV broadcasts and radio are mostly programs that idolize Kim Il Sung, Kim Jong Il and Kim Jong Un; field guidance; documentary films and negative propaganda on South Korea, it is difficult to obtain outside information. North Korean people communicate with the external world in a limited way through illegal recordings and mobile phones, and even this is not free from authorities' control and surveillance.

(1) Crackdowns and Punishments Related to Recordings

North Korea strictly bans the distribution of information through images such as illegal recordings. The North Korean Criminal Law punishes those who bring from foreign countries or produce,

218_ NKHR2015000123 2015-09-08; NKHR2015000133 2015-09-22; NKHR2015000137 2015-09-22; NKHR2015000145 2015-10-06.

circulate or possess music, dances, paintings, photographs, books, recordings or electronic media that contain corrupt, sensual or inappropriate content without a permit (Article 183), and those who listen to or collect, keep, or circulate the enemy's broadcasting or leaflets without anti-state purpose (Article 185). The behavior of introducing, using and circulating corrupt culture is also punished under the Administrative Penalty Law (Article 152). Offenders are mostly subject to labor training punishment or correctional labor punishment. With regard to introduction of external culture, from the 2013 Criminal Law, it is stipulated in Article 183 (Crime of introducing/distributing corrupt culture) that up to ten years of correctional labor punishment can be imposed. Given that it was up to five years of correctional labor punishment in the relevant provision of the 2012 Criminal Law, it seems that overall control by the North Korean authority on the introduction of external culture has been reinforced since 2013 when Kim Jong Un came to power.

Table II-40 Change in the Provision Related to the Introduction/Distribution of External Culture in the North Korean Criminal Law

Criminal Law of 2012	<p>Article 183 (Crime of introducing/distributing corrupt external culture) Those who introduced, made, distributed or illegally kept any painting, photo, book, video and/or electronic media, etc., reflecting corrupt, sensual and/or inappropriate contents shall be subject to up to one year of labor training punishment.</p> <p>When the above paragraph's behavior is serious, the person shall be subject to up to five years of correctional labor punishment.</p>
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<p>Criminal Law of 2013</p>	<p>Article 183 (Crime of introducing/distributing corrupt external culture) Those who introduced, made, distributed or illegally kept any painting, photo, book, video and/or electronic media, etc., reflecting corrupt, sensual and/or inappropriate contents shall be subject to up to one year of labor training punishment. Those who introduced and distributed any painting, photo, book, video and/or electronic media, etc., reflecting corrupt, sensual and/or inappropriate contents several times or kept such material in a large amount shall be subject to up to five years of correctional labor punishment. When the behavior is serious, the person shall be subject to five years or more and ten years or less of correctional labor punishment.</p>
<p>Criminal Law of 2015</p>	<p>Article 183 (Crime of introducing/distributing corrupt external culture) Those who introduced, made, distributed or illegally kept any painting, photo, book, video and/or electronic media, etc., reflecting corrupt, sensual and/or inappropriate contents shall be subject to up to one year of labor training punishment. Those who introduced, made, distributed or kept such material several times or in a large amount shall be subject to up to five years of correctional labor punishment. When the behavior is serious, the person shall be subject to five years or more and ten years or less of correctional labor punishment.</p>

North Korean authorities operate a separate organization to crack down on illegal recordings. Initially there were joint inspections by five groups (*Groupa*) composed of the MPS, MSS, the prosecutor’s office, the KWP and each affiliated administrative organization, but with an increase in the number of people watching illegal recordings, a separate organization, “Group 109 (*109 Sojo*)” was formed and conducted inspections while in the area.²¹⁹

219_NKHR2017000054 2017-07-31.

Table II-41 Watching Recordings and Related Punishments

Testimonies	Testifier ID
The testifier had contact with South Korean broadcasts for the first time at the home of an MSS agent. Through this, the testifier gained new information about Kim Jong Il and Kim Jong Un.	NKHR2016000037 2016-03-22
The testifier lent a recording of a Korean film to a friend's mother, and the mother reported this. The testifier avoided punishment by hiding for 4 months, but the friend's mother was sent to labor training camps (<i>rodongdanryundae</i>) for three months.	NKHR2016000064 2016-05-03
The testifier's neighbor was sentenced to three years of correctional for mass production and selling of South Korean broadcasting programs	NKHR2018000060 2018-07-02
In the spring of 2014 in Hoeryeong, South Hamgyeong Province, the testifier witnessed people sentenced to correction labor through a public trial. These trials were regarding recorded videos. Those who were punished were mostly children with politically weak family backgrounds. Those who distributed the recordings were sentenced to correctional labor penalty, while those who first introduced the recordings were sentenced to imprisonment at political prison camps (<i>kwanliso</i>).	NKHR2015000031 2015-02-10
In 2014, the soldiers in Shinbukcheong, South Hamgyeong Province were caught watching South Korean broadcasting at night. The squad commander and the deputy squad commander were sentenced to 10 years of correctional labor penalty.	NKHR2018000095 2018-08-27
The number of people caught watching impure recordings (South Korean dramas) increased in 2015. As those who are caught are unconditionally subject to correctional labor penalty, the testifier prepared ways to respond (with bribery) in case he/she was caught.	NKHR2015000122 2015-09-08
In 2015, a friend who was singing a South Korean song on his/her birthday, was reported by a neighbor and was arrested. The friend was sentenced to 6 months of correctional labor penalty.	NKHR2017000076 2017-08-28
In May 2016, the testifier witnessed a person imprisoned in Jeongeori <i>Kyohwaso</i> after being sentenced to 6 years of correctional labor penalty for listening to South Korean songs and watching impure recordings.	NKHR2017000006 2017-04-10
In 2016, the testifier was sentenced 6 months of labor training penalty while listening to South Korean songs saved on a memory card.	NKHR2018000028 2018-05-08
In 2016, the testifier's elder cousin was caught watching a South Korean drama with her friends and were sentenced to two years of correctional labor even when two of the four friends were minors.	NKHR2018000102 2018-10-01

Part I

Part II
The Reality of Civil and Political Rights

Part III

Part IV

Part V

Moreover, there were testimonies that, besides Group 109, there existed a Group 1018 and a Group 1019 that cracked down on several irregularities,²²⁰ and there were some testimonies that Group 109 was renamed to Group 627 in 2013.²²¹ However, there was one testimony that, in general, the crackdown organization is known to be Group 109 (*geuruppa*) and those cases related to South Korean recordings (so-called “red”) are sent to MSS and usually sentenced to eight to ten years of correctional labor punishment.²²²

Many defectors consistently testified that discreet viewing of South Korean dramas, movies, and other recordings is becoming widespread. They purchase cheap recording devices from China and secretly sell or pass along recordings. Mostly, North Koreans who experience South Korean recordings respond with both admiration for South Korea and negative perception towards North Korea.²²³ In some occasions, envy towards South Korea’s economic affluence and freedom in every day lives lead to defection.²²⁴

In many cases, North Koreans are sentenced to labor training penalty when caught watching and distribution of South Korean

220_NKHR2013000057 2013-03-19.

221_NKHR2014000124 2014-08-26; NKHR2014000193 2014-11-18.

222_NKHR2016000069 2016-05-17.

223_NKHR2015000009 2015-01-13 and many other testimonies.

224_NKHR2015000090 2015-05-12.

recordings but there were other testimonies that they can be sentenced to correctional labor penalty, which reflects that regulations have become more stringent. A North Korean defector testified that his/her neighbor was sentenced to three years of correctional labor by mass producing and selling South Korean recordings.²²⁵ There was a testimony that in 2014, the soldiers in Shinbukcheong, South Hamgyeong Province were caught watching South Korean broadcasting at night and the squad commander and the deputy squad commander were sentenced to 10 years of correctional labor.²²⁶ Meanwhile, 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.²²⁷ In addition to this, testimonies claimed that such declarations were posted in many places.²²⁸ However, regardless of the increase in authorities' control, it has been found that there is still widespread avoidance of punishment through bribery.²²⁹ This will be further discussed in the Part V, Chapter 2.

225_NKHR2018000060 2018-07-02.

226_NKHR2018000095 2018-08-27.

227_NKHR2014000081 2014-07-01.

228_NKHR2015000099 2015-05-19.

229_NKHR2017000095 2017-10-23.

(2) Crackdown 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”²³⁰ 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, Koryolink was established and 3G mobile communication services were resumed. With the beginning of Kim Jong Un regime, in addition to Koryolink, another wireless communications service called “Kangsong Net” was introduced. While Koryolink provides service for North Koreans and foreigners, Kangsong Net provides service dedicated to North Korean only.²³¹ The number of North Koreans subscribed to wireless communications surpassed 0.5 million in 2010, 3 millions in 2013 and reached more than 3.7 millions in 2017.²³² 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

230_ The 2004 Yongchon Railway Station Explosion is known as part of an attempt to assassinate Kim Jong Il, and mobile phones were used for major plans such as identifying the exact time of Kim’s arrival.

231_ Park Young-ja et al., *Eight Changes in North Korea’s Economy and Society under the Kim Jong Un Era* (Seoul: KINU, 2018), p.149. (in Korean)

232_ *Ibid.* p.149.

strictly controlled.

In North Korean society, the mobile phone is a key means of distributing foreign information while simultaneously linked to direct and indirect acts of defection. 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. They have also introduced advanced radio detection equipment, further preventing illegal use of mobile phones by North Koreans.²³³ Such phenomenon has been observed in the Hyesan region where defection from North Korea frequently takes place. For example, a defector from Hyesan, Yanggang Province, testified that in around November 2014, North Korean authorities introduced German equipment to crackdown on mobile phones. Using this equipment, chiefs and agents crack down on mobile phone usage via location tracking and wiretapping.²³⁴ Another North Korean defector testified that as the number of mobile phone users has increased, agents came down from Pyongyang to carry out a long-term crackdown for a year.²³⁵ In addition to “Group 1118” or “Group 109” that crack down on illegal mobile phones using Chinese base stations, the

233_NKHR2017000067 2017-08-28; NKHR2017000103 2017-10-23; NKHR2017000132 2017-12-18.

234_NKHR2015000070 2015-04-07.

235_NKHR2018000135 2018-11-19.

authorities established a new, dedicated organization under the MSS for this crackdown in order to expand the crackdown scope by including legal mobile phones.²³⁶ Moreover, the functions of storing and transmitting video, photos, books and music were blocked by changing the mobile phone operating systems.²³⁷ North Korea revised its Criminal Law in 2015 to newly introduce crimes on illegal international communications (Article 222) to strengthen the crackdown and punishment on the use of mobile phones near the border region. With ever strengthening regulation and crackdown, bribery no longer works as a means of getting away when caught using a mobile phone; rather, one has to face actual punishment.²³⁸

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.”²³⁹ When authorities inspect illegal mobile phones, they first check to see if South Korean phone numbers are on record. Even for mobile phones authorized for use inside North Korea, inspectors check the internal data and change of the mobile phone operating systems.²⁴⁰ According to the testimonies, Security

236_ *Radio Free Asia*, 17 February 2015.

237_ NKHR2015000009 2015-01-13; NKHR2015000010 2015-01-13.

238_ NKHR2018000135 2018-11-19.

239_ NKHR2014000154 2014-09-23.

240_ NKHR2015000052 2015-03-10 and many other testimonies.

Platoons frequently patrol streets and trains to censor mobile phones.²⁴¹

In contrast, there are many testimonies stating that when records of international calls and videos, books and songs from foreign countries are found in internal data, one can avoid punishment through bribery and only lose the mobile phone.²⁴² There are even testimonies that the goal of crackdown is not “punishment,” but “money,” because when someone is caught with an illegal mobile phone or doing something illegal with a mobile phone, one needs to pay as much as is required, without exception.²⁴³ This will be further discussed in the Part V, Chapter 2.

Regarding the use of illegal mobile phones in the border areas, most phones are smuggled in to make calls to China, and there are many people who make a living as brokers with such mobile phones.²⁴⁴ Although North Korean authorities impose strict control over the influx of information made possible by mobile phones, its usage is expected to expand in order to maintain people’s livelihood, satisfy their curiosity about the outside world and therefore fulfill their right to know.

241_NKHR2018000135 2018-11-19.

242_NKHR2018000072 2018-07-30; NKHR2018000117 2018-10-22.

243_NKHR2015000143 2015-10-06; NKHR2014000160 2014-10-07.

244_NKHR2014000071 2014-06-17.

Table II-42 Mobile Phone Usage and Related Punishments

Testimonies	Testifier ID
As for the crackdown on the illegal use of mobile phones, punishment varied depending on the purpose of the calls. Those who called to find family members overseas including in South Korea were sent to prison camps (<i>kyohwaso</i>) and those who called for smuggling were sent to labor training camps.	NKHR2016000074 2016-05-17
The Security Platoon conducts crackdowns on mobile phone frequently on street and train with an equipment to detect radio wave.	NKHR2018000135 2018-11-19
Around January or February 2014, a proclamation prohibiting use of mobile phones was released in Hyesan, Yanggang Province.	NKHR2014000138 2014-09-02
From June 2014, there were instructions to change the mobile phone systems in Hyesan, Yanggang Province. Only videos or music approved by the State could be played.	NKHR2015000009 2015-01-13
In August 2014, there was a crackdown on illegal use of mobile phones through import of a radio wave detector made in Germany based on the direction of Kim Jong Un. 150 MSS agents came from Pyongyang to Hyesan, Yanggang Province.	NKHR2015000027 2015-02-10
In 2015, testifier was caught owning a Chinese mobile phone used to broker wire transfers. The testifier was interrogated by the MSS for 20 days.	NKHR2018000058 2018-07-02
In April 2015, the testifier was tapped and caught while talking on the phone with her sister. She was detained in the Hyesan City Security Department.	NKHR2018000098 2018-10-01
In 2016, the testifier was detected and caught while talking on the phone with his/her daughter in China and interrogated in the MSS for 20 days.	NKHR2018000058 2018-07-02
In December 2017, the testifier was caught while talking on the phone. Songs stylized with South Korean techniques or rearranged to a South Korean style are also subject to crackdowns, even if the song is North Korean.	NKHR2018000076 2018-07-30
In March 2018, the testifier was caught in the crackdown and the agents found the South Korean song "Three bears". He/she was released after giving 100,000 North Korean won as a bribe.	NKHR2018000117 2018-10-22

D. Evaluation

The North Korean Constitution stipulates the freedom of expression and argues that it guarantees the right to expression.

However, in reality, such rights are extremely restricted. Most of the defectors testified how dangerous showing political opinion in daily lives would be. In addition, the press and publications, which are supposed to be the means of expressing diverse opinions, mostly serve to establish the ideology under the directions and control of the KWP and mobilize the people to idolize Kim Il Sung, Kim Jong Il, and Kim Jong Un, while arbitrary censorship and control by the authorities of publications continues. Lastly, there have been continued crackdowns on and punishment for recordings and mobile phones, which play an important role in introducing and circulating external information. Due to the revision of the Criminal Law in 2015, the crackdown and punishment on mobile phone use in border areas have been strengthened, evident by the testimonies in the 2018 survey. It seems that such trend will only be more intensified in order to prevent a laxity in the minds of North Korean residents and inflow of external culture caused by the peaceful atmosphere between the two Koreas. Despite the strong control of the authorities, however, North Koreans' aspiration towards access to information through such channels is only expected to grow.

11

Right to Freedom of Assembly and Association

The right to freedom of assembly and association means that individuals are entitled to the freedom to assemble and express their opinions. It is an indispensable part of a democratic society and the exercise of citizen sovereignty. Major international human rights norms also mention the right to freedom of assembly and association. Article 20 of the UDHR stipulates that “everyone has the right to freedom of peaceful assembly and association, and no one may be compelled to belong to an association,” and Article 21 and 22 of the ICCPR refers to freedom of assembly and association as shown in the following table.

Table II -43 Articles 21 and 22 of the ICCPR

Article 21	The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.
Article 22	Paragraph 1 Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
	Paragraph 2 No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
	Paragraph 3 Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Opportunities to participate in peaceful assembly and to belong to a labor union or interest groups should be followed by legal and institutional guarantee and substantive protection. Trade unions will be discussed in Part III, Chapter 3 which deals with the right to work. This chapter will examine the right to peaceful assembly and organizational life.

A. Absence of the Right to Peaceful Assembly

Article 21 of the ICCPR stipulates that “the right of peaceful

assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” North Korea, by policy, prioritizes national security and patriotism, and therefore, does not recognize any right to peaceful assembly.

Article 209 of the North Korean Criminal Law stipulates that “any person who refuses to comply with instructions of a state agency or agencies and causes collective disturbance” shall be subject to criminal penalties even if an anti-state act was not intended, providing the legal foundation to block the possibility for demonstrations in North Korea. The Administrative Penalty Law also stipulates that in the event someone does not comply with legitimate instructions of a state agency, he or she shall be subject to three months or less of re-educational labor or three months or more of re-educational labor in more serious cases (Article 175). Such provisions represented by “in the event someone does not comply with the (legitimate) instructions of a state agency” emphasize the jurisdiction of the State over individuals. In other words, based on such provisions, it can be interpreted that no right to legitimate assembly or demonstration by individuals against the State is allowed.

As such, North Korean defectors consistently testify that no

assembly is allowed by the North Korean authorities other than government-led meetings, and crowd mobilization is not allowed, and even unthinkable.²⁴⁵ This is because the recognition itself of the freedom of assembly can be regarded as denying the North Korean regime and its adherence to the Unitary *Suryong* Ruling System. Under these circumstances, it seems that the very perception of the right to peaceful assembly and freedom of assembly is lacking among North Korean residents.

B. Absence of the Freedom of Association and Forceful Imposition of Organizational Life

Article 22, paragraph 1 of the ICCPR stipulates regarding the freedom of association, that “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.” Article 67 of the North Korean Constitution stipulates that “citizens (···) shall have the freedom of assembly/demonstration and association. The State shall guarantee conditions for free activities of democratic parties and social organizations.” However, in reality only assemblies and associations needed by the KWP are allowed and assemblies or associations set up by the free will of the general

245_ NKHR2015000072 2015-04-07; NKHR2015000112 2015-06-02; NKHR2015000119 2015-09-08; NKHR2016000001 2016-01-12; NKHR2016000047 2016-04-19; NKHR2015000063 2016-05-03.

population are not allowed. As a result, the freedom of assembly does not exist in the mind of North Koreans. In the 2018 survey, North Korean defectors consistently testified that any association gathered on behalf of the opinion or interest of the North Korean residents are not permitted.²⁴⁶

While any assembly or association based on the free will of the individuals or groups are not allowed, all the residents are forced to participate in organizational life. All North Korean residents, from the age of six until retirement, are required to join organizations including those in kindergarten, the Children's Union, those in various educational institutions, the Youth League, the General Federation of Trade Unions, the Agricultural Workers' Union, the Democratic Women's Union, and the KWP. With regard to such organizational life, North Korean defectors consistently testified that the activities and duties in these extra-Party organizations restricted and controlled by North Korean authorities are far from the autonomy one can experience in associations voluntarily organized by individuals with common interest.²⁴⁷ It is hard to interpret the organizational life that North Korean authorities forcibly impose on the people as freedom of association based on the free will of individuals and groups.

246_NKHR2018000004 2018-03-12; NKHR2018000033 2018-05-08; NKHR2018000080 2018-07-30; NKHR2018000117 2018-10-22.

247_NKHR2015000133 2015-09-22 and many other testimonies.

Table II -44 Cases of Infringement on the Freedom of Assembly and Association

Testimonies	Testifier ID
From 2014, People’s meetings were reinforced in Hyesan, Yanggang Province. The main subjects focused on raising alerts against defecting from North Korea.	NKHR2015000136 2015-09-22
In Hyesan, Yanggang Province, there was a mass assembly on “overthrowing America” and other assemblies in Hyesan, Yanggang Province. Military emergency training was also held every Sunday.	NKHR2015000072 2015-04-07
When absent from public trials or government-led meetings, there was social discipline, including imposing a substantial part of the quota assigned to a people’s unit (<i>inminban</i>).	NKHR2015000112 2015-06-02
A person who was absent from important government-led events such as No. 1 Events (events attended by top leaders), would be subject to imprisonment at political prison camps (<i>kwanliso</i>).	NKHR2015000119 2015-09-08
Compulsory assemblies included People’s meetings, Life Review Session (<i>saenghwalchonghwa</i>) and group assemblies. Group assemblies were convened when events occurred in the relationship between South Korea and North Korea. Persons who were absent from these were suspected of ideological deviation. Absence from People’s meetings and Life Review Session did not cause substantial disadvantage.	NKHR2015000133 2015-09-22
Throughout winter training from December 5, there are many group assemblies to prepare for military provocation by South Korea.	NKHR2016000056 2016-05-03

Meanwhile, control over the residents through Life Review Sessions (*saenghwalchonghwa*) and political education has been weakening, reflecting the worsening economic crisis and destabilizing institutional foundation of the North Korean system across various sectors. It appears there are changes in the dynamics of residents’ organizational life imposed by North Korean authorities. According to one testimony, as the perception that money can solve any problem becomes widespread, the compulsory nature of

government-led meetings and Life Review Sessions are gradually weakening. It was testified that those failing to attend such gatherings must pay a certain amount of money, and that even for inspections, the amount of money offered influences the severity of punishment.²⁴⁸ There were reported cases where a testifier was criticized at a Life Review Session for not attending government-led meetings,²⁴⁹ and where a testifier received disciplinary action in his/her daily life.²⁵⁰ Moreover, government-led meetings required a certain number of participants, and those who did not attend were forced to pay a fine.²⁵¹ As for the compulsory nature of government-led meetings, there were both testimonies that the meetings were seriously compulsory²⁵² and that they were only slightly compulsory.²⁵³

Through compiling various testimonies, it is clear that while control over organizational life continues, the severity of this control is being relaxed. However, in spite of this social relaxation, North Korean authorities still deny the people's right to assembly and association.

248_NKHR2014000037 2014-04-15.

249_NKHR2016000081 2016-05-31.

250_NKHR2016000084 2016-05-31.

251_NKHR2016000059 2016-05-03.

252_NKHR2016000053 2016-04-19.

253_NKHR2016000113 2016-07-12.

C. Evaluation

The right to freedom of assembly and association for the North Korean people is still not guaranteed. Based on Articles 21 and 22 of the ICCPR, North Korean people have the right to peaceful assembly and the right to form and join voluntary associations for the improvement of their interests. However, the reality in North Korea is that there exists little such freedom, and people are also forced to participate in assemblies and organizations that are authorized or institutionalized by the authorities. Social control by the Party is reinforced at the State level, while social disintegration is occurring among the people in diverse ways. However, due to the long sustained control conducted at the State level, residents' perception on the right to assembly and association is too low and there is slim chance of enhancing the existing level of perception in the short-term.

12

Right to Political Participation

The right to political participation is one of the most important civil rights in a democratic political system. Article 21 of the UDHR stipulates that “Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.” Article 25 of the ICCPR also states that the principles of direct, universal, equal and secret votes should be adhered to.

Table II -45 Article 25 of the ICCPR

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

North Korea also recognizes the right of its people to political participation in its laws. In particular, Article 4 of the North

Korean Constitution stipulates that “the working people exercise power through their representative organs, the SPA and the local People’s Assembly,” while Article 6 stipulates that “organs of state power at all levels, from the military People’s Assemblies to the SPA, are elected on the principle of universal, equal and direct suffrage by secret ballot.” North Korea’s Delegates Election Law for All Levels of People’s Assembly reaffirms that all elections in principle should be conducted in general, equal, direct and secret vote (Article 2~5). As such, North Korea’s Election Law and Constitution stipulate that deputies for the SPA and the People’s Assemblies of provinces, cities and counties, which are its legislative institutions, be elected.²⁵⁴

However, the North Korean Constitution stipulates that the SPA and local People’s Assemblies, which are legislative institutions, should be under the control of the KWP. Article 5 of the North Korean Constitution stipulates that “national organs in North Korea are formed and function on the principle of democratic centralism.”²⁵⁵ In addition, Article 11 stipulates that

254. The election of deputies for the SPA is held every five years, while the election of deputies for the People’s Assemblies of the provinces (municipalities directly under central authority) / cities (district) / counties is held every four years (Article 8 of the Delegates Election Law for All Levels of the People’s Assembly).

255. The principle of democratic centralism is a unique concept present in North Korean politics. In other words, it has the form of democracy in terms of political system and political process, but in its nature, it seeks to maintain the framework of centralized control or centralism based on the Unitary *Suryong* Ruling System. The principle of democratic centralism stipulated in the North Korean Constitution ultimately refers to the rule by law that means a one-party dictatorship by the KWP instead of the rule of law meaning governance by law. Under these

“all activities are conducted under the leadership of the Korean Workers’ Party.” As such, within the political reality of North Korea where the sole Party has control over all national institutions, the ability of North Korean people to exercise their right to political participation based on free democracy is inevitably limited.

The status of the right to political participation in North Korea will be examined below.

A. Distortion of the Nature of Democratic Elections

Article 25 (a) of the ICCPR stipulates that all citizens should be guaranteed the ability “to take part in the conduct of public affairs, directly or through freely chosen representatives.” This Article, which constitutes the fundamental nature of elections as a democratic procedure, assumes that voters can freely acquire and distribute information about the representatives they elect. However, most North Korean people vote without knowledge of the representatives they are electing.²⁵⁶ This is attributable to the situation in which freedom of expression and freedom of assembly and association are not guaranteed. Subsequently, free access to and dissemination of information about candidates and elections

circumstances, diverse forms of guidance and directions, such as the KWP Statute, the teachings of Kim Il Sung, and the messages of Kim Jong Il, etc., serve extrajudicial functions in North Korean politics, and are above the Constitution.

256_NKHR2015000092 2015-05-12 and many other testimonies.

are limited. In other words, there is a lack of freely formed political opinions on candidates and policies, which are crucial aspects of any election process. Therefore, it is difficult to regard such elections as the realization of the right to political participation in its true sense.

In democratic countries, elections are the processes by which people with diverse opinions and demands elect their representatives to deliver their ideas. However, in North Korea, elections are perfunctory procedures to approve personnel appointments that the KWP wants. The purpose is to drive support from the people for the Party's policies and goals. In particular, North Korea has utilized deputy elections as a process to confirm the North Korean people's absolute loyalty toward Kim Jong Un and the continuation of the *Baekdu* blood line, the regime led by the KWP. Moreover, it has propagandized the 100 percent polling rate of party candidates since the establishment of the regime as evidence of the absolute support of the North Korean people. In 2014, the Central Election Committee reported that 100 percent of voters voted for Kim Jong Un, which is clearly impossible in a free-competition election where multiple candidates are running. North Korean authorities explained the 100 percent polling rate as follows: "This represents the absolute support for and endless trust in our Dear Comrade Kim Jong Un from all members of the People's Army and our people, who are committed to cherishing him as the sole core of solidarity and leadership and serving him faithfully with single-

minded devotion.”²⁵⁷

However, such election results show that elections are not procedures of voters freely selecting their political representatives but are utilized as means to reinforce and justify KWP rule. In other words, in North Korea, participation in elections, which is the representative right to political participation, is not serving its role as the process by which the people deliver their intentions to the government. Without the freedom and opportunity to select diverse candidates and policies, the right to political participation is seriously limited.

B. Violation of the Principle of Secret and Direct Election

Article 25 (b) of the ICCPR stipulates that all citizens have the right to freely express their intention through periodic elections based on the principles of direct, universal, equal and secret ballots.

In this regard, North Korea’s Election Law also guarantees a secret ballot. Specifically, Article 64 of North Korea’s Delegates Election Law for All Levels of the People’s Assembly stipulates that “The people are to vote by secret ballot. To vote for a candidate, one simply leaves the ballot unmarked, but to vote against someone, one draws a horizontal line through the candidate’s name on the

²⁵⁷ Korean Central News Agency, 10 March 2014.

ballot.” Moreover, Article 65 of the same law stipulates that “When a voter marks his/her ballot ‘Yes’ or ‘No,’ no one else shall enter or look into the booth.” As such, based on these regulations, secret ballots are also guaranteed in North Korea. In fact, some testimonies support that the secret ballot is actually guaranteed.²⁵⁸ However, the majority of North Korean defectors testified that, although there are partitions installed in the polling stations, there is someone standing right behind the ballot box watching. As such, voting is so closely supervised that casting a negative vote is unimaginable.²⁵⁹ There were even testimonies that a ballot box or slot to submit negative votes was not available.²⁶⁰ There was also a testimony that the testifier had no experience of filling out a ballot.²⁶¹ Moreover, the Delegates Election Law for All Levels of the People’s Assembly specifies the freedom of “election campaigns (Article 49),” but it is expressly prohibited to “instigate no votes, abstentions, or sabotage elections” (Article 53). As a result, the stark reality of the right to political participation in North Korea is that voters themselves cannot even imagine casting a negative vote. Meanwhile, unlike the testimonies in the past, in the 2018 survey there was a testifier who said that there were no observers or monitoring cameras around the polling place and that it was

258_NKHR2016000110 2016-07-12; NKHR2016000135 2016-08-23.

259_NKHR2013000120 2013-06-25.

260_NKHR2012000066 2012-04-20.

261_NKHR2016000073 2016-05-17.

possible to cast a vote in the objection box. However, the testifier also said that he/she could not cast a vote in the objection box since he/she was afraid of being put in a political prison camp.²⁶² In addition, there was a case where one recognized election candidates but their right to a secret vote or right to object a candidate was not guaranteed.²⁶³

In sum, in terms of its institutions, North Korea stipulates direct, universal, equal and secret ballots and most people regularly participate in elections. However, according to the testimonies of many North Korean defectors, it is practically impossible to vote against the candidates pre-decided by the authorities. Moreover, North Korean defectors testified that it is impossible to oppose the authority, and even if it were possible, it is unthinkable due to surveillance.²⁶⁴ Moreover, before elections, the people's unit (*inminban*) chiefs inform people of the election rules through people's unit meetings, and they explain that people should go to the polling place, write down their name, receive a ballot and put the ballot in the ballot box.²⁶⁵ As a result, in many cases, North Korean people do not have a clear perception of their right to select candidates in an election.²⁶⁶

262_NKHR2018000058 2018-07-02.

263_NKHR2018000001 2018-03-12.

264_NKHR2016000092 2016-06-14.

265_NKHR2014000117 2014-08-12; NKHR2016000073 2016-05-17; NKHR2016000135 2016-08-23.

266_NKHR2015000014 2015-01-27 and many other testimonies.

Moreover, North Korean people do not have the choice of whether they will participate in an election or not. Those who do not or refuse to vote becomes targets of political skepticism and are negatively affected in their daily lives. Therefore, when someone cannot participate in an election, the people's unit chief or his/her family vote on his/her behalf.²⁶⁷ In addition, when it is difficult to participate an election due to a business trip or disease, one can cast a vote in the area where he/she is currently residing. Alternatively, a mobile voting box is delivered to one's house, which means there is no exception when it comes to participating in an election.²⁶⁸ With consideration to these various circumstances, the principles of secret and free ballots in their true sense are not guaranteed in North Korea.

C. Limited Application of Electoral Eligibility

Article 25 (c) of the ICCPR includes the right “to have access, on general terms of equality, to public service in his country” as a major part of the right to political participation. In a democratic system, all citizens have the right to access public service. However, in North Korea, such right is limited only to those recommended by the KWP. As a result, the general population does not perceive its eligibility to run for office.

267_NKHR2016000023 2016-01-26; NKHR2016000024 2016-01-26.

268_NKHR2017000060 2017-07-31; NKHR2017000065 2017-07-31.

Table II-46 Cases of Infringement on the Right to Political Participation

Testimonies	Testifier ID
Before an election, in the voters' meeting, they let people know who the candidate is and that candidate will be elected. Those who vote against this are sent to political prison camp (<i>kwanliso</i>).	NKHR2016000013 2016-01-26
<i>Inminban</i> chiefs went around to check whether people voted or not. When one cannot vote, he/she can just make a call to the polling place or the <i>inminban</i> chief to vote on his/her behalf.	NKHR2016000023 2016-01-26
The identity of the candidate was notified at the voters' meetings and the testifier just put the ballot in the ballot box without writing down yes or no on election day.	NKHR2016000092 2016-06-14
The only method of elections is to place the ticket inside the voting box in time.	NKHR2017000046 2017-07-03
The testifier knew the candidates but secret vote and right to oppose were not guaranteed.	NKHR2018000001 2018-03-12
The testifier said that there was one candidate but when given a ballot, he/she put it in the ballot box. No yeas and nays were marked in the ballot.	NKHR2018000004 2018-03-12
When impossible to cast a vote, people could use mobile ballot box system and there were no freedom of election.	NKHR2018000029 2018-05-08
In the election in 2013, there were no one and no camera in the polling place. It was acceptable to put a ballot in the opposition box but the testifier did not do so, fearing being sent to a political prison camp.	NKHR2018000058 2018-07-02
The testifier cast a vote in 2014 but he/she did not remember what the voting was about and did not try to know. He/she simply waited in line and put the ballot in the box.	NKHR2018000117 2018-10-22
There was an election to select the members of Supreme People's Assembly and a voters' meeting was held in a perfunctory manner.	NKHR2018000002 2018-03-12
There was an election for representatives in Musan County in 2015. Everyone was required to participate and could see and be seen the name they wrote on the ballot and where they put the ballot.	NKHR2018000076 2018-07-30

D. Evaluation

North Korean people participate in elections based on the Constitution and the Delegates Election Law for All Levels of the

People's Assembly. However, the principles of direct, universal, equal and secret ballots, as mentioned in the Constitution and the Delegates Election Law are not upheld. North Korean people are forcefully mobilized by North Korean authorities without even knowing who the candidate is and almost all voters participate in each election. Furthermore, they vote for the single candidate recommended by the KWP. As a result, the majority of North Korean people do not even realize that there are principles of democratic elections. In a democratic society, citizens have the right to vote and the right to run for elections through free competition. However, in North Korea, elections are utilized as a means to reinforce and legitimize the regime instead of electing representative who will speak for the people in the political process. In the 2018 survey, there were notable testimonies such as there being no observers in the polling place and that voters recognized the candidates. Such cases, however, are exceptional and it is hard to generalize that North Koreans are guaranteed freedom of election.

13

Right to Equality

The UDHR stipulates that “All are equal before the law and are entitled without any discrimination to equal protection of the law” (Article 7). The ICESCR and the ICCPR also prohibit “all kinds of discrimination.” The right to equality is closely related to the prohibition against discrimination. Non-discrimination, together with ‘equality before the law’ and ‘equal protection of the law without discrimination,’ constitutes basic and general principles relating to the protection of human rights.²⁶⁹

Table II -47 International Human Rights Standards against Discrimination

Article 7 of the UDHR	All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
Article 2, paragraph 2 of the ICESCR	The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

269_ UN Human Rights Committee, General Comment, No. 18 (1989), para. 1.

Article 2, paragraph 1 of the ICCPR	Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
Article 26 of the ICCPR	All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The right to equality can be approached from many perspectives, including gender discrimination and discrimination between persons with disabilities and those without. This section covers issues regarding the discrimination based on social classification and the right to be equal before the law. The issues of discrimination against women and persons with disabilities will be explored later (Part IV, Chapter 1. Women and Chapter 3. Persons with Disabilities).

A. Continued Discrimination based on *Songbun* and Class

Article 2 of the ICCPR stipulates that all individuals within the territory of State Parties shall not be discriminated against based on “distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 2 of the ICESCR also stipulates that there shall not be “discrimination of any kind as to race, colour,

sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” As such, international standards on human rights stipulate equal protection by law for everyone without discrimination of any kind, and particularly prohibit discrimination based on arbitrary and customary divisions, such as those based on social origin, birth or class.

Article 65 of the North Korean Constitution that stipulates “Citizens enjoy equal rights in all spheres of State and public activity,” clearly guarantees equal rights without discrimination. In reality, however, there are unique internal regulations based on class, according to which all residents are classified by. Following a series of citizen registration programs carried out after Korea’s liberation from Japanese colonial rule, North Korea has divided its people into three classes and 56 categories and then separately into 25 types of background (*Songbun*).²⁷⁰ Regulations on background and class aim at “isolating those hostile to the regime and securing the majority of the people.” North Korea says that it defines and establish regulations on background and class

270_ It has been previously known that North Korea had three classes: the core class (core masses), the wavering class (basic masses), and the hostile class (complex masses). The Reference Book for Citizen Registration Projects (Strictly Confidential), published in 1993 by the Press of the Ministry of Social Security (currently called the Ministry of People’s Security (MPS)) shows that it uses the three classes of the basic masses, the complex masses, and remnants of the hostile class, which are then subdivided into 56 categories, and separately, 25 backgrounds are also used for classification purposes: Sang-son Kim and Sang-hui Lee, *Book for Citizen Registration Projects (Strictly Confidential)* (Pyongyang: Ministry of Social Security Press, 1993) (In Korean). Based on this, In-ae Hyun’s “A Study of North Korea’s Resident Registration System,” (M.A. dissertation, Ewha Womans University, 2008) (In Korean) was submitted.

“accurately by performing extensive and accurate research on individuals regarding: their economic conditions at the time of their birth; the class background of their family and its influence; their social and political activities; the particularities of nation’s historical development and class relations; and class policies that the Party has implemented at each phase of the Revolution.”²⁷¹ Background is divided into two types - personal and social – and serves as basic data for determining people’s class.²⁷² There are three classes: the basic masses, the complex masses, and the remnants of the hostile class. Finally, there are 56 categories under these three classes.

271_In-ae Hyun, *Ibid.*, p. 25. (In Korean)

272_One’s personal background is determined by the profession that his/her parents had for the longest period of time from his/her time of birth to the point of time when he/she entered a social occupation. If the parents had several jobs for similar periods of time, the child’s personal background is defined by what had the most significant impact on the child’s development of values. Social background, on the other hand, is determined by the profession that one has had for the longest period of time. Likewise, if he/she had several jobs for similar periods of time, the one that had the most significant impact on his/her values will become the basis of the person’s social background.

Table II -48 Classification of North Korea's Residents by Background and Class

Classes and Backgrounds	Categories (56 in total)
Basic masses	1. Revolutionaries; 2. Families of revolutionaries; 3. Bereaved families of revolutionaries; 4. Honored veterans wounded in service; 5. Honorary veterans wounded in action; 6. <i>Joggyonja</i> ; 7. National heroes; 8. Persons of Merit; 9. Discharged soldiers; 10. Families of the war dead; 11. Families of civilians who died during the war; 12. Families of patriots who sacrificed for socialism; 13. Others (Members of the core masses, including those who have long worked faithfully and played a leading role, always committed to serving the Party at the revolutionary guard post entrusted to them by the Party; and laborers, farmers, soldiers, and intellectuals with sound class background, family circumstances, and socio-political activities)
Three Classes Complex masses	1. Draft dodgers from the KPA; 2. Deserters from the KPA; 3. Repatriated soldiers; 4. Repatriated citizens; 5. Those who cooperated with reactionary groups; 6. Those who served in Japanese organizations before liberation; 7. Liberation soldiers; 8. Discharged construction workers; 9. Defectors to the North; 10. Personnel associated with No. 10 Guerilla Operations Area; 11. Personnel associated with Kungang School; 12. Former political prisoners; 13. Religious personnel; 14. Families of defectors to South Korea; 15. Families of the executed; 16. Families of arrestees; 17. Families of former political prisoners; 18. Families of non-repatriated POWs; 19. Families of defectors overseas; 20. Families of landowners; 21. Families of rich farmers; 22. Comprador capitalists; 23. Pro-Japanese collaborators; 24. Families of pro-American collaborators; 25. Families of Evil religious personnel; 26. Families of factionalists; 27. Families of those complicit with factionalists; 28. Families of spies; 29. Families of agricultural foremen; 30. Families of entrepreneurs; 31. Families of merchants
Remnants of the hostile class	1. Landowners 2. Rich farmers; 3. Comprador capitalists; 4. Pro-Japanese collaborators; 5. Pro-American collaborators; 6. Evil religious personnel; 7. Factionalists; 8. Those complicit with factionalists; 9. Spies; 10. Agricultural foremen; 11. Entrepreneurs; 12. Merchants
Backgrounds (25 in total)	1. Revolutionaries; 2. Professional revolutionaries; 3. Laborers; 4. Soldiers; 5. Farmhands; 6. Poor farmers; 7. Farmers; 8. Farm managers; 9. Mid-sized farmers; 10. Better-off mid-sized farmers; 11. Agricultural foremen; 12. Rich farmers; 13. Landowners; 14. Office workers; 15. Students; 16. Craftsmen; 17. Foremen; 18. Small- and mid-sized entrepreneurs; 19. Converted businessmen; 20. Entrepreneurs; 21. Petit-bourgeois; 22. Small-and mid-sized merchants; 23. Merchants; 24. Religious personnel; 25. Those who served in Japanese organizations before liberation

Source: In-ae Hyun, "A Study of North Korea's Resident Registration System," pp. 31-35. (In Korean)

North Korean authorities use this class and background classification system to strictly control their people; any movement between classes is also controlled in a very closed manner. One who makes a brilliant achievement, for example, may see his class upgraded from “remnants of the hostile class” to “the complex masses,” but it is virtually impossible to climb all the way up to “the basic masses” either from “remnants of the hostile class” or “the complex masses.” Those in the “remnants of the hostile class” and “the complex masses” face discriminatory treatment across the entire spectrum of social life from employment, education, residence, and medical benefits. North Korean authorities define the value of individuals based on their personal backgrounds and family background. The problem is that such discriminatory treatment occurs via comprehensive and systemic survey through Citizen Research (*jumin yohaeh*). In this process, discrimination persists in the form of guilt by association on both vertical and horizontal levels.

In North Korea, guilt by association is mostly directed towards those with experience as South Korean civil police agents, families of Korean War POWs, families of returnees from Japan, and those with records of family members escaping to South Korea. First of all, North Korea has treated separated families as part of the complex masses, categorized into “traitors who fled to South Korea” or “families of traitors.” They are still denied their basic rights or face various disadvantages, due to the “wrong

doings” of their ancestors under Japanese colonial rule or during the Korean War. If one has a family member who served as a South Korean civil police agent during the Korean War²⁷³ or was a Korean War POW, he/she may be exiled to a remote area, or to a coal mine or lumber mill, where he/she will be forced into hard physical labor. One testifier said that his/her family was deported from Gangwon Province where they used to live to North Hamgyeong Province for the reason that his/her grandfather had been a landlord before liberation.²⁷⁴ Another testifier graduated from the medical school of Hyesan University and was nominated to be a doctor of Department No. 5 of the Central Party, but was not assigned to the post as it was found that his/her grandfather on his/her mother’s side had served as a South Korean civil police agent.

B. Discrimination in Social Life by *Songbun* and Class

According to recent testimonies, since Kim Jong Un came to power, discrimination based on background has been declining.²⁷⁵

However, discrimination based on background and class undeniably exists in North Korea. The most representative cases of discrimination in social life based on background and class

273_ NKHR2015000053 2015-03-10.

274_ NKHR2014000015 2015-01-27.

275_ NKHR2016000057 2016-05-03.

include those related to employment as a senior official, becoming a Party member, college entrance, and job assignments.

First is discrimination in employment as a senior official. One's background and class play a significant role in being able to join political authorities like Party organizations, the MSS, or MPS and becoming a member of the senior staff. One North Korean defector testified that those with background issues still cannot join political institutions including Party organizations, law enforcement and judiciary institutions, although the "reform" of citizen registration documents in 2012 narrowed the scope recorded based on background.²⁷⁶ Although it is possible to become a Party member through bribery up to a certain level, background is still used as an important criterion when hiring senior political officials such as senior officials for the Party.²⁷⁷ However, background plays a relatively smaller role when hiring junior officials and administrative workers.²⁷⁸ Relevant examples include a North Korean defector who said his/her father was a soldier in the Korean Volunteer Army but his/her six elder brothers could not become Party members until finishing their

276. According to testimonies, there was a citizen registration document "reform (reorganization)" project in March 2012. Through this reform, while family background included families up to great-grandfathers and their siblings for both men and women before March 2012, only families up to cousins were included in the family background of men and up to male siblings in the family background of women after the document reform. NKHR2015000074 2015-04-07.

277. NKHR2014000015 2015-01-27; NKHR2017000126 2017-12-18.

278. NKHR2017000060 2017-07-31; NKHR2017000065 2017-07-31.

serving in the military. However, even after joining the Party, they remained as administrative and not political workers.²⁷⁹ If one has a poor background, they cannot be a political worker, but can still become a level 3 or 4 administrative worker at an enterprise.²⁸⁰ If one of the family members defected to South Korea, he/she can be an administrative member but not a member of the Party.²⁸¹ However, anyone whose family member has defected from North Korea cannot join the Party²⁸² and in principle, cannot serve in the military.

Second, there is discrimination in joining the Party. North Korean defectors testified that from the mid- and late-2000s, people could join the Party by discreetly providing bribes, even if they had unfavorable background and class. Numerous testimonies explained that, now that with the spread and intensification of marketization and prevalent corruptions, bribery became an easy way to join the Party. So “money” comes before background.²⁸³ For example, there have been cases where one with an unfavorable background was able to join the Party if he invested in the “Kim Il Sung Fund” which was raised to build his statue.²⁸⁴ In some

279_ NKHR2015000023 2015-01-27.

280_ NKHR2018000112 2018-10-13.

281_ NKHR2018000003 2018-03-12.

282_ NKHR2017000134 2017-12-18.

283_ NKHR2015000045 2015-02-24.

284_ NKHR2017000054 2017-05-08.

regions, it is even possible to join the Party by donating one or two pigs.²⁸⁵ On the other hands, another testimony explains that these days one cannot be a member of the Party without money regardless of their background.²⁸⁶ In addition, given that economic life has come to revolve around market activity, there is a tendency to shy away from joining the Party. This is because life as a Party member will bring inconveniences and also because there will be many demands made of a Party member. Likewise, it is true that there have been some changes in the perception and actual situation of joining the Party. However, being a member of the Party is still regarded as a shortcut to achieving social success. Furthermore, discrimination remains as one's background has a huge influence on joining the party itself and the promotion process afterwards.

Third, the degree of discrimination in college entrance and job assignments is relatively lighter compared to that of becoming a Party member and getting a promotion, but it does have a significant impact on one's career and social prospects. A North Korean defector testified that he/she passed the entrance exam to a teachers' college but had to enter a different college because his/her grandfather was recorded as missing during the Korean War. In North Korea, teachers' colleges is an institution producing

285_NKHR2018000070 2018-07-14.

286_NKHR2017000125 2017-11-20.

teachers and strictly considers one's background during the admission process.²⁸⁷ The level of discrimination by background and class in college entrance is found to differ between central colleges like Kim Il Sung University, the People's University of Economy, and Pyongyang Foreign Language University and general local colleges at the provincial and city levels. While it is possible to enter general colleges based on one's ability, it is impossible to enter central colleges if one is not qualified according to background and class, regardless of one's abilities.²⁸⁸ In this regard, it appears that the level of discrimination based on background and class is high when entering central colleges, whose graduates are likely to be employed mostly by Party organizations and key political organizations, while it is low when entering general colleges, whose graduates are likely to be hired at local administrative institutions or mere junior positions. The importance of background has decreased in regards to work allocation. According to a defector who left North Korea in 2017, one with a bad background cannot serve in the army but when it comes to work allocation, one's personal will is more important than his/her background.²⁸⁹

If one of the family members is a defector, he/she is harshly

287_ NKHR2015000043 2015-02-24.

288_ NKHR2014000015 2015-01-27.

289_ NKHR2018000018 2018-04-09.

discriminated especially when it comes to receiving a promotion to a Party member, joining the Party, college entrance, work assignment, marriage, etc. A North Korea defector testified that his father failed to be promoted and siblings were refused college entry when their mother had defected from North Korea.²⁹⁰ In one case, a North Korean testifier was unable to enter the Party or serve in the military, and was rejected from prestigious universities such as the Kim Il Sung University or Gimchaek University of Technology because his elder sister had defected to South Korea.²⁹¹ If one of the family members is put into a political prison camp, the rest of the family members are judged as having a bad background and are discriminated when it comes to entering the Party, promotion, or marriage.²⁹²

C. Discriminatory Assignment of Residence Area by *Songbun* and Class

North Korean citizens are assigned residential areas and can be forcibly relocated based on their background and class. In North Korea, those with unfavorable background and class are primarily those formerly from South Korea or those who once belonged to the landlord or capitalist class, as authorities have concerns that

290_NKHR2017000090 2017-09-25.

291_NKHR2018000109 2018-10-06.

292_NKHR2018000088 2018-08-27; NKHR2018000091 2018-08-27.

they may escape from North Korea because of their admiration for South Korea. For this reason, North Korean authorities limit the areas of residence for these people to prevent escape. For example, people with unfavorable background are not allowed to live in Pyongyang, Nampo, near the coast, or areas bordered by the enemy (*jeonyeonjidae*).

Such discrimination is stricter when it comes to residence in Pyongyang. The city is divided into central Pyongyang and surrounding districts, and the surrounding districts are further divided into protective zones, satellite cities and farming areas (Article 7 of the Law for the Management of Pyongyang). In order for a North Korean to live in Pyongyang, he/she must file for resident registration in accordance with the procedures and methods set by the Cabinet (Article 30). In addition, one has to acquire the permission of relevant authorities in order to move into the central Pyongyang from surrounding districts (Article 31). Even among those who live in Pyongyang, those living in the surrounding districts are discriminated from those living in central Pyongyang. For example, those living in some areas including Yongsong district are allowed to pass through central Pyongyang but cannot get a job there.²⁹³ Authorities strictly examine the background and class of individuals when granting permission to live in Pyongyang. Even those living in the city are divided into

293_NKHR2018000037 2018-05-08.

three categories by background and class, according to which they face discriminatory treatment. Groups 1 and 2 constitute about 80–90 percent of Pyongyang residents who have no problems in terms of background, while Group 3 includes Koreans repatriated from Japan, former South Korean residents, and those who have missing family members, accounting for 10 to 20 percent of the city’s population. Because of the grouping based on background and class, citizens falling in Group 3 cannot participate in various political events held in Pyongyang. For example, when foreign dignitaries visit the capital, only those citizens belonging to Groups 1 and 2 are mobilized as welcoming crowds. Group 3 citizens are constantly marginalized, and are allowed to join only in ordinary mass rallies. Even when attending these mass rallies, they face discrimination as Group 1 and 2 citizens are lined up in the front rows while those in Group 3 are made to stand at the back and are under the surveillance of MSS agents.

The discrimination between residents of Pyongyang and of provinces is also severe. First, there is discrimination with regards to freedom of residence and movement. People living in provinces need to obtain official approval from competent agencies to move to Pyongyang (Article 31 of the Law for the Management of Pyongyang). Second, only citizens of Pyongyang receive Pyongyang citizenship cards, granting them special status that ensures better treatment compared to residents of other regions. This Pyongyang Citizen ID Card is issued only to those above the

age of 17 (Article 7 of the Citizen Registration Law). In practice, authorities grant access to Pyongyang in a discriminatory manner to those living in other cities or in the provinces, as the latter must undergo complicated procedures and face a variety of restraints. In contrast, Pyongyang citizens can more freely move to other cities or provinces. Third, it is said that there is also discrimination with regard to food rations, which will be described in Section 1 of Chapter III.

Meanwhile, the movement of people from cities and rural areas has been more strictly controlled since Kim Jong Un came to power. It was previously possible for someone from a rural area to move to a city for a job as a teacher at a university or when joining the military, and a woman from a rural area could move to a city if she married a man from a city. Now, however, when a man from a city marries a woman from a rural area, he needs to relocate to the rural area.²⁹⁴ Moreover, for provincial people to become Pyongyang residents, they need go through a complicated processes involving five to six institutions due to their background, and some even end up divorcing their partners due to the disadvantages they must encounter during job assignment.²⁹⁵

294_ NKHR2015000052 2015-03-10.

295_ NKHR2016000054 2016-04-19.

D. Discrimination against Ethnic Chinese and Returnees from Japan

In the past, there was a perception in North Korea that ethnic Chinese and returnees from Japan have superior economic power and enjoy more affluent lives due to their relatives in China and Japan. However, as the Kim Jong Un regime reinforced surveillance on those who defected and returnees from Japan have lost their connections with Japan, discrimination against these groups appears to have intensified.

Testimonies show mixed perceptions in the treatment of ethnic Chinese. While some testify that ethnic Chinese in general have economic power, live wealthy lives and are generally perceived positively,²⁹⁶ others testify that the general perception of ethnic Chinese is negative and their living standards are not so high.²⁹⁷ More specifically, there are testimonies that since ethnic Chinese are allowed to vend in both China and Korea, people envy their economic power.²⁹⁸ A North Korean defector testified that there is no discrimination against ethnic Chinese, and rather, there is a perception that North Korea is “a society for ethnic Chinese people.”²⁹⁹ The negative perception of ethnic Chinese, according

296_NKHR2016000051 2016-04-19.

297_NKHR2016000116 2016-07-12.

298_NKHR2016000111 2016-07-12.

299_NKHR2014000168 2014-10-07.

to some testimonies, originates from the idea that there are many spies among ethnic Chinese and that those ethnic Chinese ruin the social atmosphere.³⁰⁰

Apart from the mixed social perception on ethnic Chinese, there are some specific testimonies on social discrimination due to their backgrounds. One North Korean defector's maternal grandmother was Chinese and his/her grandfather was ethnic Chinese, and his/her mother's cousins were all living in China. Due to these connections, he/she was harshly discriminated after graduation in job, and military service.³⁰¹ In another testimony, a child with Chinese parents who migrated to North Korea in the 1960s was rejected from becoming a member of the Party.³⁰² In particular, since Kim Jong Un came to power, discrimination against people with connections to China seems to have intensified. According to testimonies, while those with cousin in China were subject to discrimination under Kim Jong Il, the scope has expanded up to the level of second cousin since Kim Jong Un came to power. Those with connections to China are not allowed to work in border areas and are dispatched away from the front lines.³⁰³ This shows the discriminatory perception of the North Korean authority that those with connections to China are likely to defect from

300_NKHR2016000170 2016-11-01.

301_NKHR2015000101 2015-05-19.

302_NKHR2018000017 2018-04-09.

303_NKHR2016000146 2016-09-06.

North Korea and engage in smuggling, treating them as potential criminals.

Meanwhile, there were also testimonies that discrimination against returnees from Japan or those with connections to Japan is intensifying. In the past, this class was treated very well. In case of a testifier whose grandmother was Japanese and whose entire family returned to North Korea when the father was 14 years old, the government gave them a house in Dongrim County, North Pyeongan Province, and his father, after being graduated from Huicheon Engineering University, became a middle school teacher and was assigned to a job in Musan County, North Hamgyeong Province. Moreover, he was allowed to join the Party and was treated very well.³⁰⁴ However, the treatment of returnees from Japan has been recently worsening. A major reason is said to be their weakening financial capability due to their loss of connections to Japan.³⁰⁵ According to a testimony, the testifier's father, who was a returnee from Japan, experienced discrimination at work, had his letters to Japan censored, and had to endure hostile attitudes and accusations.³⁰⁶ One testifier testified that his wife's family members were returnees from Japan, and while returnees from Japan cannot be promoted to high-ranking Party posts,

304_NKHR2016000023 2016-01-26.

305_NKHR2016000061 2016-05-03; NKHR2016000111 2016-07-12; NKHR2017000113 2017-11-20.

306_NKHR2016000127 2016-08-09.

others are available to them. However, the testifier himself experienced discrimination in job selection due to the background of his in-laws.³⁰⁷ Similarly, according to a North Korean defector who had a boyfriend whose parents were returnees from Japan, the boyfriend was rejected from joining the Party, despite the fact that he had served in the military for eight years. The father of this boyfriend also could not find a job and engaged in vending because he was a returnee from Japan, despite the fact that he had graduated from Gimchaek Engineering University.³⁰⁸

E. Evaluation

For North Korea, discrimination by background and class continues to function as a key system that creates inequality in diverse aspects of people's lives. Discrimination by background and class remains unchanged with regard to advancement in society, job assignments, employment and promotion to a senior staff position, college entrance, and assignment of residence area. After Kim Jong Un came to power, discriminatory institutions based on background and class have been partially mitigated but prevalent corruption and widening gap between the rich and the poor caused by marketization led to another form of discrimination. Moreover, since Kim Jong Un came to power, there are testimonies that

307_NKHR2014000212 2014-12-30.

308_NKHR2014000085 2014-07-01.

movement between cities and rural areas has become more strictly prohibited, and surveillance and discrimination against ethnic Chinese and returnees has been reinforced. Therefore, existing discrimination and inequality can be interpreted as a continuing phenomenon.



White Paper on Human Rights
in North Korea 2019



Part III

The Reality of Economic, Social, and Cultural Rights

1. Right to Food
 2. Right to Health
 3. Right to Work
 4. Right to Education
 5. Right to Social Security
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1

Right to Food

The UDHR states that “everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing, medical care and necessary social services” (Article 25, paragraph 1). The ICESCR provides a more specific provision regarding the right to food (Article 11, paragraph 2).

Table III-1 Article 11 of the ICESCR

Paragraph 2	The States Parties to the present Covenant recognize the fundamental right of everyone to be free from hunger.
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Article 7 of the North Korean Food Policy Law states that “It is the consistent policy of the DPRK to be responsible for supplying grain foods,” and that “DPRK shall supply regular food to the people.” In a legal sense, North Korea appears to actively guarantee the right to food while officially maintaining a food ration system. However, in reality, the right to food is not adequately protected. This chapter will focus on the right to food with focus on the prolonged food shortages and discriminatory distribution.

A. Prolonged Chronic Food Shortages

The food situation appears to have stabilized since the start of the Kim Jong Un regime. This is the case even when considering the period of the ‘Arduous March’ which led to mass victims of starvation as well as the 2000s. As an example, according to the DPRK Multiple Indicator Cluster Survey (hereinafter referred to as “MICS survey”) conducted by UNICEF, since the beginning of Kim Jong Un regime, nutrition situation of infants and children has rapidly improved compared to the survey results in 2012. The food situation may have improved since the Kim Jong Un regime as a result of an increase in food production and marketization, among other reasons.

However, just as UN Food and Agriculture Organization (hereinafter FAO) classified North Korea as a food-deficit nation in 2018, chronic food shortage has not yet been fully resolved. According to FAO, it is estimated that in 2018 North Korea suffered from 0.64 million tons of food shortage. UN World Food Programme (WFP) assumes that about 40 percent of North Korean population is in a state of chronic malnutrition.

Article 11, paragraph 2 (a) of the ICESCR stipulates that there is a need “to improve methods of production, conservation and distribution of food by developing or reforming agrarian systems in a way to achieve the most efficient development and utilization of natural resources.” Accordingly, the State is required to take

active measures to increase food availability in the event of a food shortage.

North Korean authorities have also taken legal and policy measures to expand food production. The ‘paddy unit responsibility system’ introduced after Kim Jong Un took office is a key example. Introduced in 2012, the size of the production team (*bunjo*) is reduced from 10~25 people to 3~5 people per team. Each team is then assigned to a fixed size of land. The paddy unit responsibility system could lead to increased food production since reducing the number of production team member helps to increase productivity.

Furthermore, by adopting the paddy unit responsibility system, North Korean authorities are promoting various policies which will encourage production. Once farmers achieve the amount set by the national production plan, and the farmers pay the country the price of seeds, fertilizers, agricultural equipments, among other costs, they are then free to dispose the remaining crops.³⁰⁹ “The farms have earned the right to manage crops as they wish, when only achieving the national production plan and paying back the nation for the price of land, guaranteed irrigation, agricultural supplies, fertilizers, etc.”³¹⁰

An important point is whether these actions taken by North

309_ *The Choson Sinbo*, 7 June 2013.

310_ *Ibid.*, 19 April 2013.

Korean authorities to increase food availability actually leads to an increase in food production. According to testimonies, the paddy unit responsibility system is actually being promoted in many areas.³¹¹ Although some testimonies said that the increase in food production has improved the food situation,³¹² the effect does not seem to be significant. Despite the systematic change in the allocation method, work incentives have not materialized. This is because the actual share for each farmer has not increased, and also because fertilizers and agricultural machinery are not properly supplied.³¹³

Corruption also acts as an obstacle inhibiting the intention of the paddy unit responsibility system. One defector, in his/her 40s who worked as a farmer in Hoeryeong, North Hamgyeong Province until escaping North Korea in 2016, testified that the farmer's standard of living improved when the paddy unit responsibility system was newly implemented in 2014. However, the defector testified that everything has returned to the conventional way by 2015. The team leaders (*bunjojang*) chose to do things the conventional way, since there was no better profit for them by adhering to the new way.³¹⁴ In addition, there was a testimony that although the state agency provided fertilizers, the

311_NKHR2017000016 2017-05-08 and other testimonies.

312_NKHR2018000095 2018-08-27.

313_NKHR2017000016 2017-05-08 and other testimonies.

314_NKHR2017000004 2017-04-10.

team leader would embezzle them mid process, after which not much was left and thus resulted in poor harvest.³¹⁵

B. Food Shortage for Farmers Due to Excessive Government Collection

As previously mentioned, North Korean authorities introduced the paddy unit responsibility system to increase each farmer's share while strengthening their autonomy. However, farmers' food situation has not improved.

The primary reason lies in the fact that each farmers' share is insufficient due to the overpayment to the state. As mentioned previously, North Korean authorities have granted the right to dispose the crops freely, once farmers pay back the country for the provided seed, fertilizer, and farm equipment, after the farm achieves the national production plan level. Although it had a positive effect in some regions,³¹⁶ in many cases, this has not been implemented in such form. Farmers are burdened with excessive production quota without sufficient equipment or fertilizer. Moreover, official skimming³¹⁷ occurs under various pretext such as Rice for the Military (*gullyangmi*), Patriotic Rice (*aegukmi*), Rice for the Needy (*wonhommi*), and Rice for the

315_ NKHR2018000012 2018-03-12.

316_ NKHR2018000095 2018-08-27.

317_ NKHR2017000022 2017-05-08 and other testimonies.

Troops.

According to defector testimonies, food is not distributed to the farmers according to the original policy, even after harvesting. A female defector in her 30s who escaped North Korea in 2017 testified that her parents were farmers and worked diligently, believing that they would be able to take some of the grain after paying back the country. However, they were only distributed one year's ration after the harvest.³¹⁸ Moreover, it is also difficult to get the proper amount, because the distribution amount is decided based on dry grain and the actual distribution is given with wet grain.³¹⁹

A male defector in his 20s who escaped North Korea in 2017 testified that although farmers were given incentives, almost nothing was left for them after paying the country the imposed production quota.³²⁰ Another defector testified that they were allocated the remaining grain after paying the rent for the farm equipment, fertilizer, and official skimming. This amount was only approximately ten percent of the total harvest.³²¹ A North Korean defector who defected in 2018 testified that although the paddy unit responsibility system was implemented, most of the harvested crops were taken for the purpose of rice for the Military (*gullyangmi*) and he/she had to buy all the necessary agricultural

318_NKHR2017000020 2017-05-08.

319_NKHR2017000020 2017-05-08.

320_NKHR2017000030 2017-06-05.

321_NKHR2017000110 2017-11-20.

tools and equipment from his/her own pocket.³²²

North Korean authorities issue propaganda declaring that official skimming is a voluntary act. As an example, the *Chosun Shinbo* reported that “There was a ‘Patriotic Rice’ campaign triggered by an act of a young man at Samjingang cooperative farm. Everyone reflected on ‘the responsibility of the farmer.’ The Management Committee or higher levels did not ‘request’ or ‘appeal’ to them. Last year, 300 tons of ‘patriotic’ rice was collected at the farm level. This increased to 350 tons this year.” Such government propaganda emphasizes the voluntary nature of official skimming.³²³

In reality, it appears that official skimming amounts are assigned. When they fail to meet the allocated amount, they are threatened, sanctioned, or encouraged to purchase the grains to fill the quota. In other words, it is confirmed that when ‘patriotic’ rice is not collected as planned, some families were threatened with a house search,³²⁴ and some were even sanctioned.³²⁵ A North Korean defector testified that offering ‘patriotic’ rice is voluntary so it was possible to not provide it to the state but as for Rice for the Military (*gullyangmi*), a vehicle came to the house and took the

322_NKHR2018000084 2018-08-11.

323_ “Voluntarily Devoted Rice” (*aegukmi*) (In Korean), *The Chosun Shinbo*, 27 January 2014.

324_NKHR2017000101 2017-10-23; NKHR2017000123 2017-11-20.

325_NKHR2017000092 2017-09-25.

rice practically by force.³²⁶ One defector was encouraged to purchase the rice to pay the military at the end of the year.³²⁷ Another testifier said that when failing to provide official skimming portion, one must experience a Life Review Session so strict to feel deep humiliation. Therefore the testifier tried very hard to make a portion to pay as official skimming first no matter how hard it was.³²⁸ After the state's excessive collection of grain, farmers are left with a meager amount. Subsequently, farmers are left disappointed with North Korean authorities, unable to find incentive to work hard, and suffer from deteriorating work motivation.³²⁹

Farmers who suffer from such excessive collection of the state compensate the food shortage through cultivating personal fields.³³⁰ Moreover, they use high-interest loan to temporarily resolve food shortages.³³¹ This refers to borrowing grain during the spring austerity season and paying back with high interest. However, this only leads to a vicious cycle, leaving North Korean residents with an even graver food crisis.

326_NKHR2018000061 2018-07-02.

327_NKHR2017000073 2017-08-28.

328_NKHR2018000005 2018-03-12.

329_NKHR2017000110 2017-11-20.

330_NKHR2017000021 2017-05-08 and many other testimonies.

331_NKHR2014000099 2014-07-29.

C. Disparities in Food Rations

North Korea officially maintains a ration system. However, due to the shortage of food, distribution is not done properly. Furthermore, although it is difficult to grasp the specific situation owing to the fact that the North Korean government does not reveal specific statistics, numerous testimonies suggest that food rationing is done on a discriminatory basis.

Accordingly, the present food situation faced by North Korean residents varies. Some can make a living with the rations, some need to make up for the insufficient distribution by cultivating paddies or through market activities, and some rarely receive the rations that they need to be completely self-sustaining. Furthermore, there are variations in the distribution cycle and amount. Some receive rations for their own selves, some receive for the whole family, some receive regularly, and some receive irregularly.

Table III-2 Recent Collection of Grains

Testimonies	Testifier ID
The testifier had no rations recently, even from her husband's workplace.	NKHR2018000090 2018-08-27
The testifier's husband was a railroad worker and did not receive rations and people did not even know where to get the rations. The testifier heard that North Hamgyeong Province had some rations but there were no such things in Hyesan.	NKHR2018000039 2018-05-08
A female defector in her 50s, who defected in February 2017, whose husband was a discharged soldier working in the People's Committee (<i>inmin wivonhoe</i>) received nearly no rations. The last rations she received was four years ago, a small amount of corn on Kim Jong Il's birthday.	NKHR2017000028 2017-06-05
Until May 2014, the testifier received rations for around three months in Samjiyeon County. Among the one month of rations, a ten-day amount was provided as soaked corn. The testifier received only 450g of the ration amount of 700g.	NKHR2016000030 2016-03-08
In August 2015, the ration center in Yanggang Province provided rations once per month with Annam rice, corn, Korean rice and flour. The ration amount was 700g per person based on an adult fifteen years of age or older, but the actual ration amount was 450g.	NKHR2016000063 2016-05-03
Just prior to defecting from North Korea in September 2015, the testifier received corn, barley, or potatoes for a month in turn for every six months (around 18kg per month per person) from enterprises in Daehongdan County, Yanggang Province.	HKHR2016000006 2016-01-26
As of 2017, those in railroad construction unit received potato as rations but even after coming to work everyday for a year, rations amount was as small as that of a worker that had worked there for three months.	NKHR2018000034 2018-05-07

(1) Discriminatory Rationing Based on Class

North Korea's rationing system appears to have largely broken down. In areas where it does function, the benefit seems to be centered mainly on elite group, prioritizing a specific sub-group within the elite group itself.

Part I

Part II

Part III
The Reality of Economic, Social, and Cultural Rights

Part IV

Part V

First of all, it appears that food is well distributed to the cadres of Worker's Party, manager, police officer, security officers rather than enterprise workers or farmers. The Worker's Party and legal and administrative agencies have their quota (*ppont*), according to which they have a vehicle transport a load of food directly from a farm.³³² In the case of Samjiyeon County, however, the amount of monthly rations for members of the Party as well as workers for security agencies, police office, historic or war sites were an amount that could only last 15 days. For members of the party, rations for their family members were also provided.³³³ One female defector in her 20s who escaped in 2014 testified that her father used to work as a manager at the Korean Medicine factory, and he received six month's worth of rations once a year, including the portion for her mother and three children.³³⁴ Other numerous defectors testified that elites who work as secretaries at the Worker's Party, security officers or police officers, receive rations.³³⁵ What is given as rations is another important matter. Rice is generally given to the elite group.³³⁶ However, even for the elite class, rations alone were not enough to achieve food sufficiency and it appears they had to pay bribes to make up for

332_NKHR2018000006 2018-03-12.

333_NKHR2018000042 2018-06-04.

334_NKHR2017000062 2017-07-31.

335_NKHR2017000020 2017-05-08 and other testimonies.

336_NKHR2017000055 2017-07-31; NKHR2017000076 2017-08-28.

the food shortages.³³⁷

Unlike those in the secretaries at the Worker's Party and security officers, it appears that doctors, teachers, researchers do not receive sufficient rations. A female defector in her 20s who escaped in 2017 testified that in Hoeryeong, North Hamgyeong Province, MPS officials received the entire ration with 70 percent of which was rice, but the doctors received 7kg of corn on a monthly basis. This amount is only four days worth of food.³³⁸ There was a testimony that while MPS and MSS officers can get their full rations, teachers and doctors only get a third.³³⁹ A female defector in her 20s who escaped in 2016 testified that doctors cultivate small land to make a living because they also do not receive rations with the exception of holiday rations.³⁴⁰ Teachers seem to receive small rations as well.³⁴¹ According to one testifier, teachers receive 10~15 days of ration per month, and this amount is only for oneself without consideration to his/her family members.³⁴² A North Korean defector who worked for an elementary school testified that teachers had to collectively carry out other businesses at the school in order to receive the rations.³⁴³

337_NKHR2018000083 2018-07-30.

338_NKHR2017000024 2017-05-08.

339_NKHR2018000081 2018-07-30.

340_NKHR2017000042 2017-07-03.

341_NKHR2017000018 2017-05-08; NKHR2017000020 2017-05-08.

342_NKHR2017000033 2017-06-05.

343_NKHR2018000006 2018-03-12.

(2) Discriminatory Rationing Based on Enterprise

Following the breakdown of the food rationing system at the national level, institutions such as enterprises have had to find their own means of food provision. Based on the varying capabilities of these enterprises, the gap in the amount that city workers can receive, in other words, their access to food, is widening. Therefore, workers at enterprises with factories that are well-run or with favorable conditions receive relatively more rations. Conversely, workers at poorly performing factories receive less rations or none at all.

Workers in mines receive relatively favourable rations. North Korea has emphasized coal production in order to overcome the energy crisis. With anthracite and iron ore as North Korea's major export items, the management situation at mines have been relatively better. However, in the case of the mine in Musan, there was a testimony that rations had been provided until June 2017 due to sanctions.³⁴⁴ Therefore, it is possible that the situation regarding rations has recently worsened.

344_NKHR2018000014 2018-04-09.

Table III-3 Rations at Coal Mines

Testimonies	Testifier ID
The testifier worked in Gungsim Mine in Hoeryeong, North Hamgyeong Province for almost ten years, and rations were given to heavy industry areas. Corn kernels were given as ration every quarter. Every month, adults received 6kg and children received 9kg. Thus, the testifier received a total of 25kg a month, accounting for the daughters' allotment.	NKHR2015000023 2015-01-27
Miners working for the Hyesan mine(in Sinpa area) received 130,000won as a monthly wage and two gunnysacks of corns were provided for food one time in the winter.	NKHR2018000078 2018-07-30
In 2014, in the Yeonpoong mine located in Jaseong County, Jagang Province, rations were given one or two times a month. If one performs well, sometimes more rations were given.	NKHR2016000138 2016-08-23
In the case of the Yuseon mine in Hoeryeong, North Hamgyeong Province, a 15-day amount of corn of 30kg was given in the fall of 2015. This kind of ration is said to be given only in the fall.	NKHR2016000089 2016-06-14

It appears workers at special factories that produce military items for the KPA and those at military camps are also in a relatively better situation. A North Korean defector testified that he/she heard that factories for military materials in Jeonggang County are provided with rations.³⁴⁵ One defector who was a laborer at a military camp, testified that not only himself but also his family received rations.³⁴⁶ According to a teenager who defected from North Korea in 2017, her father was a laborer at a military camp and until October 2014, received monthly rations of 50kg of rice, 30kg of grain, and 50kg of corn.³⁴⁷ There were other

345_ NKHR2018000083 2018-08-11.

346_ NKHR2015000001 2015-01-13.

347_ NKHR2017000071 2017-08-28.

testimonies that even if they worked for a same factory, rations were provided for military mobilization and other military related divisions, but not for other divisions.³⁴⁸

Table III-4 Cases of Rations for Enterprises and Special Factories

Testimonies	Testifier ID
Workers at military facilities received rations for themselves, their wives, and son. The workers received soybean paste and oil, and the families of military officers received soybean paste, oil and meat.	NKHR2015000001 2015-01-13
The testifier's husband worked as a driver at the Daeheung Administration in Yanggang Province, which manages Party funds, and received good rations.	NKHR2017000067 2017-08-28
Powerful enterprises gave 3-5 months of rations, and enterprise with less power gave 1 month ration.	NKHR2017000077 2017-08-28
Rations were provided for those manufacturing gifts(products) for Guard Command or Central Party.	NKHR2018000005 2018-03-12
In November 2013, the Chin-seon import company that the testifier worked for in Pyongyang gave a ration of 25kg of rice. At that time, food, oil, salt, granulated sugar and dairy products were ration items. Now, it has changed to a monthly salary system.	NKHR2016000170 2016-11-01

In contrast, it appears local enterprises where the business environment is relatively poor do not provide adequate rations with the exception of holidays. A male defector who escaped North Korea in 2016 testified that the enterprise does not give rations when it is not holiday, and mentioned that it is very rare for the manager to prepare food and provide for workers.³⁴⁹ A North

348_ NKHR2018000003 2018-03-12.

349_ NKHR2017000007 2017-04-10.

Korean defector testified that rations have long been in name only and workplace provides rations by itself. According to the testifier, things are a little better for a workplace which mainly deals with trade or smuggling in terms of rations.³⁵⁰ Another testifier said that there have been no rations since Kim Il Sung came in power³⁵¹ and have never heard of rations provided not only from the workplace he/she worked for but also from any other workplace.³⁵²

However, even if enterprises offer relatively good rations, workers are bound to cultivate personal land or trade at the marketplace (*jangmadang*) because the rations are insufficient and irregular. In particular, many North Korean residents make up for the lack of food by purchasing from the market. Due to the poor wages given by enterprises, it appears North Korean residents also engage in additional economic activities in the market, among other places, to earn money needed for purchasing food.

(3) Discriminatory Rationing in the Military

North Korea has utilized the military to advocate *Sungun* politics. One of the ways to do this is by granting priority to the military in receiving rations. As a result, the food situation of

350_NKHR2018000066 2018-07-11.

351_NKHR2018000115 2018-10-22.

352_NKHR2018000030 2018-05-07.

those in the military is better than that of the population at large. However, the fact that the military has priority in receiving rations does not necessarily mean that all soldiers receive generous rations. This is because the difference in amount exists by region and rank.

A male defector in his 20s who served at the Minkyung battalion until escaping North Korea in 2017 testified that the Minkyung battalion was among the best military bases in terms of rations. Other bases with special treatment included submarine troops, air force aviators, and Kim Jong Un's guards. He testified that other military units adjacent to his base were in poor condition. The soldiers in this unit mainly ate corn-rice and even that was procured by cultivating the farm themselves because no rations were delivered from higher authorities.³⁵³ Due to such situation, there are soldiers who spend the entire 10 years of military service working on a farm.³⁵⁴

Looking at the food distribution based on rank, military food seems to be provided as rations to officers with priority. However, there are testimonies that the amount of rice rationed to the military officers is also very insufficient.³⁵⁵ Even among military officers, there are recorded cases that rations are not distributed to their

353_ NKHR2017000069 2017-08-28.

354_ NKHR2018000035 2018-05-08.

355_ NKHR2016000037 2016-03-22.

families.³⁵⁶ Even if the families did receive the ration, it is presumed that the amount is insufficient. A North Korean defector whose husband was a high-ranking soldier testified that although rations were provided to family members, the amount was not sufficient even for basic survival, and that she had to ask for help from her parents or get food by working for others.³⁵⁷

The amount of food rationed to enlisted soldiers is known to be even more limited. As a result, there are increasing cases where enlisted soldiers in the military suffer from malnutrition.³⁵⁸ For this reason, there are some cases where soldiers harm civilians to secure the food required in the military. One defector who served at the military testified that his unit was instructed to provide food for themselves in the month of June. His unit managed to cope with the situation by planting potatoes but it was not enough, so that they often stole chickens or goats from nearby private houses.³⁵⁹ A North Korean defector testified that soldiers were so hungry that they stole corns or potatoes from private houses or picked peppers to trade them with other food. Military officers did not stop them; rather asked them eat if you can eat outside but not to get caught.³⁶⁰ There was another testimony that in the army,

356_NKHR2016000037 2016-03-22; NKHR2017000104 2017-10-23; NKHR2018000079 2018-07-30.

357_NKHR2016000037 2016-03-22.

358_NKHR2015000018 2015-01-27.

359_NKHR2017000020 2017-05-08.

360_NKHR2018000063 2018-07-11.

superiors order soldiers to steal crops or other subsidiary foods.³⁶¹

It seems that corruption prevailing the North Korean military plays a role in enlisted soldiers not receiving proper rations. One defector testified that army rations were terrible because platoon leader took all the rice to satisfy his selfish interests and desires.³⁶² A North Korean defector testified that although soldiers are supposed to receive 750g of rations, he only received 300g. It turned out that his head of battalion had siphoned off the rations to sell it for himself.³⁶³ Another testifier also said that it was true that soldiers worked at the farm a lot but military officers took much of the harvest in their pockets. So consequently, what was given to the soldiers was only a small amount.³⁶⁴

D. Evaluation

The broad assessment is that North Korea's food situation has slightly improved since the beginning of the Kim Jong Un regime. When viewing the survey results by international organizations, it does in fact appear that North Korean residents' nutritional state has improved compared to the past. However, North Korea still suffers from chronic food shortage. North Korean authorities have

361_ NKHR2018000037 2018-05-08.

362_ NKHR2017000021 2017-05-08.

363_ NKHR2018000095 2018-08-27.

364_ NKHR2018000118 2018-10-22.

been taking reformative measures, although in a limited manner, including the paddy unit responsibility system, but it has not resulted in a production increase. Farmers demonstrated initial interest, but was discouraged due to the gap between the policy and reality such as excessive production quotas and official skimming campaigns. As a result, their motivation to work has also suffered.

Food is not only insufficient, but distributed in a discriminatory manner according to the social class, engaged enterprise, etc. As a result, some residents can make a living with the rations, but many others are left in a situation where they need to sustain themselves due to nearly no food allocated for them. This reality is pushing many North Korean residents to carry out personal economic activities, such as trading in markets and cultivating small land to supplement the scarce food. In this situation, damage caused by food shortages inevitably impact certain classes the most. In this respect, the international community should focus not only on North Korea's food situation but also its rationing system.

2

Right to Health

The UDHR stipulates in Article 25, paragraph 1 that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care, and necessary social services.” The ICESCR articulates the right to health more specifically as “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” In this regard, the Preamble of the WHO Charter also contains a comprehensive stipulation, stating that “enjoyment of the highest attainable standard of health is the fundamental right of everyone regardless of race, religion, political beliefs or economic and social conditions.”

Paragraph 1	The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
Paragraph 2	<p>The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:</p> <ul style="list-style-type: none"> (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

North Korean authorities have long put emphasis on protecting the right to health of North Koreans. For example, as stipulated in its Constitution and the Public Health Law, North Korea maintains a free medical care system and emphasizes preventive medicine. In addition, North Korea has enacted and implemented health-related laws for the promotion of public health that include the Law on Public Sanitation (1998), the Law on Border Sanitation Inspection (1996, 1998, 2007), the Law on Food Hygiene (1998, 2005), the Law on Medical Care (1997, 1998, 2000), the Medicine Control Law (1997, 1998), the Public Health Law (1980, 1999, 2001), the Law on Prevention of Epidemics (1997, 1998, 2005), the Law on the Protection of Persons with Disabilities (2003), the Red Cross Act (2007), and the Law on Culture and Sport (1997, 1998).

In these ways, it appears that, from an institutional perspective, North Korean authorities actively protect the residents' right to

health. However, defector testimonies show that the right to health for North Korean residents are not correctly guaranteed. The following reviews the reality of right to health in North Korea centering on the testimonies of defectors such as imbalance in medical service access, medical practice by private doctors (*Sain*) and insufficient preventive medicine.

A. Imbalance in Access to Medical Services

The State Parties to the ICESCR, including North Korea, are obliged to ensure that residents have accessibility to medical care services. Here, ‘accessibility’ means that there should be no discrimination in the access to the medical facilities and services, and that medical facilities and services must be affordable and physically accessible to everyone including vulnerable social group. Since neighborhood-level hospitals are provided in North Korea,³⁶⁵ physical accessibility seems to be guaranteed to some extent. The following will examine whether North Koreans are ensured with nondiscriminatory and affordable access to medical services.

(1) Growing Polarization in Accessibility by Class

North Korea’s health care system consists of primary medical facility in town/village (*Ri/Dong*) (clinics), secondary medical

365_NKHR2017000110 2017-11-20; NKHR2018000082 2018-07-30.

facility (people's hospitals at city and county areas), and tertiary medical facility (provincial hospitals, and the central hospital in Pyongyang). However, the level of deterioration caused by North Korea's struggling economy varies by the level of the system. The system at primary and secondary medical facilities where most citizens receive medical service has collapsed more than at larger hospitals. As a result, physical accessibility to the right to health of the general population, who mostly use clinics and People's hospitals, has deteriorated. A North Korean defector in her 30s who used to work as a feldsher (medical doctor's assistant) in general clinic in Bocheon County testified that there were five doctors and a feldsher but there were no medical equipment for diagnosis and admissions were also impossible.³⁶⁶ A North Korean woman in her 50s who defected in 2017 testified that there was a clinic but it could barely treat patients.³⁶⁷ However, even in the primary and secondary health care system, medical offices used by senior officials are operating relatively well.³⁶⁸ As such, even in People's hospitals, there is a gap in accessibility between officials and the general population.

In contrast, the tertiary and quaternary level hospitals where middle class citizens and senior officials have easy access to are in relatively better condition than the primary and secondary

366_NKHR2018000072 2018-07-30.

367_NKHR2018000017 2018-04-09.

368_NKHR2017000017 2017-05-08 and other testimonies

facilities.³⁶⁹ Accordingly, while there is a widening gap in physical and financial accessibility to medical service between Pyongyang and other major cities and the provinces, instead of attempting to narrow this gap, North Korea has been expanding its medical facilities for the privileged few by constructing in Pyongyang Children’s Hospital, Dental Clinic, etc.³⁷⁰ As such, as North Korean authorities pursue policies that further widen this gap, it is assessed that they are failing to fulfill their duty to help the North Korean people realize their right to health.

Many testified that medical service is provided in a discriminatory manner. A North Korean woman in her early 50s who defected in 2017 testified that there are rooms for cadres and special rooms in each medical department in which doctors provided extra care since there is “more to get” from these rooms.³⁷¹ In addition, another North Korean woman in her early 30s who defected in 2018 testified that there are medical facilities dedicated to cadres of senior officials and doctors and nurses working there are selected based on competency, looks and physical build.³⁷² There was also a testimony that there are special wards for cadres only in city or province hospitals.³⁷³

369_Soo-am Kim *et al.*, *Quality of Life of North Korean Residents: Reality and Perception* (Seoul: KINU, 2011), pp. 137~138. (In Korean)

370_ *Yonhap News Agency*, 24 September 2013; *Yonhap News Agency*, 6 October 2012.

371_NKHR2018000036 2018-05-08.

372_NKHR2018000107 2018-10-01.

373_NKHR2018000120 2018-10-22.

Table III-6 Unbalanced Accessibility to Right to Health by Class

Testimonies	Testifier ID
Chongjin Medical University Hospital has rooms and medical offices that are specially assigned for senior officials (<i>ganbu</i>). Foreign aid supplies are only in rooms exclusive to the senior officials.	NKHR2017000028 2017-06-05
Namsan Hospital in Pyongyang is exclusive for senior officials. The testifier’s friend was rejected from the hospital despite the emergency condition due to his/her low social class.	NKHR2017000031 2017-06-05
Bonghwa Hospital in Pyeongyang is only accessible by senior officials, and is equipped with high quality technology such as German apparatus. Within the hospital, each individual is treated differently according to their title.	NKHR2017000033 2017-06-05
There is a separate medical facility for the cadre of Worker’s party or high-ranking officials: Namsan Hospital, Bonghwa Hospital, Pyongyang Red Cross Hospital, Gimmanyu Hospital, No.1 Hospital, No. 2 Hospital. Children of the high-ranking officials can also access those facilities.	NKHR2017000068 2017-08-28
A woman in her late 40s who defected in 2018 testified that there were a city hospital, hospital 2, and university hospital among which university hospital is for cadres of officials.	NKHR2018000089 2018-08-27

(2) Disparity in Medical Service Quality by Wealth

The North Korean Constitution stipulates a free treatment system as “citizens shall have the right to free treatment” (Article 72). The Law on Medical Care also stipulates that “in the DPRK, health care shall be based on a complete and overall free treatment system” (Article 3). The same is true for the Article 9 of the Public Health Law which stipulates, “the State gives all citizens the benefit of free treatment. Citizens including laborers, farmers, and intellectuals have the right to be treated without payment.” Article 10 of the Public Health Law stipulates details of free treatment as seen in the table below.

Part I

Part II

Part III
The Reality of Economic, Social, and Cultural Rights

Part IV

Part V

Table III-7 Article 10 of the Public Health Law

Free service shall be according to the following:

1. Medicine dispensed by medical facilities, including that dispensed to outpatients, shall be given free of charge;
 2. All services for the treatment of patients, including diagnosis, testing, treatment, surgery, house calls, hospitalization, and meals, shall be given free of charge;
 3. Convalescent medical services for workers are free of charge, and round-trip travel costs shall be borne by the State or the social cooperative;
 4. Assistance for mothers in labor shall be given free of charge;
 5. Preventive medical care, such as medical checkups, health consultations, and vaccinations, shall be given free of charge.
-

To date, North Korea has officially maintained a free medical care system. But the reality is completely different. The free medical care system has completely collapsed to the point of being perfunctory, and it seems that individuals are almost entirely responsible for the cost of medical services.³⁷⁴ In other words, the cost incurred in the course of medical treatment such as doctor consultation, hospitalization, surgery, and medicine is entirely borne by the individual rather than the country. While basic medicines are sometimes provided by hospitals for free, patients are mostly charged for special medicines needed for surgery. Even though hospitalization itself is free of charge, patients are charged for most of the items and the expenditures ensued. Once hospitalized, patients must bring their own food and bedding and bear the cost of heating as well. A North Korean woman in her early 50s who defected in 2018 said that she paid 200 yuan to get

374_NKHR2017000013 2017-04-10 and other testimonies.

her daughter hospitalized for an appendectomy in April 2018 and additionally she had to buy not only gauze and medical gloves to be used in hospital but also prepare the firewood for heating as well.³⁷⁵

In addition, it has become common practice to provide medical staff with some cash or meal for their troubles during surgery. A North Korean woman in her mid-20s who defected in 2018 testified that in 2017, when her husband's head bled from three places after fighting with his friend, he went to Hospital 2 to get his wounds stitched without any anesthetic. In return, they had to provide black soybean sauce noodle, Korean marinated pork ribs, alcohols, and snacks.³⁷⁶ This is somewhat inevitable considering the reality where doctors do not receive a proper salary. A North Korean woman in her early 30s who defected in 2018 testified that she worked as a feldsher and saw that doctors had to find a way to make their ends meet and that doctors were unable to continue working if their spouse did not have the economic capability to financially support them.³⁷⁷ With the government unable to financially support hospitals, there are some cases where the hospital shifts the cost related to hospital operation to the patients. A North Korean defector was hospitalized for 15

375_ NKHR2018000115 2018-10-22.

376_ NKHR2018000049 2018-06-04 and other testimonies.

377_ NKHR2018000072 2018-07-30.

days due to 3rd-degree burns in Hyesan, Yanggang Province. The testifier said that the hospital asked for 200kg of cement (value of 100 yuan) for the operation of the hospital.³⁷⁸

Table III-8 Testimonies of Patients Charged for Medical Services

Testimonies	Testifier ID
The only thing free is letting the patient know what he/she is suffering from. In order to receive actual treatment, the individual needs to shoulder all the costs, from medicine to hospitalization bills.	NKHR2017000026 2017-05-08
The testifier spent about 300 yuan when his/her mother had appendectomy in March 2014.	NKHR2017000047 2017-07-03
A North Korean man in his late 40s who defected in 2018 paid 50 yuan for appendectomy in Hospital 2 in Hyesan. In addition he had to pay all the medicine, heating, and meals by himself.	NKHR2018000124 2018-10-27
A North Korean woman in her 20s who defected in 2017 testified that when she was hospitalized for one week, she had to pay gratitude to the doctor. She also had to buy not only the medicine, but meals, and even medicine cotton.	NKHR2018000029 2018-05-08

In the absence of health care systems such as medical insurance, requiring patients to shoulder the cost of medical services inevitably leads to a situation where vulnerable groups' access to health care becomes restricted. In fact, defector testimonies confirm that patients paying lesser money receive lower levels of medical service. A North Korean woman in her early 40s who defected in 2018 testified that there is discrimination in medical treatment; those with money are treated first while

378_NKHR2015000057 2015-03-24.

those without money are out of doctors' concerns.³⁷⁹ Cases have been reported where patients failed to receive proper treatment due to financial reason and ended up dying. A North Korean man in his late 40s who defected in 2018 testified that a woman in her 40s who belonged to the same People's Unit as him suffered from uterine cancer but died because she could not afford the medical cost of 300 yuan.³⁸⁰

Table III-9 Patients Left Untreated Due to a Lack of Money

Testimonies	Testifier ID
The testifier's mother died from cancer. Due to economic reasons, she could not get surgery and died while receiving treatment from someone without a doctor's license.	NKHR2016000073 2016-05-17
In the testifier's neighborhood, a patient was diagnosed with tuberculosis but did not receive proper treatment because it was not financially affordable.	NKHR2017000003 2017-04-10
In 2013, the testifier's older brother was diagnosed with laryngeal cancer, but he could not receive treatment as he did not have money and died as a result.	NKHR2016000043 2016-04-05
A North Korean woman in her 20s who defected in 2016 testified that her mother was so sick as to cough up blood but rarely got medical treatment in hospital since medical cost was too burdensome. Consequently she died in 2014.	NKHR2018000100 2018-10-01
In spring 2016, the testifier saw a homeless person at the hospital with cirrhosis. However, the patient was sent away from the hospital due to lack of money.	NKHR2017000007 2017-04-10

379_NKHR2018000105 2018-10-01.

380_NKHR2018000124 2018-10-27.

B. Medical Practice by Private Doctors (*Sa in*).

State Parties to ICESCR, including North Korea, are obliged to sufficiently offer quality medical facility, supplies and services. More specifically, safe drinking water, sanitation facilities, medical facilities such as hospitals and clinics, specialist-trained medical staffs, basic medicines must be sufficiently available.³⁸¹ In addition, medical staff skills, medicine and medical equipments must be of high standard both scientifically and medically.³⁸² In case it is difficult to satisfy the availability and quality with domestic resources, the State Party has a duty to make efforts to realize the right to health by seeking help from the international community.³⁸³ However, it seems that North Koreans do not receive sufficient medical services from medical facilities both in terms of the quality and quantity.

First of all, the quality of the medical service provided by the medical staff at medical institutions is very low in quality. According to defector testimonies, staff at the medical facilities do not acquire sufficient skills, and most of the medical equipments are either outdated or not well equipped. To site an example, a woman in her 50s who had defected from North Korea in 2016 testified about the Wonsan Medical University Hospital. She said

381_ UN CESCR, General Comment, No. 14 (1999), para. 12 (a).

382_ *Ibid.*, para. 12 (d).

383_ *Ibid.*, para. 38.

that even though there are surgical instruments and ultrasonic machines, the facility has no heating and possesses only conventional surgical tools.³⁸⁴ A North Korean woman in her mid 20s who defected in 2017 said that she was diagnosed with chronic appendicitis and received a surgery in 2014 at the 25 Construction Hospital. Doctors in the 25 Construction Hospital, Gwangsan Hospital, and clinic simply pushed her abdomen to diagnose it as chronic appendicitis.³⁸⁵ For this reason, North Koreans do not trust medical facilities and staff. Furthermore, there is a growing perception among North Koreans that they will not be properly treated even if they do go to the hospital.³⁸⁶

In fact, many cases have been identified where the patients face difficulties due to misdiagnosis or incorrect treatment from the hospital. One defector testified that the person was diagnosed and treated for cholelithiasis by a private physician in May 2016. However, the patient passed out from pain in the following July, and was taken to the Shinpo Municipal Hospital by ambulance. After an x-ray, the doctor misdiagnosed as perforation of the stomach. Only after performing laparotomy, the doctor confirmed it was actually a cholelithiasis and performed gallstone surgery. Even after the surgery, the patient still felt pain, and it was

384_ NKHR2017000013 2017-04-10.

385_ NKHR2018000029 2018-05-08.

386_ NKHR2017000039 2017-06-05; NKHR2017000094 2017-10-23; NKHR2017000102 2017-10-23.

confirmed that a surgical tool was left inside the patient's stomach and the patient could recover only after removing it.³⁸⁷ In addition, a North Korean man in his early 30s who defected in 2018 said that his housemate was diagnosed with stomach cancer at the Yanggang Province Hospital. Later, when diagnosed by a private doctor with foreign medical equipment, it was found to be a stomach ulcer.³⁸⁸

Given the situation, North Koreans prefer to take care of their illness with own methods rather than visiting the hospital. These methods include, visiting private doctors to be diagnosed and purchasing medicine from unofficial pharmacies referred by those private doctors; or conducting self diagnosis and purchasing medicine from the market. Private doctors offer medical service after their retirement. Despite its illegality, North Koreans prefer private doctors because they believe those doctors possess better skills. A North Korean woman in her late 40s who defected in 2018 testified that her mother who had worked as a doctor for 40 years changed her profession to a pharmacist. Medicine sales were so good that all the family members financially relied on her.³⁸⁹

However, risk factor exists in self-diagnosis or diagnosis by the private doctors. One defector testified that mother of a friend

387_ NKHR2017000070 2017-08-28.

388_ NKHR2018000110 2018-10-06.

389_ NKHR2018000099 2018-10-01.

battled tuberculosis with medicine purchased from the market since 2010 until her death in November 2016. Similarly, many patients make their own diagnosis and treat the illness with medicine purchased from the market, even though their medical conditions require isolation.³⁹⁰ A North Korean woman in her mid 40s who defected in 2018 said that she personally witnessed her younger sister undergo an abortion at a private doctor's house. The operation was carried out without any anesthetic, causing much pain for her sister. She was allegedly shocked after knowing that the same surgery instruments were reused to other patients after being boiled.³⁹¹

Moreover, because those with no professional pharmaceutical knowledge sell medicine, it can lead to fatal results for ordinary people. For example, a North Korean woman in her late 40s who defected in 2018 testified that there were people in town conducting medical treatment without a medical certificate and in case of light symptoms, people visit them for injection and medicine.³⁹² In addition, a North Korean woman in her early 30s who defected in 2018 said that she ran a private hospital but the only official medical education she received was six months at a nursing academy. She treated patients by studying alone and

390_NKHR2017000112 2017-11-20.

391_NKHR2018000074 2018-07-30.

392_NKHR2018000099 2018-10-01.

asking a manager working for a provincial hospital she knew.³⁹³

A more concerning factor is that the residents show the tendency of using narcotics such as *bingdu* and opium for treatments based on incorrect medical knowledge. According to a North Korean defector who escaped from Hyesan, Yanggang Province in August 2016, 70 to 80 percent of the people use drugs (*bingdu*) as antibiotics for their disease, and older people carry small amounts of drugs (*bingdu*) to be used when they become sick.³⁹⁴ Another testimony indicated that the testifier's parents used drugs (*bingdu*) as medicine or analgesic when they were treating an illness because they could not afford medical treatment.³⁹⁵ A North Korean woman in her late 40s who defected in 2017 said that while her husband was suffering from liver cancer, she bought 1gram of opium for 15 yuan from a private home to use it to relieve her husband's pain.³⁹⁶ A North Korean woman in her late 50s who defected in 2018 said that her husband was suffering from bronchiectasis and used opium like a medicine.³⁹⁷ The use of narcotics for treating illness based on wrong medical knowledge appears to produce considerable side effects, but North Korean authorities do not seem to take enough action.

393_ NKHR2018000101 2018-10-01.

394_ NKHR2017000001 2017-04-10.

395_ NKHR2017000029 2017-06-05; NKHR2017000056 2017-07-31.

396_ NKHR2018000016 2018-04-09.

397_ NKHR2018000127 2018-11-19.

C. Insufficient Preventive Medicine

Article 12, paragraph 2 of the ICESCR stipulates the ‘prevention, treatment, and control of diseases.’ North Korea emphasizes preventive medicine. Article 3 of the Public Health Law stipulates that “the basics of Socialist medicine is preventive medicine.” North Korea’s preventive system is mainly about prevention of diseases and a district doctor system. Article 18 of the Public Health Law emphasizes prevention of diseases as “the State shall take establishment of measures in advance so that the people do not develop diseases as an important duty of the State and take such advance measures for prevention.” Moreover, Article 28 of the Public Health Law stipulates regarding the district doctor system “the State shall develop the district doctor system, which is an advanced medical service system under which doctors take charge of a certain district of people and are always in the field to take care of the health conditions of the people in the district for which they are responsible and carry out preventive medicine.” Such preventive medicine system is also stipulated in Article 4 and 5 of the Law on Medical Care. Moreover, regarding vaccination, the Law on Prevention of Epidemics specifically stipulates that “the State shall rightly establish an epidemic vaccination system and carry out vaccination in a planned manner” (Article 5). The following will review if such institutional device is properly operated in reality.

Among others, based on the testimonies on the adequacy of vaccination activity in North Korea, the vaccination for children appears to be conducted relatively well.³⁹⁸ The WHO also reports that the percentage of vaccination conducted on children in North Korea is very high, ranging 96 to 98 percent.³⁹⁹

When an epidemic breaks out, North Korean authorities appear to take measures to prevent the spread of the infectious disease by providing vaccinations by the regions, encouraging health check-ups, and taking isolation measures. A North Korean woman in her late 50s who defected in 2018 said that when there was a typhoid epidemic in Hyesan in April 2018, the authorities vaccinated the residents in the area.⁴⁰⁰ Another defector testified that residents were encouraged at the city level in Hoeryeong to receive health checkups when there was a flood in 2016, due to concerns about water pollution.⁴⁰¹ One defector who escaped in 2015 testified that Pyongyang offers vaccinations when epidemics such as SARS or cholera break out.⁴⁰²

However, North Korea still seems to be significantly vulnerable to contagious diseases, including tuberculosis and malaria. In

398_ NKHR2018000059 2018-07-02.

399_ "WHO Vaccine-preventable Diseases: Monitoring System. 2016 Global Summary," http://apps.who.int/immunization_monitoring/globalsummary/, 2016.

400_ NKHR2018000120 2018-10-22.

401_ NKHR2017000024 2017-05-08.

402_ NKHR2017000033 2017-06-15.

particular, tuberculosis appears to be serious. According to the “World Tuberculosis Report 2018” published by the WHO, the number of tuberculosis patients in 2017 was 131,000 or 513 per 100,000 persons. It is reported 61 out of 100,000 have died of tuberculosis.⁴⁰³ WHO listed North Korea as one of the states with the most severe tuberculosis status.⁴⁰⁴

Moreover, the district doctor system conducted mainly for preventative medicine fails to fulfil its function. It was confirmed that there are regions where district doctors work to prevent diseases through giving prescriptions, giving vaccinations against epidemics,⁴⁰⁵ and holding sessions to explain epidemics to people and check for sick people in the People’s Unit.⁴⁰⁶ However, in many cases, they do not seem to faithfully conduct their duty to prevent diseases.⁴⁰⁷ Some said they have only heard of the district doctors and have not met them⁴⁰⁸ while some others said the district doctor system was in operation as a matter of form but was not of much use unless one had lots of money.⁴⁰⁹

403_ Refer to WHO, “Global Tuberculosis Report 2018,” <www.who.int/en>.

404_ *Ibid.*

405_ NKHR2018000016 2018-04-09.

406_ NKHR2018000080 2018-07-30.

407_ NKHR2014000212 2014-12-30; NKHR2015000018 2015-01-27; NKHR2015000019 2015-01-27.

408_ NKHR2017000058 2017-07-31; NKHR2017000066 2017-08-28.

409_ NKHR2017000004 2017-04-10.

D. Evaluation

Although North Korea stipulates a free medical care system, most of the cost incurred in the process of receiving medical service is shouldered by the patient. Therefore, residents with financial hardships cannot visit the hospital when they are hurt or become sick, and in some cases end up dying without proper treatment. In addition, as access to health care service becomes more polarized, the use of medical facilities is relatively easier for senior officials whereas it is becoming increasingly difficult for the general public. Furthermore, due to the poor quality of health care services, residents no longer trust medical institutions and choose to visit private doctors instead. Despite the risk factor even in such medical practice, North Korean authorities are not taking sufficient action. Particularly, it is confirmed that North Korean residents use narcotics such as *bingdu* and opium for treatment. Appropriate action by North Korean authorities seems necessary.

Meanwhile, North Korea emphasizes preventive medicine and appears to carry out relevant measures. However, North Korea also appears vulnerable to preventive diseases such as tuberculosis, further threatening North Korean residents' right to health. Moreover, the district doctor system which plays an important role in preventive medicine appears to be malfunctioning.

3

Right to Work

Article 23, paragraph 1 of the UDHR stipulates that “everyone has the right to work, the free choice of employment, to just and favorable conditions of work and to be protected against unemployment.” Article 24 states, “Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.” Moreover, the ICESCR also stipulates the right to work, which is defined as the right of everyone to the opportunity to gain his or her livelihood by work which he or she freely chooses or accepts, the working conditions that everyone can enjoy and the right of everyone to form trade unions and join the trade union of his or her choice (Articles 6 to 8).

Table III-10 Articles 6, 7, 8 of the ICESCR

Paragraph 1	The States Parties to the present Covenant 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.
Article 1 Paragraph 2	The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social, and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.
Article 7	<p>The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:</p> <ul style="list-style-type: none"> (a) Remuneration which provides all workers, as a minimum, with: <ul style="list-style-type: none"> (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant; (b) Safe and healthy working conditions; (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays
Article 8 Paragraph 1	<p>The States Parties to the present Covenant undertake to ensure:</p> <ul style="list-style-type: none"> (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others; (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

	(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others; (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.
Paragraph 2	This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the state.
Paragraph 3	Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

By guaranteeing the right to work, it assures the survival of individuals and their families. In general, the right to work is reviewed in terms of freedom to choose jobs,⁴¹⁰ decent work,⁴¹¹ prohibition of forced labor,⁴¹² prohibition of unfair dismissal,⁴¹³

410_UN CESCR, General Comment, No. 18 (2005), para. 6. “the right of every human being to decide freely to accept or choose work. This implies not being forced in any way whatsoever to exercise or engage in employment and the right of access to a system of protection guaranteeing each worker access to employment. It also implies the right not to be unfairly deprived of employment.”

411_ *Ibid.*, para. 7. “Work as specified in Article 6 of the covenant must be decent work. This is work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration. It also provides an income allowing workers to support themselves and their families as highlighted in Article 7 of the Covenant. These fundamental rights also include respect for the physical and mental integrity of the workers in the exercise of his/her employment.”

412_ *Ibid.*, para. 9. “The International Labour Organization defines forced labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.’ The Committee reaffirms the need for States Parties to abolish, forbid and counter all forms of forced labour as enunciated in Article 4 of the UDHRs, Article 5 of the Slavery Convention and Article 8 of the ICCPR.”

413_ *Ibid.*, para. 11. “ILO Convention No. 158 concerning Termination of Employment

and principles of non-discrimination.⁴¹⁴ The right to form and engage in trade unions voluntarily and the right to strike are also important categories in the right to work.⁴¹⁵

North Korea clearly prescribes the individual's "right to work" in its Constitution, Labor Law and other laws. The North Korean Constitution stipulates the right to work as "Citizens shall have the right to work. All citizens with the ability to engage in labor may select occupations according to their choice and capability and are guaranteed the right to a secure job and labor conditions. Citizens are supposed to work based on their abilities and receive compensation based on the amount and quality of their labor" (Article 70). In addition, the North Korean Labor Law prescribes basic principles, wages, working conditions, protection of workers, social security, and other rules of Socialist labor. North Korea's Labor Protection Law (enacted on July 8, 2010) stipulates various institutional measures to protect worker lives and health in a concrete manner.

However, laws and institutional guarantees are irrelevant of the

defines the lawfulness of dismissal in its Article 4 and in particular imposes the requirement to provide valid grounds for dismissal as well as the right to legal and other redress in the case of unjustified dismissal."

414_ *Ibid.*, para.12. (b) (i). Under Article 2, paragraph 2 and Article 3, the Covenant prohibits any discrimination in access to and maintenance of employment on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status, sexual orientation or civil, political, social or other status, which has the intention or effect of impairing or nullifying exercise of the right to work on a basis of equality.

415_ ICESCR, Article 8, para. 1.

realities on the ground. Based on North Korean testimonies, this chapter confirms that the right to work, including the freedom to choose one’s job, provision of quality jobs, freedom to establish and join labor unions, is not guaranteed.

A. Violation of Freedom to Choose One’s Job

The UDHR stipulates that everyone has the right to freely choose his or her job (Article 23). Furthermore, the ICESCR stipulates that everyone can freely choose his or her work (Article 6). Article 5 of the North Korean Labor Law stipulates the freedom to choose jobs as “All workers are free to choose their jobs according to their wishes and talents and are guaranteed stable jobs and working conditions by the State.” In reality, however, the freedom to choose jobs in North Korea is extremely restricted.

In North Korea, workers do not choose jobs or workspaces, but rather, the government designates the labor to the workplace. The allocation of manpower is carried out by the Labor Ministry after the State Planning Committee determines the number of people required in its economic sector through manpower planning. In this respect, Article 30 of the North Korean Labor Law stipulates that in assigning workers, various factors must be considered, including age, gender, physical condition, personal wishes, and capability. However, such regulations do not seem to be considered properly when assigning work.

According to defector testimonies, one's own opinion and ability are not major factors in job assignment.⁴¹⁶ There are some cases that reflected workers' opinion and ability when assigning jobs⁴¹⁷ but mostly background (*songbun*), personal connection, ability to bribe (assets) are found to be the key factors that decide job assignment.⁴¹⁸ Recently, testimonies indicate that economic power plays a more important role than one's background.⁴¹⁹ However, as job placement is organized so that parent's or grandparent's pass on their jobs to their children,⁴²⁰ one's background still appears to play an important role. This is especially so when being assigned to special-grade enterprises or as an official.⁴²¹

In North Korea, the most common example of violations of the individual's right to choose jobs is that most job appointments are based on group allocation. Group allocation refers to a situation where people are forcibly and unilaterally assigned their jobs in groups to factories, mines or construction facilities and work places with a labor shortage issue. It is done following the direction of the State, regardless of the people's intention. School graduates

416_NKHR2018000003 2018-03-12 and many other testimonies.

417_NKHR2017000083 2017-09-25; NKHR2017000116 2017-11-20.

418_NKHR2018000043 2018-06-04 and many other testimonies.

419_NKHR2017000066 2017-08-28; NKHR2017000123 2017-11-20; NKH42018000058 2018-07-02.

420_NKHR2017000102 2017-10-23; NKHR2017000116 2017-11-20; NKHR2017000120 2017-11-20; NKHR2018000016 2018-04-09; NKHR2018000067 2018-07-11.

421_NKHR2017000019 2017-05-08; NKHR2017000056 2017-07-31; NKHR2017000073 2017-08-28; NKHR2018000008 2018-03-12.

and discharged soldiers have been common targets of such group allocation. They are mostly assigned to highly unwanted workplaces such as storm troops (*dolgyeodae*), mines, factories and military supply factories, farms, and construction units (*geonseoldae*).⁴²² Those assigned to their jobs by group allocation are usually without money or power⁴²³ and wealthy people can be exempt from group allocation.⁴²⁴ Based on the testimonies stating that bribery or good background is needed to be exempt from group allocation,⁴²⁵ it seems that group allocation also occurs in a discriminatory manner. However, in recent years, the trend of group allocation appears to be on the decline.⁴²⁶

It is also difficult to change jobs based on worker's own will. Changing job is not only restricted but also complicated. It appears that not only is bribery necessary, but the larger the bribe, the faster the process.⁴²⁷

Meanwhile, North Koreans must turn up to work at the designated workplace and are punished if absent for a certain amount of period. According to Article 90 of the Administrative

422_ NKHR2017000096 2017-10-23; NKHR2017000111 2017-11-20; NKHR2018000020 2018-04-09; NKHR2018000030 2018-05-07.

423_ NKHR2018000041 2018-06-04.

424_ NKHR2018000027 2018-04-09.

425_ NKHR2018000110 2018-10-01.

426_ NKHR2018000056 2018-07-02; NKHR2018000085 2018-08-11.

427_ NKHR2017000005 2017-04-10; NKHR2017000008 2017-04-10; NKHR2017000022 2017-05-08; NKHR2017000024 2017-05-08; NKHR2017000030 2017-06-05; NKHR2017000043 2017-07-03; NKHR2017000073 2017-08-28.

Punishment Law, those, who fail to show up to the allocated workplace for more than six months or are absent for more than a month, are subject to up to three months of labor education, depending on the seriousness of the situation. One North Korean defector witnessed a woman absent from work without prior notice in 2015 was sentenced a month at a labor training camp.⁴²⁸ By imposing disadvantages when not participating, the State forces people to do the labor regardless of their intention, which is, in a sense, a violation of human rights. However, as corruption is rampant in North Korea, there are cases where people were able to evade punishment by paying money.⁴²⁹ It has also been reported that many workers negotiate a price in exchange for not turning up to work.⁴³⁰

B. Poor Working Environment and Pay Conditions

The most important condition for “decent work” is that it guarantees “a decent living for (workers) and for their families in safe and healthy working conditions” (Article 7 of the ICESCR). North Korea has declared that “In the Democratic People’s Republic of Korea, unemployment has disappeared forever”

428_ NKHR2017000036 2017-06-05.

429_ NKHR2018000095 2018-08-27.

430_ NKHR2017000083 2017-09-25; NKHR2017000113 2017-11-20; NKHR2018000036 2018-05-08.

(Article 5, the Labor Law). North Korea insists that all workers are guaranteed stable jobs and safe working conditions by the State, but the reality is quite different.

To begin, the worker and his/her family cannot have a decent way of life. One is unable to earn the necessary amount to maintain their livelihood through the official jobs assigned by the State. Most North Korean residents are in fact working without pay at these official workplaces or farms. It appears that in most cases, even when wages are given, the amount is too small to be of any help in maintaining the family livelihood.⁴³¹ In some cases, rations are provided but this too is insufficient to maintain sustenance. A North Korean defector said that he/she worked as a bookkeeper in North Korea and the pay was around 2,000 won a month which he/she only received about five times a year. 2,000 won can allegedly only buy one serving of alcohol. In addition, he/she received corn kernel and grains of wheat which was used to make rice together at the workplace. They were not allowed to be taken home.⁴³²

431_NKHR2018000094 2018-08-27 and many other testimonies.

432_NKHR2018000091 2018-08-27.

Table III-11 Situation of Wage Payment in North Korea

Testimonies	Testifier ID
The testifier received rations twice a month, once every two weeks, with the amount of 3kg rice and 3kg corn. He/she received 4,500 won as a wage once a month.	NKHR2017000083 2017-09-25
The testifier received a living expense of 1,100 won instead of rations. 1,100 won cannot even afford 1kg of corn. Even that money was not given regularly, but was postponed and then provided in lump sum.	NKHR2017000085 2017-09-25
A woman born in 1990 worked at the Yanggang Province Raw Material Base Office as a secretary and received rations every holiday (5 days ration, 2~3 ration, etc) without any payment.	NKHR2017000116 2017-11-20
The testifier never received any payment, but received rations each month. Samjiyeon County tends to offer relatively higher rations compare to other counties.	NKHR2017000121 2017-11-20
The testifier never received any payment, but received ration each month. The testifier only received 10kg of rations when the policy states 21kg should be received.	NKHR2017000122 2017-11-20
The testifier could not make a living with the wage from work and worked on the vegetable garden and a small plot to make up for the shortage.	NKHR2018000065 2018-07-11
The testifier received his/her wage every 15 days in cash enough to buy 500~1,000g of rice.	NKHR2018000042 2018-06-04
In case of Imsan workplace, rations were 5~10kg of grains of wheat on a monthly basis and 1,500 North Korean won as a pay for the cost of living.	NKHR2018000079 2018-07-30
At Sambong Regional Product Office, the testifier received a yearly income of 250,000 won from September 2008 to March 2013. At Yanggang Province Plant Construction Unit, the testifier received a yearly income of 300,000 won from April 2015 to October 2016.	NKHR2017000093 2017-10-23
When the testifier was working as a nurse from 2015 to 2017, she received a wage of 1,000won around every two months. Originally the monthly wage was 2,450 won but what came into her pocket was around 1,000won after deducting everything. The testifier received a monthly ration of 6kg of corn but this amount was only good for 15 days.	NKHR2018000102 2018-10-01

It has become quite common for workers to engage in various economic activities related to the market, as official work alone

was insufficient to sustain a living. A North Korean defector testified that his/her father received a wage and rations, but it was not enough to the make ends meet. So his/her mother went to the market place (*Jangmadang*) to sell vegetables and made a living.⁴³³ A North Korean man in his late 20s who lived in Pyongyang and later defected testified that he was registered as 8.3 laborer in the company and made his living by running a table tennis room after renting a part of the company space or by receiving revenue after investing money into a private factory.⁴³⁴ He went on to say that there were many people his age who paid money not to come to work; by paying 30 dollars, one has to attend Life Review Session while by paying 50 dollars, one does not have to do any of the activities.⁴³⁵

Safe and healthy working conditions are very inadequate. Working conditions are extremely poor and many workers are exposed to danger. One defector commented that the working environment was very poor and that what he wears to work becomes the work clothing. Gloves were not given and workers were required to buy everything from his/her pocket.⁴³⁶ A North Korean defector who worked in a mine also said that there were no safety instructions or safety facilities. There were also no

433_NKHR2018000043 2018-06-04.

434_NKHR2017000031 2017-06-05.

435_Above Testimony.

436_NKHR2018000036 2018-05-08.

supervisors or managers observing safety related issues.⁴³⁷

It is also important to see if the working conditions and break-time stipulated in the law are properly complied with. Article 30 of the North Korean Constitution stipulates, “The daily working hours of the working people shall be eight hours,” and in the Socialist Labor Law, it is more specifically stipulated as “The daily working hours of workers is eight hours. The government set daily working hours as seven hours or six hours based on the level of difficulties of labor and special conditions. The daily working hours of female workers with three or more children shall be six hours” (Article 16). Moreover, regarding rest for workers, Article 65 of the Socialist Labor Law stipulates that “laborers, office workers and farmers of cooperative farms shall receive 14 days of regular leave and 7 to 21 days of supplementary leave based on job type.”

According to the testimonies of North Korean defectors, these regulations are well followed in some areas but not in other areas. Among others, average working hours stipulated in the law have become more or less meaningless to many workplaces. This applies to those factories where lack of electricity and raw materials, deterioration of factory facilities led to significant decrease in factories’ operation rates and not much work is left in the workplace.⁴³⁸ There were testimonies that businesses with high

437_NKHR2018000103 2018-10-01.

rates of operation provided eight hours of labor a day.⁴³⁹ of operation, daily labor hour was around eight hours.⁴⁴⁰ A North Korean defector testified that he worked for a post office around seven hours a day, and another defector said that when working for a company, he/she worked for eight hours in total, from 9 am to noon and from 1 pm to 6 pm.⁴⁴¹

In contrast, some testimonies claimed that they had to work longer hours. A North Korean defector who worked for a factory manufacturing military items, worked for 15~16 hours a day,⁴⁴² and another defector who worked at a mine said that there were no specific working hours. Rather, he/she worked from 5 am when he/she woke up to 7 pm at the earliest to 10 pm.⁴⁴³ According to another North Korean defector, the standard working hours were not well complied with and people had to work overtime in occasions such as “100-day battle” or “70-day battle.”⁴⁴⁴ One defector who was a leader of the working team in a shoe factory located in Hyesan city, Yanggang Province testified that when they did not have electricity, they would work for five hours, at times, one or two hours. However, when they did have electricity,

438_NKHR2016000103 2016-06-28; NKHR2016000135 2016-08-22.

439_NKHR2018000026 2018-04-09.

440_NKHR2018000036 2018-05-08 and other testimonies.

441_NKHR2018000043 2018-06-04.

442_NKHR2018000003 2018-03-12.

443_NKHR2018000005 2018-03-12.

444_NKHR2016000135 2016-08-22.

they would have to work for around 20 hours.⁴⁴⁵ Moreover, workers did not receive overtime.⁴⁴⁶

Similar to the situation of working hours, workers' rest varied depending on the workplace. Workers at work sites could use the legally guaranteed 15 days of annual leave,⁴⁴⁷ while another factory worker testified that the work site did not give days of leave or did not allow workers to take any leave.⁴⁴⁸ One defector testified that there was no concept of holiday because 15 days of annual leave were provided only after fully working for a year and even when the annual leave was given, it was not for rest but for working at another workplace to make up for financial shortages.⁴⁴⁹

Meanwhile, on June 30, 2015, North Korea revised the Socialist Labor Law and Law on the Protection and Promotion of the Rights of Women to expand pre-/post-natal leave for pregnant women from 60 days of pre-natal leave and 90 days of post-natal leave to 60 days of pre-natal leave and 180 days of post-natal leave (Article 66 of the Socialist Labor Law and Article 33 of the Law on the Protection and Promotion of the Rights of Women) and emphasized such measures in the implementation report on the CEDAW and the implementation report on the CRC submitted

445_ NKHR2017000135 2017-12-18.

446_ NKHR2018000005 2018-03-12 and many other testimonies.

447_ NKHR2018000042 2018-06-04 and many other testimonies.

448_ NKHR2018000084 2018-08-11 and many other testimonies.

449_ NKHR2017000135 2017-12-18.

in April 2016.⁴⁵⁰ In this regard, there were testimonies that pre-/post-natal leaves are well followed and pregnant women are exempt from mobilization,⁴⁵¹ or that paid maternity leave or post-natal leave are meaningless as not many women keep their job after marriage.⁴⁵² However, not enough testimonies have been collected in this regard. It appears there is a need to observe whether pre-/post-natal leave is provided as stipulated in the legal regulations and the effectiveness of this policy.

C. Restrictions on Forming, Joining and Withdrawing from Trade Unions

Article 8, paragraph 1 of the ICESCR stipulates that State Parties must ensure the right to form, join, and withdraw from the labor union. However, free labor unions that protect and represent the interests of laborers do not exist in North Korea. The only labor union that exists is the Chosun (North Korea) General Federation of Trade Unions (hereinafter The Trade Union), but its only functions is a “link between the Party and the working class,”⁴⁵³ and does not have the right to collective organization or collective bargain. Following the Ninth Plenum of the Fourth Party Central Committee

450_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 37; UN Doc. CRC/C/PRK/5 (2016), para. 165.

451_NKHR2018000115 2018-10-22.

452_NKHR2018000057 2018-07-02.

453_Gang-sik Kim, *Labor in North Korea* (Seoul: Jipmoon, 2003), p. 153. (In Korean)

held in June 1964, “trade union roles of monitoring and controlling corporate management” were abolished and the interests of the laborers were placed under the complete control of the Party. The Chosun (North Korea) General Federation of Trade Unions is responsible for controlling the work environment, including projects for worker protection, promotion of productivity, and tightening of work rules. In this respect, it is entirely different from trade unions in capitalist societies.⁴⁵⁴ Furthermore, in North Korea’s general worker-related laws, there are no provisions concerning workers’ rights to collective action or collective bargaining.

However, Article 20 of the Business Law for Foreigners stipulates that “workers’ alliance organization shall protect the rights and interest of employees and sign a contract with a foreign business regarding the guarantees of working condition and supervise its implementation,” while Foreign Investment Company Labor Act describes that “foreign investment company shall sign a labor contract with the workers’ alliance organization of the company.” These laws partially mention items regarding the protection of the workers’ rights through the workers’ alliance group.

In these circumstances, there is no meeting or activity that represents the workers’ position at the workplace. This kind of gathering is unimaginable,⁴⁵⁵ and forming a labor union or wage

454_ *Ibid.*, p. 155.

455_ NKHR2018000004 2018-03-12 and many other testimonies.

bargain is impossible.⁴⁵⁶ Therefore, it is hard to find a case where representative of the laborer and manager of the business engage in discussions to improve the working environment. North Korean residents' perception of related rights is also estimated to be low.⁴⁵⁷

D. Evaluation

It appears that North Korean authorities do not properly recognize the right to work, as stipulated in international standards on human rights. As indicated in the practice of 'group allocation,' North Korean authorities forcibly assign people to the workplace without guaranteeing the freedom to choose work according to each individual's ability and desire and it is also not easy to quit the allocated job. North Korean authorities also do not ensure the right to work under favorable working conditions, as well as the right to receive just compensation for labor. In reality, wages are not provided to the laborers and they are forced to carry out separate economic activities to sustain both lives of their own and their families. Moreover, because the freedom to form, join, and withdraw from the labor union is not protected, workers cannot demand improvements in the working environment despite having to endure unreasonable treatment.

456_NKHR2018000005 2018-03-12.

457_NKHR2017000019 2017-05-08 and other testimonies.

4

Right to Education

The right to education refers to everyone, not only children. Furthermore, the right to education includes the right to private or public education as well as formal or non-formal education. At the same time, it is also the right to lifelong education for all members of society. Article 26 of the UDHR stipulates that “everyone has the right to education,” while Article 13 of the ICESCR, to which North Korea is a State party, stipulates the right to education as is represented in the following table:

Table III-12 Article 13 of the ICESCR

Paragraph 1	The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
Paragraph 2	The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally

	<p>available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;</p> <p>(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;</p> <p>(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;</p> <p>(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.</p>
Paragraph 3	<p>The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.</p>
Paragraph 4	<p>No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.</p>

Article 73 of the North Korean Constitution stipulates that “Citizens have the right to education. This right is ensured by an advanced educational system and by the educational measures enacted by the State for the benefit of the people.” The Constitution also describes matters regarding overall free mandatory education system based on the socialist pedagogy such as law on education, elementary education, and higher education. However, the reality is far different from what is stipulated in these rules. This chapter examines the right to education based on availability, accessibility, acceptability, and adaptability.

A. Poor Education Conditions

Availability in education means that there should be normally operating educational institutions and programs offering education of a sufficient quality. In other words, there should be minimum conditions established required for education. However, the education condition in North Korea is at a extremely poor state.

Article 7 of the North Korean Education Law describes the principles of guaranteeing the conditions for educational programs as “the State shall systematically increase investment in education and reinforce support for education by smoothly guaranteeing educational conditions.” In addition, Article 12 of the North Korean Education Law regulates implementation of free mandatory education by stipulating “the right and responsibility to receive general secondary education.”⁴⁵⁸

Likewise, while the law properly guarantees educational conditions and specifies the responsibility to implement free mandatory education to the general public, the actual state of education is extremely dire. Above all, except for some regions such as Pyongyang, educational facilities are generally very poor. The situation appears to be worse in rural areas. A North Korean defector said that just before defecting in 2017, his/her child went

458_ This includes one year of kindergarten, five years of elementary school, three years of junior middle school and three years of senior middle school.

to a primary school and there was a television which could not be used as there was no electricity. Furthermore, lessons were carried out in the dark without any lights.⁴⁵⁹ In addition, another North Korean defector said that he/she frequently went to the school of his/her child. The toilets of the school were located outside of the building and made of wooden planks and there were no facilities such as infirmary, physical education room, or library.⁴⁶⁰

In addition, as teachers are unable to receive financial reward for their work, they are forced to find other ways to make their ends meet, which becomes one of the main factors behind the deterioration in education quality. According to the testimonies of North Korean defectors, teachers sometimes start their own selling businesses because their monthly salaries or rations are insufficient to maintain their livelihood,⁴⁶¹ or often pass the financial buck to the parents of the students they teach.⁴⁶²

Under these circumstances, free and mandatory education remains in name only and parents are made to shoulder more of the burden related to school activities. According to North Korean defectors, although they did not pay tuition, they still had to pay the cost to make the classroom ready in the summertime, and shoulder the cost of planting trees in the wintertime. They were

459_NKHR2018000057 2018-07-02.

460_NKHR2018000121 2018-10-22.

461_NKHR2018000008 2018-03-12.

462_NKHR2018000047 2018-06-04 and many other testimonies.

also required to offer scrap iron and paper and students who could not provide these were required to pay in cash.⁴⁶³ In addition, there were testimonies that all the cost of repairing desks, painting walls to coals were paid by the parents.⁴⁶⁴ In this regard, the United Nations Committee on the Rights of the Child recommended North Korea in 2017 to immediately prohibit schools from requesting parents to pay costs or contribute foods or materials,⁴⁶⁵ but it remains unclear whether such recommendation has been implemented by the North Korean authorities. Meanwhile, while some testified that school uniforms and textbooks were provided for free,⁴⁶⁶ others testified that both were paid by parents,⁴⁶⁷ or provided for free for some students as the quantity was not enough. It seems that practices vary depending on the region.⁴⁶⁸

B. Discrimination in Educational Opportunity

Accessibility means all people have access to education institutions and programs, without discrimination, and constitutes an important element of the right to education. Accessibility in

463_NKHR2018000007 2018-03-12; NKHR2018000065 2018-07-11; NKHR2018000122 2018-10-22 and many other testimonies.

464_NKHR2018000047 2018-06-04.

465_UN Doc. CRC/C/PRK/CO/5 (2017), para. 46.

466_NKHR2018000027 2018-04-09.

467_NKHR2018000114 2018-10-13; NKHR2018000123 2018-10-22; NKHR2018000135 2018-11-19.

468_NKHR2018000048 2018-06-04; NKHR2018000060 2018-07-02.

education is divided into non-discriminatory physical and economic accessibility.⁴⁶⁹ Non-discriminatory accessibility means that there should be no legal or practical discrimination against certain vulnerable groups of people when it comes to access of educational opportunities. Regarding the principle of non-discrimination, North Korean people's access to education is not guaranteed. North Korean authorities do not permit access to normal education or educational programs to children of those regarded as potential reactionaries including political criminals, etc. The twelve years of education provided as compulsory under North Korean law are not permitted inside political prison camps. Although elementary education is offered inside camps, the curriculum is different from outside elementary schools.

In terms of gender equality in education, it is identified that there is no difference in the rate of boys and girls going to school up to the mandatory education of senior-middle school. However, the rate becomes significantly eschewed in the case of college

469. UN CESCR, General Comment, No. 13 (1999), para. 6 (b), Accessibility stipulates, educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions: Non-discrimination – education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds. Physical accessibility – education has to be within safe physical reach, either by attendance at some reasonably convenient, geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a “distance learning” programme); and Economic accessibility – education has to be affordable to all. This dimension of accessibility is subject to the differential wording of Article 13 (2) in relation to primary, secondary and higher education. Primary education shall be available “free to all.”

entrance. Specifically, the rate of female students advancing to higher education is much lower than that of male students. In the 2016 National Performance Report submitted by North Korea to the United Nations Committee on Elimination of All Forms of Discrimination against Women (CEDAW), North Korea does not specifically indicate female enrollment rate above highschool. However, figures indicate that 10 percent of the female population received university education.⁴⁷⁰ Through granting access to university education in the field of science and technology and also through the distance education system, North Korea emphasizes that they are increasing the percentage of girls entering and completing their studies.⁴⁷¹ In this regard, the UN Committee on the Rights of the Child suggested that North Korea “promote gender equality in all educational institution.”⁴⁷² In 2017, CEDAW also suggested that North Korea improve the traditional perceptions and structural constraints which have been preventing female students from entering schools in such fields as science.⁴⁷³ Such

470_ Consideration of reports submitted by State parties under article 18 of the Convention, Second, third and fourth periodic reports of States parties due in 2014. DPR Korea. Committee on the Elimination of Discrimination against Women, UN Doc. CEDAW/C/PRK/2-4 (2016), para.102.

471_ List of issues and questions in relation to the combined second to fourth periodic reports of the Democratic People’s Republic of Korea, UN Doc. CEDAW/C/PRK/Q2-4/Add.1 (2017), paras. 54-55.

472_ Concluding observations on the fifth periodic report of the DPR Korea, Committee on the Rights of the Child, UN Doc. CRC/C/PRK/CO/5 (2017), para. 46.

473_ Concluding observations on the combined second to fourth periodic reports of the DPR Korea, Committee on the Elimination of Discrimination against Women, UN Doc. CEDAW/C/PRK/CO/2-4 (2017), para. 34.

gender difference in educational accessibility is also related to women's lower participate rates in North Korean society.

In terms of physical accessibility, Article 15 of the North Korean Education Law mandates that “the local authorities must take measure to ensure the compulsory education of children who reside in deep mountains or remote islands, as well as children with disabilities.” Article 22 of North Korean Elementary Education Law mandates that elementary and middle schools may be operated together, or a branch school may be established depending on the number of students and distance to the school. In the 2017 National Implementation Report submitted to the UN Committee on the Rights of the Child, North Korea emphasized that they are undergoing improvement projects. “From 2013 to 2014, they will build new nursery schools, kindergartens, and schools in 10 islands located in the West Sea. Newly built institutions will be equipped with the same equipment as urban schools. One village in South Pyeongan Province will be selected as a model village for improving educational conditions. However, outside of these legal regulations, actual accessibility to education by students living in remote areas is assessed to be substantially low due to the general condition of roads, mass transit systems and the difficulties of distance learning. Furthermore, these students are mostly from the absolute poverty class, and inequality to educational opportunity caused by isolation tends to coincide with poor economic accessibility.

Meanwhile, as mentioned above, having a free and mandatory education system in name only led to a decrease in access to education among those in the vulnerable groups. When failing to pay the fee requested by the school, students are often accused by their teachers and sometimes they end up quitting school as they are unable to endure such burden.⁴⁷⁴ A North Korean defector said that he/she had no other choice but to make his/her two sons drop out of school.⁴⁷⁵ However, even if a student leaves school halfway for financial reason, teachers do not seem to take proactive measures, other than visiting the student a few times.⁴⁷⁶

C. Emphasis on Socialist Education

Acceptability is an important factor in determining whether the form and nature of education, including educational programs and instructional styles, are acceptable to students who are the receivers of education and its direct beneficiaries.

Article 29 of the CRC states that the goal of education should be well-rounded in terms of acceptability and stresses its importance in children's education. In its fifth report submitted to UNCRC in 2016, North Korean authorities argued that it revised its education program to comply with the goals of child education stipulated in

474_ NKHR2018000013 2018-03-12; NKHR2018000078 2018-07-30.

475_ NKHR2018000053 2018-06-04.

476_ NKHR2018000057 2018-07-02.

the Convention on the Rights of the Child. However, the reality is far from such argument. North Korea also concludes in the Article 3 of the Education Law that “raising trust-worthy personalities who possess sound ideological awareness, deep scientific-technological knowledge, and strong physical capability is the basic principle of Socialist pedagogy,” and puts emphasis on the education of political thoughts in Article 29.⁴⁷⁷ According to the testimonies of North Korean defectors, education on the Kim Il Sung family takes up substantial part of education.⁴⁷⁸ Students have to pass subjects such as “Revolution History” to move up a grade. <Table III-13> describes the subjects students are currently required to take in elementary and middle schools, which shows that the subjects on the Kim Il Sung/Kim Jong Il/Kim Jong Un family are grouped throughout the entire curriculum. Excessive political ideological education, mobilization for political events and regime propaganda and mandatory military training are far from the realization of the goals of children’s education.

477_Educational institutions shall infuse sound thoughts, ethics, and in-depth knowledge, prioritize political thought education to ensure sound body and rich sentiment, provide science and technology education with depth, and converge them with physical and recreational education.

478_NKHR2018000035 2018-05-07.

Table III-13 Subjects for Primary/Secondary Education

Education level	Subject
Elementary School	Childhood of Supreme Leader (<i>Suryeong</i>) Kim Il Sung, Childhood of great leader, Kim Jong Il, Childhood of anti-Japan heroine Kim Jong-Suk, Childhood of admirable leader Kim Jong Un, Socialist ethics, North Korean language, English, Mathematics, Nature, IT, PE, Music and dance, and Art.
Junior Middle School	Revolution activities of Supreme Leader (<i>Suryeong</i>) Kim Il Sung, Revolution activities of great leader, Kim Jong Il, Revolution activities of anti-Japan heroine Kim Jong-Suk, Revolution activities of admirable leader Kim Jong Un, Socialist ethics, Geography, North Korean language, English, Mathematics, Nature, IT, Basic Technic, PE, Music and dance, and Art.
Senior Middle School	Revolutionary history of Supreme Leader (<i>Suryeong</i>) Kim Il Sung, Revolutionary history of great leader, Kim Jong Il, Revolutionary history of anti-Japan heroine Kim Jong-Suk, Revolutionary history of admirable leader Kim Jong Un, Current Party policy, Socialist ethics and law, History, Geography, Psychology and logic, Language and literature, Chinese character, English, Mathematics, Physics, Chemistry, Biology, IT, Basic Technology, PE, Military action 101

Source: Yeongja Park *et al.*, 『Eight changes in he economy and society under Kim Jong Un regime』 (Seoul: KINU, 2018), p. 165. (In Korean)

Meanwhile, Article 32 of the CRC stipulates that children shall be protected from labor that threatens their health, education and development. However, North Korean students are mobilized for diverse labor tasks, including farming and construction under the pretext that it is a part of their educational programs. This clearly goes beyond the meaning of education.⁴⁷⁹ Regarding this issue, the UN Committee on the Rights of the Child recommended North Korea in 2017 to ensure that children are not required to

479_The issue of the lack of acceptability in education shall be examined in more detail in Part IV, Chapter 2, Children.

perform labor tasks that interfere with their learning process, their rights to rest and leisure and their physical and mental well-being.⁴⁸⁰

D. Limits in the Learners' Right to Choose

Adaptability in education refers to the degree of guarantee of an adequate educational environment from the perspective of the receivers and the degree of appropriateness of the educational material provided for each developmental stage. It also reflects the degree to which the various ways the social environment is changing and adequately reflected in education. Whether North Korean students receive adequate education that is also appropriate according to such standards varies according to family environment, social status and economic capability. One noteworthy point is that the State is the only authority that decides and controls educational programs in North Korea. Such control of education by the authority is applied uniformly to students from all social classes in North Korea.

In addition to State-run educational facilities, there are other educational facilities run by the workplace, social organizations, and other social facilities. However, the State, particularly the Party decides the system, direction, content and methods of basic education. The operational process and evaluation are also controlled

⁴⁸⁰ UN Doc. CRC/C/PRK/CO/5 (2017), para. 46.

by the Party. In other words, from school education to social education and education for adults, the State picks the content and develops the educational programs and textbooks. The operation of all educational programs is centrally and uniformly controlled. As a result, there is little left to the discretion of schools and teachers in the operation of educational programs. As there are few elective subjects, all students take the same educational programs, except for specially-talented students at special educational facilities. All educational institutions, from kindergarten to elementary and middle school to college, are set up and run by the State, and no private educational institutions exist in North Korea. It can be said that the opinions of students and parents are not reflected in the schools or the educational programs.

Such rigidity in education caused by the State-led system serves as a constraint that prevents the North Korean educational program and system from fundamentally reflecting the changes and innovations of the time. Although North Korea emphasizes modernization and informatization of education through its official media, such educational goals are bound to face fundamental limitations as long as the educational system is led by the State and the Party.

E. Evaluation

North Korea has institutionalized 12 years of compulsory education in 2012 and announced its Education Strategy

(2015~2032) in 2014.⁴⁸¹ When analyzed in terms of availability, accessibility, acceptability and adaptability, North Korea’s education system was found to be insufficient on all counts. In particular, the ideological education that North Korean authorities continue to emphasize is assessed to constitute a serious infringement on the right to autonomous learning and to choose what to learn. North Korean authorities should make efforts to provide a universal and creative educational environment for students, breaking away from the educational policies that are absolutely focused on “Kim Il Sung and Kim Jong Il Patriotism.” Although North Korea claims to provide a free education system, it exists in name only and the economic burden imposed on students and parents seems to be very large since the distribution of resources for basic school operation as well as the teachers’ remuneration is not properly operated at the state level. Due to this burden, students who cannot afford such payment are prevented from going to school. Grave impediments persist in students’ education due to their being mobilized for various labor tasks, such as agriculture, construction, and political events.

481_UN Doc. CRC/C/PRK/CO/5 (2017), para. 45.

5

Right to Social Security

The UDHR stipulates that everyone, as a member of society, has the right to social security (Article 22). The ICESCR also stipulates that the States Parties shall recognize the right of everyone to social security (Article 9). The right to social security is very important in keeping the human dignity of the people who face situations where it is difficult to realize the rights of the Covenant.⁴⁸² Moreover, the right to social security contributes to reducing and mitigating poverty, preventing social exclusion, and promoting social cohesion.⁴⁸³

The UN Committee on Economic, Social, and Cultural Rights presents health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors, and orphans as the nine principal branches of social security.⁴⁸⁴ North Korea has laws and regulations related to most of these

482_ UN CESCR, General Comment, No. 19 (2007), para. 1.

483_ *Ibid.*, para. 3.

484_ *Ibid.*, paras. 12-21.

factors. However, given the gap between North Korea’s legal provisions and actual situation, it would be difficult to say that institutional existence guarantees actual social security. In this light, it is necessary to confirm whether these institutions are fulfilling its role. The following will examine whether residents’ social security rights are appropriately guaranteed, in terms of four categories of old age, family and children, sickness and disability, and industrial accidents.⁴⁸⁵

Table III-14 North Korean Laws on Social Security

Category of Social Security	Relevant Laws	
	Framework Law	Special Laws
Health Care		Law on Public Sanitation, Law on Food Hygiene, Law on Prevention of Epidemics
Sickness		Public Health Law, Law on Medical Care, Medicine Control Law
Old Age		Law on the Protection of Elderly Persons
Unemployment	Social Security Law	Social Insurance Law, Socialist Labor Law, Labor Protection Law
Employment Injury		
Family and Child Support		
Maternity		Law on the Nursing and Upbringing of Children, Law for the Protection of Children’s Rights, Law on the Protection and Promotion of the Rights of Women
Disability		Law on the Protection of Persons with Disabilities
Survivors and Orphans		Social Insurance Law

485. Content regarding orphans is not covered here as it dealt with in Part IV, Chapter 2, Children.

A. Insufficient Pension and Subsidy for Sustenance

North Korean Social Security Law stipulates the obligation to provide a social security pension and subsidies (Articles 17 to 23), and the North Korean Law on the Protection of Elderly Persons stipulates the obligation to provide age pension and subsidies for elderly persons (Article 14). To receive elderly pension and subsidy, one must have completed a labor period or be working, and must be aged 60 or above for men and 55 or above for women (Article 2 of the Law on the Protection of Elderly Persons).

Before the Arduous March of the mid-1990s, elderly pensions may have been sufficient, although the actual amount may not have been much.⁴⁸⁶ However, this pension has not been paid out regularly since the Arduous March. While laws stipulate payment, it was actually not paid in many cases.⁴⁸⁷ Even when the pension was given, the amount could not possibly have been sufficient for sustenance and thus appears to have been little help for the elderly.⁴⁸⁸ According to testers, although the amount varied, it was too small an amount to buy 1kg of rice. A woman who lived in Yonsa County, North Hamgyeong Province before escaping North Korea in 2017, testified that her mother used to receive 600 won a month.⁴⁸⁹ A North Korean woman in her late 30s who

486_NKHR2013000065 2013-04-02.

487_NKHR2017000027 2017-05-08; NKHR2017000073 2017-08-28.

488_NKHR2018000028 2018-05-08 and many other testimonies.

defected in 2017 testified that her father received a pension of 1,600 won a month but it was delayed; for example, his January pension would be sent in April, and so on.⁴⁹⁰ A woman in her late 30s who escaped from North Korea in 2017 testified that her parents-in-law received about 700 won per month.⁴⁹¹

Table III-15 Testimonies on the Practical Difficulties of Sustaining Life on Elderly Pensions

Testimonies	Testifier ID
The mother of the testifier who resided in Bocheon County, Yanggang Province, received 800-900 won of elderly pension per month after the father passed away, but as it was impossible to maintain livelihood to the extent of not being able to buy corn rice, she supported herself through cultivating paddies.	NKHR2016000164 2016-11-01
A woman in her 40s who defected in 2016 while living in Onsung county of North Hamgyeong Province testified that teachers were given the elderly pension monthly ranging from 700~1,000 won to 1,800 won.	NKHR2017000006 2017-04-10
A woman in her 50s who defected in 2016 while living in Samjiyeon County, Yanggang Province testified that the elderly pension was provided monthly but the amount was around 1,000 to 2,000 won. It was not enough to buy 1kg of rice.	NKHR2017000012 2017-04-10
A woman in her 30s who defected in 2014 while living in Samjiyeon County, Yanggang Province testified that her mother-in-law was a doctor and received elderly pension of 800 won.	NKHR2017000048 2017-07-03
A North Korean woman in her mid 30s who defected in 2015 testified that her parents received 700 won of elderly pension monthly from the town hall.	NKHR2017000060 2017-07-31

489_ NKHR2017000055 2017-07-31.

490_ NKHR2018000040 2018-05-08.

491_ NKHR2017000115 2017-11-20.

Testimonies	Testifier ID
A North Korean man in his mid 50s who defected in 2017 testified that he was able to receive 700 won, which was calculated based on old national standards and did not match the real market price.	NKHR2018000006 2018-03-12
A North Korean man in his mid 40s who defected in 2017 testified that those eligible to receive pension received a maximum of 6,000 won, which was the living cost for one or two days.	NKHR2018000002 2018-03-12

According to some testimonies, payment amount appears to vary depending on the level of merit. However, because the actual amount of pension is too small, such discrimination does not seem to have practical meaning. For example, a woman in her early 30s who used to live in Onsung province, North Hamgyeong Province before defecting in 2017 testified that her mother-in-law was awarded with a medal and a title of meriter, thereby receiving more pension than others. Nevertheless, the monthly pension was only 2,700 won.⁴⁹²

On the other hand, some have testified that there are cases where the elderly are not provided pensions, but instead distributed land for them to manage, the yields of which are for them to keep. A man, in his early 40s who used to live in Hoeryeong, North Hamgyeong Province before defecting in 2017, testified that even though his mother did not receive the pension, 100~150 *pyeong* of land was granted, and the crop yields were for her to keep.⁴⁹³

492_ NKHR2017000092 2017-09-25.

493_ NKHR2017000004 2017-04-10.

Another man who used to live in Gyeongwon County, North Hamgyeong Province before defecting in 2017 also testified that land was provided to the elderly as a part of the pension plan.⁴⁹⁴ However, since this is not a general phenomenon, it is assumed that it may be measures taken at the regional level rather than at the national level.

Since elderly pensions are not a sufficient means of sustenance, the elderly maintain their livelihood by either financially depending on their children or by earning little income through economic activities. Those people who cannot do either appear to enter the nursing homes. A North Korean woman in her late 40s who defected in 2018 said that her mother-in-law was not able to live on her pension and started to sell medicine at the market place and received food sent by her son.⁴⁹⁵ One woman who used to live in Hoeryeong, North Hamgyeong Province before escaping in 2017, testified that the elderly pension plan is only offered in a perfunctory manner, and that old people must work at the paddies until they die, unless they have children who are senior officials. She also mentioned that those people who are unable to work end up in nursing homes.⁴⁹⁶

494_NKHR2017000016 2017-05-08.

495_NKHR2018000055 2018-07-02.

496_NKHR2017000043 2017-07-03.

B. Absence of an Emergency Welfare Support System

The ICESCR stipulates that as much protection and assistance as possible should be provided as long as the family is responsible for the care and education for the children (Article 10, paragraph 1). Government support for families plays a crucial role in realizing these rights.⁴⁹⁷ However, it seems that North Korean authorities do not provide adequate support for the families. In particular, there is no emergency welfare support system for families whose primary income earner is unable to make a living for the family due to illness or death. In these situations, residents are vulnerable to economic crises. It appears residents regard such situation as being inevitable.

A woman in her 20s, who used to live in Gapsan County, Yanggang Province before defecting in 2015 said that, if a woman who used to make a living through the marketplace activity becomes ill, the woman must sustain her own life because it is regarded as her personal issue.⁴⁹⁸ Another woman in her mid-30s, who used to live in Hyesan, Yanggang Province testified that people may ask parents or siblings for financial help in such difficulties but people cannot expect any help from the government.⁴⁹⁹ Another

497_ UN CESCR, General Comment, No. 19 (2007), para. 18.

498_ NKHR2017000046 2017-07-03.

499_ NKHR2017000060 2017-07-31.

North Korean woman in her mid 40s who lived in Suncheon City, South Pyeongan Province and defected in 2017 said that there was no place to ask for help if she suddenly contracted a disease or was faced with danger while selling in the market.⁵⁰⁰ A North Korean woman in her late 30s who defected in 2018 testified that there was no national support for households at financial risk.⁵⁰¹

Some testified that there was some support but this was not provided in a systematic manner and the scope of support was not sufficient. A woman in her late 50s who used to live in Hamheung, South Hamgyeong Province testified that people sometimes do ask help to the people's unit (*inminban*) and then the neighbors collect small portions of rice, but there is no government support available.⁵⁰² In addition, a North Korean woman in her early 30s who defected in 2015 testified that the State provided the household a financial gift of food or restaurant vouchers so that they could have noodles for free. The People's Unit sometimes conducted surveys and the head of the People's Unit reported the result to the town hall to help its management.⁵⁰³

500_NKHR2017000063 2017-07-31.

501_NKHR2018000093 2018-08-27.

502_NKHR2017000052 2017-07-03.

503_NKHR2018000094 2018-08-27.

C. Inadequate Support System for People Suffering from Illness or Disability

Article 25 of the UDHR stipulates that everyone has the right to be assured in case of illness or disability. Therefore, cash benefits must be provided for the people who cannot work due to health reasons, and disability benefits should be provided to people suffering from long-term illnesses.⁵⁰⁴

In this regard, Article 72 of the North Korean Constitution stipulates that those who cannot work due to illness or disability shall have the right to material assistance and this right shall be guaranteed by the social security system. Article 2 of the Social Security Law also includes those who cannot work due to disease or physical disability as being eligible for social security.

However, the government seems to provide almost no support for residents who are unable to engage in economic activities for a long time due to illness or disability. A man in his mid-30s, who used to live in Gyeongwon County, North Hamgyeong Province until defecting in 2016, testified that his brother lost his ability to work due to accidental blindness but received no governmental support in sustaining his livelihood.⁵⁰⁵ A woman in her early 20s who used to live in Samjiyeon County, Yanggang Province before

504_ UN CESCR, General Comment, No. 19 (2007), para. 14.

505_ NKHR2017000018 2017-04-10.

defecting in 2016 testified that the state does not provide support to those who are unable to work for a long time due to illness.⁵⁰⁶ A woman in her mid-20s, who used to live in Bocheon Province, Yanggang Province until defecting in 2015, testified that social security is offered to people who are unable to work for a long period of time. However, she explained that this merely means one does not need to go to work; there are no rations or support.⁵⁰⁷ A similar testimony was given by a North Korean woman in her early 30s who defected in 2018. Her brother-in-law lost his eyesight in 2008 due to a disease and registered to receive welfare service. If not registered, he would be caught due to his unemployment status. Since then, there has been no financial support from the State; rather the testifier and her husband took care of him.⁵⁰⁸

Some testimonies claim that partial support was provided. A woman in her 30s, who used to live in Onsong County, North Hamgyeong Province before defecting in 2017, testified that if she has confirmation from the hospital, the farm will not ask her to work. Even so, she is provided with half the farm yield.⁵⁰⁹ Also, a North Korean woman in her late 20s who defected in 2014 said that her mother had a limp. Although there was no financial help, the town hall provided a daily ration of 300g, distributed every

506_NKHR2017000038 2017-06-05.

507_NKHR2017000072 2017-08-28.

508_NKHR2018000101 2018-10-01.

509_NKHR2017000092 2017-09-25.

month.⁵¹⁰ There was a testimony that the authorities provided rice and other materials once in a while to a person with physical disabilities living nearby.⁵¹¹

On the other hand, government support seems to be provided to the Honorable Military Servicemen, but the benefit is meager, irregular, and varies by regions. A man in his mid-30s, who used to live in Gyeongwon County, North Hamgyeong Province before defecting in 2016, testified that his father who was a honorable military serviceman received corn or potatoes. The potatoes were given once a year in the harvesting season, the amount varies from nothing to 50kg or 100kg.⁵¹² A woman in her early-20s, who used to live in Gilju County, North Hamgyeong Province before defecting in 2014, testified that she saw a honorable military serviceman receiving an apartment with rations, but she also commented that even that was not enough to make a living.⁵¹³

On the other hand, there were testimonies that some did not receive the benefits for honorable military servicemen or chose not to register, as the drawback of doing so was greater than the benefits. A North Korean woman in her mid-30s who defected in 2018 said that her cousin hurt his eyes while serving in the army and became an honorable veteran but received nothing from the

510_NKHR2018000096 2018-08-27.

511_NKHR2018000094 2018-08-27.

512_NKHR2017000018 2017-04-10.

513_NKHR2017000050 2017-07-03.

State.⁵¹⁴ In addition, a North Korean woman in her early 30s who defected in 2018 testified that her husband was hurt in the army but did not register him as an honorable veteran and did not receive many benefits. It was because when registering as an honorable veteran, his spouse was required to go to the official work allocated, which would, according to her mother-in-law, hamper the private economy activities in the marketplace.⁵¹⁵

D. Vulnerable System for the Protection of Injured Workers

Article 32 of the ILO Social Security Convention No. 102 stipulates that benefits should be paid if the worker loses the ability to work due to “work-related accidents or diseases.” North Korea also has provisions in this regard. The Socialist Labor Law stipulates that temporary subsidies shall be paid for the workers who are temporarily unable to work due to industrial accidents, sickness, or other injuries, and ability benefits shall be paid if the duration exceeds six months. Article 77 stipulates that in the event of the worker’s death, survivor benefits shall be paid to the bereaved family.

However, it appears that there is inadequate compensation to those who have lost their labor capacity due to industrial accidents.

514_NKHR2018000058 2018-07-02.

515_NKHR2018000072 2018-07-30.

In some cases, no compensation is given at all. Even in cases where compensation is provided, it is understood that it is not provided in a practical and continuous manner. A woman in her mid-30s, who used to live in Kimjongsuk County, Yanggang Province testified that her father became paraplegic from cerebral thrombosis at workplace in 1996, thereby becoming eligible for compensation. However, authorities refused to process the social security benefits and thus she had not once received them prior to her escape in 2014.⁵¹⁶ A North Korean woman in her early 20s who defected in 2017 said that her father who worked for the railroad construction unit severely hurt his leg around 2014 to 2015 but did not receive any support for living or hospital costs.⁵¹⁷

It seems that the cost of medical treatment due to industrial disaster is borne by the injured person. Some have testified that injury occurring in mines,⁵¹⁸ or cases of injury as a result of negligence have led to situations where the government would provide benefits.⁵¹⁹ However, most defector testimonies support the claim that costs pertaining to treatment were usually shouldered by the worker. A North Korean woman in her mid-20s who defected in 2018 testified that there was an accident in June 2018, where a stone fell, hitting the head of a person on the ground at an

516_NKHR2017000056 2017-07-31.

517_NKHR2018000038 2018-05-08.

518_NKHR2017000098 2017-10-23.

519_NKHR2017000111 2017-11-20.

apartment construction site and the injured person was taken to a hospital but he paid the bill out of his pocket⁵²⁰ In addition, a North Korean woman in her early 20s who defected in 2017 testified that when five workers fell from the fifth floor of an apartment construction site, they were transported to the hospital she was working at, two of them died and the others ended up with walking disabilities. From what she knew, they paid for their own medical and medicinal expenses.⁵²¹

No adequate compensation is given to people who die from industrial accidents. A woman in her early 20s, who used to live in Gyeongwon Province, North Hamgyeong Province until defecting in 2011, testified that one of her neighbors who was in his/her early 20s was crushed under the machines in the 618 shock troop brigade, but only 200kg of corn was paid to the parents.⁵²² A man in his early 20s, who used to live in Hyesan, Yanggang Province until defecting in 2017, testified that eight people were killed when a train tunnel collapsed. However no compensation was given.⁵²³ In another testimony, a student fell off while working at an apartment construction site and died in 2017 but the authorities did not compensate anything.⁵²⁴

520_NKHR2018000130 2018-11-19.

521_NKHR2018000102 2018-10-01.

522_NKHR2017000018 2017-05-08.

523_NKHR2017000111 2017-11-20.

524_NKHR2018000130 2018-11-19.

In some cases, measures are taken to honor those who died from industrial accidents instead of giving appropriate compensation, but this does not seem to have much contribution to the survival of the bereaved family. A man in his 20s who used to live in Hyesan, Yanggang Province until defecting in 2017, testified that a 22-year-old man died from standing against falling rocks while serving in the shock troop brigade, but the man was rewarded with Kim Jong Il honorable man's award with a small amount of compensation.⁵²⁵ A woman in her early 40s who used to work in Samjiyeon County, Yanggang Province before defecting in 2016, testified that when a laborer dies from industrial accidents, nothing is given to the bereaved except for a title about his/her heroic efforts.⁵²⁶

Meanwhile, a woman in her 50s, who used to live in Hamheung, South Hamgyeong Province before defecting in 2014, testified that the business is instructed to provide 10 days of rations to the bereaved family in case of an industrial accident. However, this policy stopped after one or two occasions.⁵²⁷ This suggest that the lack of compensation for the worker suffering from an industrial accident may also be caused by corruption or vulnerability of the administration system.

525_NKHR2017000111 2017-11-20.

526_NKHR2017000051 2017-07-03.

527_NKHR2017000052 2017-07-03.

E. Evaluation

From a legal perspective, North Korea's social security system is well established. In reality, however, it fails to fulfill its function properly. This is not only because the North Korean authorities lack the will in respecting, protecting, and realizing social security but also because it is facing poor financial situation. Elderly pensions are provided in only small amounts, being little help for the elderly in sustaining their lives. In addition, the lack of an emergency welfare system makes households vulnerable to financial crises if the breadwinner has to stop economic activities due to unexpected diseases or death. The welfare system established to support residents who are not eligible to do economic activities due to diseases or disability is limited, and plays only a nominal role and threatening the very survival of the people in need. Lastly, the situation is the same for employment injuries. Although provisions stipulate that pensions or subsidies shall be provided, they are not, or are provided in such small quantities that they offer no substantive assistance, making their mere living a life difficult. Considering the financial situation of North Korea, it is unlikely to expect such issues are fixed within a short period of time. Therefore, North Korea's vulnerable groups require much attention and support from the international community.



White Paper on Human Rights
in North Korea 2019



Part IV

Vulnerable Groups

1. Women
 2. Children
 3. Persons with Disabilities
-

1

Women

The Preamble of the UDHR reaffirms the equal right of men and women along with the human value and dignity. Article 2 stresses that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, including gender. In addition, Article 25, paragraph 2 stipulates that motherhood and childhood are entitled to special care and assistance. There are also provisions related to the rights of women in the ICCPR and the ICESCR.⁵²⁸ However, the UDHR, the ICCPR and the ICESCR are limited in their attempt to guarantee the rights of women through realizing the right to equality between men and

528. For example, the ICESCR stipulates that “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social, and cultural rights set forth in the present Covenant,” and Article 7, paragraph 1 on the right to work stipulates the condition of “Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.” Article 10 stipulates that “Special protection should be accorded to mothers during a reasonable period before and after childbirth” to protect motherhood. The ICCPR stipulates that “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant,” and Article 26 on equality before the law stipulates prohibition of discrimination based on gender.

women instead of considering the special characteristics of women's rights. CEDAW, which was adopted by the UN General Assembly on December 18, 1979, and took effect on September 3, 1981, is distinguished from previous international documents on women in that it reflects the special characteristics pertaining to women's issues that can occur in private life as well as gender sensitivity, overcoming the limitation of only dealing with the right to equality in the public area.⁵²⁹

North Korea ratified the CEDAW on February 27, 2001, according to which the States Parties have to submit an implementation report to the Committee (Article 18). North Korea had postponed its submission of reports after submitting the first report in September 2002 until April 2016 when it submitted a report which combined second, third and fourth periodic reports. The Committee finished its preliminary review in March and full review in November 2017. Based on the review, it announced the Concluding Observations, including major concerns and recommendations.

In the combined second, third and fourth periodic reports, North

529_ CEDAW is composed of a preface, 6 parts and 30 articles. Part 1 (Articles 1~6) stipulates the duties of States Parties to eliminate discrimination, Part 2 (Articles 7~9) stipulates civil and political rights, Part 3 (Articles 10~14) stipulates economic, social, and cultural rights, Part 4 (Articles 15~16) stipulates legal abilities and the rights on marriage and family life, Part 5 (Articles 17~22) establishes the UN Committee on the Elimination of All Forms of Discrimination against Women (hereinafter the Committee) and the country report system and Part 6 (Articles 23~30) sets forth conditions for the Convention to enter into force and its revision procedures, etc.

Korea self-evaluated that, from 2002 to 2015, “North Korean women, as complete owners of society, enjoyed equal rights to those of men in all areas of politics, economy, society and culture and performed great work for the prosperity of their home country.”⁵³⁰ North Korea also stressed that it decided to withdraw from its deferral of Article 2, paragraph (f) and Article 9, paragraph 2 of the CEDAW and gave notification of this to the UN in November 2015.⁵³¹ North Korea announced that it has legally/institutionally and practically guaranteed gender equality since it enacted the Law on Sex Equality through Decision No. 45 of the Interim People’s Committee on July 30, 1946, and that the North Korean Socialist Constitution and Family Law stipulate women’s equal rights to political and social participation and in family life.⁵³² Moreover, North Korea stressed that it had adopted the Law on the Protection and Promotion of the Rights of Women in 2010 to raise the status and roles of women by more strictly guaranteeing women’s rights in all areas of social life and has pursued consistent policies to guarantee gender equality as stipulated in Article 2 and is strictly preventing all forms of discrimination.⁵³³ Meanwhile, North Korea also explained that “all forms of discrimination” stipulated in Article 2 include all

530_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 2.

531_ *Ibid.*, para. 7.

532_ *Ibid.*, paras. 9~10.

533_ *Ibid.*, para. 11.

direct/indirect discrimination against women and that the meaning of the phrase is identical with the definition of discrimination in the CEDAW. Based on this law, North Korea stressed that it established an education plan to spread the concept and improve awareness of gender equality and carried out diverse measures including holding seminars and workshops.⁵³⁴ The Concluding Observations published by CEDAW in 2017 positively noted North Korea's acceptance of the 2005 recommendations as well as its adoption of the Law on the Protection and Promotion of the Rights of Women. However, the Concluding Observations also expressed concern that the concept of comprehensive definition of discrimination against women, encompassing direct and indirect discrimination in women's public and private spheres in line with Article 1 of the Convention was absent. The Concluding Observations set forth relevant recommendations.⁵³⁵

The CEDAW stipulates that State Parties shall take, across all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men (Article 3). In the Law on the Protection and Promotion of the

534_ *Ibid.*, paras. 12~13.

535_ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 11~12.

Rights of Women, North Korea stipulates women's social/political rights, rights to education/culture/health care, right to work, right to liberty and property and right to marriage and family and the obligation of the State to protect and guarantee such rights. The same law reconfirms the provisions of existing laws on women's rights and protections that were scattered among the Law on Sex Equality, Socialist Labor Law, Labor Protection Law, Criminal Law, Family Law and Civil Procedure Law. However, given that North Korean society has yet to move beyond a perfunctory rule of law, legislative measures cannot be taken at face value. In this light, this chapter will examine the situation of North Korean women's rights by major issues.

A. Discrimination against Women

According to Article 1 of the CEDAW, “discrimination against women” means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality between men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Article 2 of the CEDAW stipulates the obligation of the States Parties to “condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay

a policy of eliminating discrimination against women.” Paragraph (f) of the same article, which North Korea withdrew from deferral in November 2015, specifically stipulates that all State Parties should take all appropriate measures to “modify or abolish existing laws, regulations,” as well as “customs and practices which constitute discrimination against women,” including legislation. Through the Law on the Protection and Promotion of the Rights of Women, North Korea prevents “all forms of discrimination against women.” However, the traditional distinction and exclusion based on gender still seem to directly and indirectly limit North Korean women from exercising their basic freedoms under the concept of equality with men.

(1) Stereotype of Male Superiority and Fixed Gender Roles

State Parties to the CEDAW shall take all appropriate measures to modify the social and cultural patterns of conduct of both men and women, with the goal of achieving the elimination of prejudice, customary discrimination and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles of men and women (Article 5). In its first State Party’s Report on the CEDAW in 2002, North Korea admitted that “while the fixed division of gender roles has almost been eliminated, customary discrimination, including men being considered responsible for the sphere outside the home and

women being considered responsible for the sphere inside the home or major forms of work regarded as work for men and miscellaneous forms of work regarded as work for women still exist.⁵³⁶ In the combined second, third and fourth periodic reports published in 2016, North Korea also stated that the custom of male superiority still remains ingrained in society and family even after the Law on the Protection and Promotion of the Rights of Women was adopted and explained that it is because the general population does not know about the national policies and laws and the customary stereotypes and attitudes remain.⁵³⁷

North Korea emphasized that the Korean Democratic Women's Union (hereinafter Women's Union) is working with the People's Committee to eliminate fixed gender roles and improve awareness on gender equality and that it has actively responded to the related issues through educational campaigns and the reinforcement of administrative/legal measures, etc.⁵³⁸ Moreover, North Korea stated that it has pledged to identify cases of prejudice and discrimination against women in all government agencies at the institutional level and actively respond to such issues.⁵³⁹ However, as admitted by North Korean authorities, the stereotype of male superiority and fixed gender roles are deeply rooted in the

536_ UN Doc. CEDAW/C/PRK/1 (2002), para. 101.

537_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 53.

538_ *Ibid.*, para. 56.

539_ *Ibid.*, para. 58.

perceptions of North Korean people. The 2018 survey showed that society-wide trends were for women to be in charge of housework and nurturing of children. There were also expectations for women to embody the qualities of a “Chosun woman.” In these ways, it appears gender stereotypes of male superiority persist.⁵⁴⁰ According to many testimonies, although the economic activities of women have been expanded, their social positions were still substantially below that of men.⁵⁴¹ However, there were some other testimonies that said the idea of male superiority had been on the decline in urban areas. A North Korean defector testified that there is a relatively better perception of gender equality in Pyongyang, but other provinces have severe discrimination.⁵⁴² In addition, while the stereotype on gender discrimination still exists, some said that women have become more vocal in the household.⁵⁴³ A North Korean defector testified that as more women became the breadwinners of the family, the husbands showed more consideration and took care of household chores.⁵⁴⁴

540_NKHR2018000002 2018-03-12; NKHR2018000003 2018-03-12; NKHR2018000010 2018-03-12; NKHR2018000012 2018-03-12; NKHR2018000017 2018-04-09; NKHR2018000042 2018-06-04; NKHR2018000100 2018-10-01.

541_NKHR2018000010 2018-03-12; NKHR2018000017 2018-04-09; NKHR2018000021 2018-04-09; 2018000022 2018-04-09; NKHR2018000027 2018-04-09.

542_NKHR2018000044 2018-03-14.

543_NKHR2018000049 2018-06-04; NKHR2018000102 2018-10-01.

544_NKHR2018000058 2018-07-02.

Table IV-1 Testimonies on Stereotypes of Male Superiority and Fixed Gender Roles

Testimonies	Testifier ID
A male in his 20s who defected in 2014 testified that there is a prevalent perception in North Korea that when a man searches for a wife, he seeks someone well-behaved and obedient. On the other hand, when a woman searches for a husband, she seeks a man with power and when receiving a marriage proposal, she needs to check if he is 1) a member of the Party, 2) a discharged soldier, and 3) a university graduate.	NKHR2018000021 2018-04-09
A woman in her 30s who defected in 2015 testified that: 1) men are social beings and they have to work at a company and not sell items in the market; 2) men are like the sky; and 3) women belong to men.	NKHR2017000033 2017-06-05
A woman in her 20s who defected in 2016 testified that the husband comes first in a family.	NKHR2017000009 2017-04-10
A woman in her 20s who defected in 2018 testified that there is a prevalent perception in North Korea that there is a clear distinction between what men have to do and what women have to do.	NKHR2018000118 2018-10-01
A woman in her 40s who defected in 2018 testified that there is a prevalent perception in North Korea that wife shall be obedient to husband even when one's husband fail to financially support the family.	NKHR2018000055 2018-07-02
A woman in her 50s who defected in 2018 testified that there is a prevalent perception in North Korea that wife shall serve husband to the extent that even when scooping rice in a bowl, the wife should scoop the husband's first.	NKHR2018000032 2018-05-08
A woman in her 40s who defected in 2018 testified that there is a prevalent perception in North Korea that men need to have a decent job while women need to have a good husband. She also testified that poor parents are more likely to think that daughters can live just fine by learning basic money calculation (without receiving proper education).	NKHR2018000076 2018-07-02

(2) Women's Limited Political Participation and Social Entry

According to CEDAW, state parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure these

rights to women on equal terms with men (Article 7). The North Korean Socialist Constitution stipulates that the social status and rights of women are equal to those of men (Article 77), and the Law on the Protection and Promotion of the Rights of Women stipulates that “the State shall actively involve women in social and political activities and raise the ratio of women deputies in each level of the People’s Assembly” (Article 12). In the combined second, third and fourth periodic reports submitted in 2016, North Korea stressed that North Korean women have equal status with men in political and public life.⁵⁴⁵

However, it seems that North Korean women’s social and political activities are in effect, limited. A case in point is the very low political participation. Since the 1970s, North Korea has maintained a level of 15~20 percent of the deputies of the SPA as women and 20~30 percent of the deputies of local People’s Assemblies are known to be women. Through the combined second, third and fourth periodic reports, North Korea stated that the ratio of women deputies in the 13th Supreme People’s Assembly in 2014 was 20.2 percent, and the ratio in the local People’s Assemblies in 2015 was 27 percent.⁵⁴⁶

545_ UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 75-83.

546_ *Ibid.*, para. 77. The ratio of female lawmakers is one of the representative indicators of the level of women’s political participation in each country. The statistics of the Inter-Parliamentary Union (IPU) that compare each country’s female lawmaker ratio shows that among the 687 deputies of the 13th Supreme People’s Assembly in North Korea, women account for 122 deputies, or 16.3 percent. This ranks 122nd among the 191 countries surveyed. However, based on the 20.2 percent

Given the characteristics of the North Korean regime, it is more appropriate to identify the level of North Korean women's political participation based on the ratio of women in major positions of the KWP than the ratio of women in each level of the People's Assembly.⁵⁴⁷ At the 7th Party Convention held in May 2016, 3,467 representatives with the right to vote and 200 representatives with the right to address the convention, who were elected from the Party Representatives of each level, participated, and among them, there were 315 women, accounting for 8.6 percent of all representatives. Breaking down the 129 members and 106 candidate members of the Party Central Committee based on gender, there are four female members (3.1 percent) and three candidate members (2.8 percent).⁵⁴⁸ In addition, there are 4 permanent members, 13 members, and 12 candidate members in the Political Bureau of Central Committee, the supreme decision making body of Workers' Party of Korea, among whom the only female member is Kim Yo Jong, Kim Jong Un's younger sister.⁵⁴⁹ As such, the ratio of women in the Party is low, and the ratio decreases the

that North Korea stated in the combined second, third and fourth periodic reports, it ranks 93rd among the 191 countries. Please refer to Inter-Parliamentary Union (IPU), "Women in National Parliaments, Situation of 1st January 2017," (www.ipu.org/wmn-e/arc/classif010616.htm).

547_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 9.

548_There could be some errors in the statistics as the data to identify the identity of some newly elected members and candidate members are limited.

549_Ministry of Unification, 『North Korea –Directory by Institutions 2019』 (Seoul: Ministry of Unification –Political/Military Analysis Division, 2018), p. 9.

closer it gets to the core of the power structure.⁵⁵⁰ Moreover, there is only a small number of women appointed as members of the Cabinet that have political and administrative responsibility and authority, and women also account for a very small share of the Party Central Committee that actually exercises power.

North Korea's Law on the Protection and Promotion of the Rights of Women stipulates that with regard to the hiring of female senior officials, their planned nurturing and hiring shall be carried out and discrimination against women in the selection processes of institutions, enterprises and organizations shall be eliminated (Article 15). However, it seems that actual opportunities for North Korean women to improve their social status remains limited. The Report of the Detailed Findings of the Commission of Inquiry on Human Rights in North Korea published in 2014 points out that only 10 percent of central government officials are women.⁵⁵¹ In its first State Party's Report on the CEDAW, submitted in September 2002, North Korea stated, "We have increased the ratio of female senior staff in the public sector in an effort to improve the social status of women. The ratio of female judges, for example, has reached 10 percent, while some 15 percent of employees at the Foreign Ministry are women,"⁵⁵² and

550_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 8-10.

551_UN Doc. A/HRC/25/CRP.1 (2014), para. 314.

552_UN Doc. CEDAW/C/PRK/1 (2002), para. 111.

the respective ratios reached 11.9 percent and 16.5 percent in the combined second, third and fourth periodic reports submitted in 2016, revealing an increase of only 1~2 percent.⁵⁵³ In its Concluding Observations published in 2017, CEDAW pointed out that in North Korea, women's participation in political and public sectors are extremely low. In this respect, the report recommended that North Korea adopt measures to set up strategies and goals regarding articles to allocate female participations in major political and public sectors (high-ranking positions, SPA, local People' Assembly, Ministry of Foreign Affairs, higher educational institutes, legislative branch, police, and safety institutes, etc.) to conform with the relevant articles of CEDAW (Article 4, paragraph 1 and Article 25 of General Recommendations).⁵⁵⁴ Moreover, the Committee expressed concerns that only 27.3 percent of women participate in the "National Committee for Implementing International Human Rights Treaties."⁵⁵⁵ CEDAW recommended North Korea to encourage women's equal participation in the National Committee and allow the Committee to build up expertise in areas of women's rights.⁵⁵⁶

553_ UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 89, 254.

554_ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 29-30.

555_ In November 2017, during the deliberation of the implementation report submitted by North Korea, it answered that by 2014 there had been different coordinating committees for different covenants, after which relevant committees were integrated into "National Committee for Implementing International Human Rights Treaties" in April, 2015 and in operation until now.

556_ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 15-16.

It is problematic that opportunities for women’s social entry will not expand considerably in the future.⁵⁵⁷ To begin, there appears to be a gap between men and women in terms of education opportunities. Theoretically, there should be little difference in the school entrance ratio based on gender for compulsory elementary/middle school education. However, some testified that they were discriminated against in terms of primary and secondary education because they are female. A defector in her 20s who left North Korea in 2018 testified that there was a widespread perception that “it is okay for women to know how to read, nothing more,” so she just managed to finish her elementary school.⁵⁵⁸ Another North Korean defector in her 40s also said that “my son graduated from middle school but in one class with 30 students, there were only six female students. I don’t know why but there always were many more boys than girls.”⁵⁵⁹

There seems to be a wide gap in the entrance ratios in higher education, such as universities. In the first State Party’s Report on the CEDAW, submitted in 2002, the ratio of women among college students was stated as 34.4 percent, which means that the college entrance ratio for women was almost half that of men at that time.⁵⁶⁰

557_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 9~10.

558_NKHR2018000009 2018-03-12.

559_NKHR2018000057 2018-07-02.

560_UN Doc. CEDAW/C/PRK/1 (2002), para. 132.

However, the combined second, third and fourth periodic reports submitted in 2016 stated that college entrance ratio for women has increased, without presenting specific statistics for elementary/middle school education.⁵⁶¹ In this respect, it seems that higher education opportunities for women have not changed much in the last decade. One North Korean defector in her 20s who defected in 2016, testified that there are many women in technical schools, and more men are entering universities.⁵⁶² Another female testifier in her 20s who defected in 2018 testified that “universities are for men and there is a widespread perception that it is no use for women to study.”⁵⁶³

(3) Family Life Centered around Male Heads of Household

Early on in the regime, North Korean authorities declared that the existing male-centered and authoritarian traditional Confucian family system was not only a hurdle to the Socialist revolution but also oppressed women politically and economically. Furthermore, it regarded the “liberation of women from the colonial and feudalistic yoke of oppression and the guarantee of equal rights with men in all aspects of social activity as crucial tasks in its

561_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 99.

562_ NKHR2016000141 2016-08-23.

563_ NKHR2018000008 2018-03-12.

anti-imperialist, anti-feudal democratic revolution.” However, although superficial legal and institutional measures were implemented to provide Socialist-style equality between men and women, traditional patriarchal structures were maintained within families. In particular, as the sole leadership of Kim Il Sung and Kim Jong Il solidified during the 1970s, premodern traditions of family life were emphasized.

The North Korean Family Law stipulates, “In family life, the husband and wife have equal rights” (Article 18). However, in North Korea, only men can be the “head of household.” Furthermore, it has been found that overall family life is decided and carried out centered around the male “head of household.” Traditionally, the husband who is the “head of household” in a North Korean family was regarded as having absolute power in all family matters including issues related to children. However, it has been found that such patriarchal characteristics of North Korean families have weakened and the status of the head of household (husband) is changing. It appears that these changes have not occurred as a result of institutional factors such as the enactment of the Law on the Protection and Promotion of the Rights of Women. Rather, it is attributed to an increase in women’s voice, as a result of increase in their economic activities and cases where women become the breadwinner of the family.⁵⁶⁴ A North

⁵⁶⁴ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North*

Korean defector in her 50s who defected North Korea in 2016 testified that more women started economic activities while more men lost their economic capability, hence losing their decision making power in the household.⁵⁶⁵ In addition, a North Korean woman in her 20s who defected in 2017 said that even when both husband and wife are working together, it was a common perception that the wife needed to obey what her husband said but more recently, fewer wives would endure such hardships and more would file for divorce.⁵⁶⁶

As such, while there is a trend that women's status is increasing in the family, as will be examined below, women are still mainly responsible for household tasks. Furthermore, in addition to economic activity in the informal sector, the roles expected of them in the Women's Union impose ever more burden on North Korean women.

(4) Double Burden of Housework and Social Labor

North Korean authorities argue that it has guaranteed the conditions for women's equal social entry through the socialization of housework and the socialization of childcare. However, despite this argument, it seems that the traditional role of women in the

Korea, pp. 15~16.

565_ NKHR2018000032 2018-05-08.

566_ NKHR2018000003 2018-03-12.

family is still emphasized. With the continued economic crisis, policies to socialize housework and childcare have decreased and the division of housework and childcare at home is not taking place, leading to an excessive labor burden on North Korean women and a dramatically increased amount of labor related to securing food.

Through its recommendations in the 2005 and 2017 Concluding Observations, the Committee expressed its concern that there was indirect discrimination against women, for example, in how women were choosing not to pursue management positions due to pressures of running a household and the subsequent lack of time spent at the workplace.⁵⁶⁷ In the 2016 implementation report, North Korea explained that it is taking diverse measures, including seminars and education, etc., to overcome fixed gender roles and indirect discrimination against women. North Korea considered women's job assignments and made it mandatory to establish welfare facilities and daycare facilities at work sites as temporary special measures for the improvement of gender equality.⁵⁶⁸

Yet, in reality North Korean women's rights have not improved. Women are still responsible for housework and social labor. In the 2018 survey, there were many testimonies about the dominant perception that even if women are involved with economic

567_UN Doc. CEDAW/C/PRK/1 (2002), paras. 27-28. UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 23-24.

568_UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 45, 47, 55.

activities, household chores are the wife's responsibility.⁵⁶⁹ However, some testimonies showed that there is a shift in such long-held perception in the minds of the younger generation.⁵⁷⁰ There have been testimonies that although the stereotype that women should tend to the housework regardless of their economic activity prevails, in actual day to day, husbands help with the housework.⁵⁷¹

While economic activities and housework already represent substantial labor burden, North Korean women have little free time to rest. This is because they need to participate in Life Review Sessions (*saenghwalchonghwa*), and labor mobilization campaigns carried out by the Women's Union, etc., on a daily basis.⁵⁷² One defector in her early 50s, who defected in 2014 testified that she participated in mobilization campaigns for farming villages, railroads and people's unit (*inminban*) almost every day, working from 8 am to 12 pm and 2 pm to 4 or 5 pm, and she had to pay 3,000 North Korean won if she was absent.⁵⁷³ A North Korean woman in her 30s who defected in 2018 testified that if she quit her job after getting married, she would have to take a part in the

569_ NKHR2018000012 2018-03-12; NKHR2018000017 2018-04-09; NKHR2018000062 2018-07-02. NKHR2018000073 2018-07-30; NKHR2018000080 2018-07-30.

570_ NKHR2018000075 2018-07-30.

571_ NKHR2018000008 2018-03-12; NKHR2018000032 2018-05-08.

572_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 18.

573_ NKHR2016000143 2016-08-23.

activities of the Women’s Union. However, the forced labor as part of the Women’s Union was so arduous that she chose not to leave her original job.⁵⁷⁴ Another North Korean woman in her 30s who defected in 2018 said that it used to be common for women to quit their jobs after getting married. However, recently, with increasing labor mobilization for housewives, more women are choosing to stick with their day jobs.⁵⁷⁵ There was no compensation for any of the social labor that women were mobilized to do.⁵⁷⁶

B. Prevalent Violence against Women

(1) Domestic Violence

Domestic violence is one of the most malicious forms of violence against women.⁵⁷⁷ Through its specific recommendations, the Committee recommended that State Parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act (a), provide appropriate protective and support services for victims (b) and identify the nature and extent of attitudes, customs and practices that perpetuate violence against women and the forms of

574_NKHR2018000044 2018-06-04.

575_NKHR2018000041 2018-06-04.

576_NKHR2016000148 2016-09-06.

577_UN CEDAW, General Recommendation, No. 19 (1992), para. 23.

violence that result (e).⁵⁷⁸

The Committee expressed concerns in its Concluding Observations both in 2005 and in 2017 that North Korea is not fully aware of the seriousness of family violence and is not taking any protective or preventive measures against such violence. Specifically, it urged North Korea to enact laws on the criminal punishment and civil relief of domestic violence, to establish ways for women victims of violence to request immediate protection and relief and to ensure that assailants are prosecuted and punished.⁵⁷⁹ Article 46 of the Law on the Protection and Promotion of the Rights of Women enacted in North Korea in 2010 stipulates that “All forms of domestic violence against women must not take place within the family. The Local People’s Committees and institutions, enterprises and other organizations should regularly hold educational programs for people and employees to prevent domestic violence in families in their jurisdiction or district they are in charge of” in order to establish the provisions of measures to prevent domestic violence and of protective measures. However, there was no specific revision of the Criminal Law on this matter and it seems that there has been little change in reality.

Most North Korean defectors testified that although domestic violence has been widely frequent, it is rare for the government to

578_ *Ibid.*, para. 24.

579_ UN Doc. CEDAW/C/PRK/CO/1 (2005), paras. 37~38. UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 25-26.

intervene as it is the norm in North Korean society to treat what happens in the household as a problem that needs to be resolved within the household. A North Korean woman in her 30s who defected in 2016 testified that domestic violence would not cause any social issue unless someone was killed.⁵⁸⁰ A North Korean woman in her 50s who defected in 2017 testified that she suffered from severe domestic violence ever since she got married in 1989 up until 2016, the year her husband died. No help had been given despite having reported to the policy on numerous occasions.⁵⁸¹ One defector in her mid-20s who left North Korea in 2015, testified that even when women talk to the MPS officers in charge, they just say “handle your family problems between yourselves,” and that it is hard to expect any legal measures or assistance.⁵⁸² Even when officers witness domestic violence, they urge the victim to understand and not to make any fuss since arguments between husband and wife is like trying to cut water with a knife (Korean proverb meaning that it is inconsequential).⁵⁸³ One defector who left North Korea in 2017, testified that she was a victim of domestic violence but the officer did not do much except for stopping the violence at the scene.⁵⁸⁴ Even party

580_NKHR2018000041 2018-06-04.

581_NKHR2018000017 2018-04-09.

582_NKHR2016000154 2016-09-06.

583_NKHR2017000084 2017-09-25.

584_NKHR2017000049 2017-07-03.

organizations simply advise or criticize the husbands.

Victims often give up trying to make a report because they know no measures will be taken. A defector who left North Korea in 2017 testified that although there are frequent cases of domestic violence as a result of hardships in their lives, people do not even consider reporting them.⁵⁸⁵ A woman in her 40s who defected from North Korea in 2014 also testified that she was a victim of domestic violence and sought legal measures only to be beaten even more.⁵⁸⁶ A North Korean woman in her 20s who defected in 2016 testified that domestic violence is considered as “humiliation for the family” and many go unreported.⁵⁸⁷ Even in a case where a woman wants to file a divorce due to harsh domestic violence, divorce is in fact impossible because the process is too complicated or the costs of trial and bribery are too high, and the Party guideline discourages divorce.⁵⁸⁸ A North Korean woman in her 20s who defected in 2018 said that she was threatened by her husband who kept saying he would stab her so she demanded a divorce. However, there was no way to get a divorce when her husband refused to do so.⁵⁸⁹

Occasionally, there have been cases where a victim reported

585_ NKHR2016000148 2016-09-06.

586_ NKHR2016000148 2016-09-06.

587_ NKHR2018000012 2018-03-12.

588_ NKHR2018000049 2018-06-04.

589_ NKHR2018000049 2018-06-04.

domestic violence and her husband was investigated or punished. For example, a North Korean woman in her 40s who defected in 2017 testified that her neighbor's husband was arrested for domestic violence and was detained for two days. However, this case seems to be a rare exception, and unless there is an extreme situation such as a domestic homicide, measures such as criminal punishment are rarely given. Moreover, North Koreans tend not to think of domestic violence as something that should be reported, believing that reporting domestic violence is a humiliation.⁵⁹⁰ It also seems that there is a deep-rooted perception that the cause of domestic violence is the women themselves.⁵⁹¹ The Women's Union that proclaims to enhance women's empowerment is also not very helpful in resolving domestic violence issues.⁵⁹² In addition, there are no shelters for victims of domestic violence. As such, it has been found that women exposed to domestic violence are not protected by the government or society.

(2) Gender-based Exploitation and Violence

According to CEDAW, States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women (Article 6).

590_NKHR2018000012 2018-03-12.

591_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 20.

592_*Ibid.*, p. 21.

Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.⁵⁹³ The Law on the Protection and Promotion of the Rights of Women in North Korea stipulates that those who conduct, organize, encourage or force prostitution shall be punished by law (Article 40). In the combined second, third and fourth periodic reports published in 2016, North Korea emphasized that gender-based exploitation and violence against women are strictly addressed based on related provisions in the Criminal Law (Article 249 of the Criminal Law on the crime of prostitution, Article 279 of the Criminal Law on the crime of rape and Article 281 of the Criminal Law on the crime of sex with a minor), and the crime of the introduction and distribution of decadent culture (Article 183 of Criminal Law) is heavily punished to prevent any encouragement of sexual exploitation.⁵⁹⁴ Moreover, North Korea stated that it guarantees the protection of the identity of the victims of sexual violence and providing compensation for damages based on the Law on Compensation for Damages.⁵⁹⁵ In 2017, CEDAW expressed concerns over North Korea's decision to mediate the criminal punishment on sexual assault crime. In 2009, the law sentenced two years, two years, and five years of correctional labor for prostitution, forced sexual relation with the subordinate,

593_ UN CEDAW, General Recommendation, No. 19 (1992), para. 1.

594_ UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 66~70.

595_ *Ibid.*, para. 71.

sexual relation with a minor, respectively. However, the sentences are changed now to one year of correctional labor for all three crimes. In the deliberation process of the implementation reports, North Korea answered that one reason to alleviate the punishment on the forced sexual relation with a subordinate was that it was understood as a kind of consensus between the two as the victim (woman) would expect convenience in return for the sexual relation and accepted it accordingly. In response, the Committee recommended that the sentence should be equivalent to that of rape (five years of correctional labor).⁵⁹⁶ For sexual assault between a married couple, there was almost no perception that it would constitute a crime. In addition, North Korea has repeatedly stated that there is no sexual harassment issue in workplace. Likewise, North Korea does not seem to properly recognize the seriousness of violence imposed on women and such lack of perception has led to the absence of protective and preventive measures for victims.

In fact, it is very difficult to identify the accurate reality of the related situation in North Korea as sexual violence mostly occurs secretly and victims are highly likely to be reluctant to disclose their case. However, in this regard, defector testimonies confirm a number of concerns. First of all, North Korea does not take sexual harassment or sexual assaults seriously. A North Korean woman

⁵⁹⁶ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), para. 38.

in her 20s who defected in 2014 testified that she was sexually harassed or assaulted at work almost everyday but could not raise an issue about it as she was afraid of the consequences.⁵⁹⁷ Another North Korean woman in her 20s who defected in 2015 also routinely experienced sexual harrassment and molestation and people saw her as a easily approachable person just because she smiled at their jokes.⁵⁹⁸ In addition, even when a woman is raped, it is common for women not to report it due to humiliation and social stigmatization.⁵⁹⁹ There are also testimonies that there is a negative social perception of the victims of sexual violence; for example, the victim should be held accountable as it means she did not protect her own body,⁶⁰⁰ and that victims do not report the violence for the sake of their future because it may be difficult to get married later if they report their case.⁶⁰¹ Most North Korean defectors testified that there are no follow-up measures to protect victims of sexual violence and they are completely unaware of such measures. In 2017, CEDAW requested detailed statistics on reports filed for sexual violence and how they were managed. However, official statistics have not been presented.

597_NKHR2018000021 2018-04-09.

598_NKHR2018000033 2018-05-08.

599_NKHR2016000139 2016-08-23; NKHR2016000140 2016-08-23; NKHR2017000050 2017-07-03.

600_NKHR2016000143 2016-08-23; NKHR2016000145 2016-08-23; NKHR2017000026 2017-05-08; NKHR2017000039 2017-06-05; NKHR2018000033 2018-05-08.

601_NKHR2016000148 2016-09-06; NKHR2017000046 2017-07-03.

There were occasional cases where suspects have been punished. Another defector who left North Korea in 2016 testified that a perpetrator who raped a minor in Hyesan, Yanggang Province was sentenced to one year of correctional labor.⁶⁰² A North Korean who defected in 2018 testified that he/she heard a lecture from the People’s Unit in 2016, where the lecturer said “Keep yourself educated,” referring to a story of a man who was sentenced to ten years of correctional labor for sexual assault.⁶⁰³

Although physical violence is not involved, it seems that there are many cases where women experience sexual exploitation or are harmed as a result of societal structure. For women who are engaging in unofficial economic activities, those working for powerful institutions demand bribes in return for turning a blind eye to such illegal activities and some demand sexual favors in return. For women who are barely maintaining their livelihood through vending, it would not be easy to reject and resist such demands.⁶⁰⁴

Another problem that should be pointed out is the lack of education to prevent sexual violence.⁶⁰⁵ When asked if there is education to prevent sexual violence in North Korea, North Korean

602_NKHR2017000010 2017-04-10.

603_NKHR2018000049 2018-06-04.

604_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 25.

605_*ibid.*

defectors replied that they have not received such education.⁶⁰⁶ One defector testified that although the testifier received much education on socialist gender equality, he/she had never received sex education.⁶⁰⁷ As a result, it seems that some North Korean women do not sufficiently perceive the seriousness of the issue although they themselves have experienced or witnessed sexual violence or are exposed to the risks of sexual violence.

C. Treatment of Repatriated Women

(1) Punishment of Women Victims of Human Trafficking

In general, poverty and unemployment lead to an increase in female trafficking. The Committee expressed concerns over new forms of sexual exploitation, including planned marriages between women from underdeveloped countries and foreign men, in addition to existing forms of human trafficking. The Committee held the view that such practices are contradictory to women's equal enjoyment of rights and to the respect for their rights and dignity and that they expose women to special risks of violence and abuse.⁶⁰⁸ The Committee called for the introduction of

606_NKHR2016000117 2016-07-26; NKHR2016000118 2016-07-26; NKHR2016000119 2016-07-26; NKHR2017000050 2017-07-03 etc.

607_NKHR2016000134 2016-08-09.

608_UN CEDAW, General Recommendation, No. 19 (1992). para. 14.

special measures to eliminate poverty aimed at improving the situation of vulnerable women exposed to exploitation including human trafficking, etc., in its 2005 recommendations. Moreover, it emphasized the necessity of support for women who returned to North Korea after defecting for economic reasons so that they can be reintegrated with their families and society and be protected from all forms of human rights violations.⁶⁰⁹ In 2014, the UN Commission of Inquiry on Human Rights in the DPRK stressed that the trafficking of women should be immediately and effectively addressed and recommended that the structural reasons for these women becoming vulnerable to such violence be resolved.⁶¹⁰ In 2017, the Committee expressed concern over women who once defected from and were repatriated to North Korea, specifically, that these women were punished for illegal border-crossing (*bibeop wolgyeongjoe*) and subject to sexual assault, forced abortion, and deprived of a fair trial, and recommended corrective measures.⁶¹¹

North Korea strictly limits the freedom of entering/exiting its borders and stipulates in Article 221 of the Criminal Law that anyone who illegally crosses border shall be sentenced to correctional labor (one year up to five years depending on seriousness of the crime). As a result, North Korean women are

609_UN Doc. CEDAW/C/PRK/CO/1 (2005), para. 42.

610_UN Doc. A/HRC/25/63 (2014), para. 89 (i).

611_UN Doc. CEDAW/C/PRK/CO/2-4 (2017). para. 46.

sometimes put in situations where they have no choice but to use organized human trafficking to cross the border.⁶¹² In the 2016 implementation report, North Korea emphasized that human trafficking is strictly punished and did not provide an answer regarding the measures it has taken to resolve the structural reasons behind women's vulnerability to trafficking or authorities' role in protecting victims. However, North Korea emphasized in the report that those who returned after illegally crossing the border receive educational measures instead of legal punishment and that the People's Committee in charge takes measures to ensure their reintegration with their families and society.⁶¹³ In addition, during the Committee's deliberation process in 2017, North Korea responded that there are no social and structural factors inducing human trafficking within North Korea. Rather it argued that Kim Ryenhee who defected from North Korea and entered South Korea in 2011 and 12 females who worked at restaurants and defected from North Korea in 2016 were victims of human trafficking who were kidnapped for political reasons.⁶¹⁴

However, it has been found that, in reality, women victims of trafficking are subject to punishment.⁶¹⁵ It appears this is because

612_NKHR2014000071 2014-06-17; NKHR201400083 2014-07-01; NKHR2015000043 2015-02-24; NKHR2015000072 2015-04-07.

613_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 74.

614_UN Doc. CEDAW/C/PRK/Q/2-4/Add.1 (2017), para. 43.

615_NKHR2016000117 2016-07-26.

North Korean authorities regard them as “criminals” who have committed the crime of illegal border-crossing and not as victims of trafficking based on the grounds⁶¹⁶ that the women who are subjects of trafficking mostly accepted being trafficked to go to China to earn money or knew beforehand that they would be subjects of trafficking. One defector who left North Korea in 2014 testified that because victims of trafficking knew in advance that they would be trafficked, they are not exempted from punishment and are punished for the crime of illegal border-crossing.⁶¹⁷ In the 2000s, consistent with what North Korean authorities have claimed, there were testimonies that women who voluntarily returned after going to China through traffickers received education sessions that they commuted to for a week after being questioned on their reasons for border-crossing instead of legal punishment. In some cases, they were released or treated with “group discipline” after they turned themselves in.⁶¹⁸ However, according to most testimonies, the current situation has changed and those who have committed illegal border-crossing are punished without exception.⁶¹⁹ Even in cases where victims are not sentenced to legal punishment, the harsh treatment they receive during the investigation process

616_NKHR2017000014 2017-04-10; NKHR2017000058 2017-07-31; NKHR2017000094 2017-10-23; NKHR2017000100 2017-10-23.

617_NKHR2016000148 2016-09-06.

618_NKHR2016000131 2016-08-09; NKHR2016000129 2016-08-09; NKHR2016000143 2016-08-23.

619_NKHR2016000143 2016-08-23; NKHR2016000134 2016-08-09.

means they are treated similarly to actual criminals.⁶²⁰

In general, the weight of punishment is decided based on the length of the defectors' stay in China.⁶²¹ According to testimonies by female defectors, the level of punishment of forcibly repatriated women has become more severe after Kim Jong Un came to power. Another woman in her 20s who left North Korea in 2014 testified that while people received six months of labor training for light cases just two to three years ago, the current punishment was strengthened to two to three years of correctional labor punishment for those who "only took one step into" China.⁶²²

(2) Human Rights Violations in the Process of Forced Repatriation and the Investigation Process

One of the most serious human rights violations against women conducted by North Korean authorities is the practice of forced abortions during the forced repatriation process as well as inhumane treatment in the investigation process. Such forced sterilizations and abortions have a malicious impact on women's physical and mental health and infringe upon the women's right to decide the number and age difference among their children.⁶²³ Following international criticism of cases where North Korean women

620_NKHR2016000148 2016-09-06; HKHR2017000124 2017-11-20.

621_NKHR2016000131 2016-08-09; NKHR2016000133 2016-08-09.

622_NKHR2016000123 2016-07-26.

623_UN CEDAW, General Recommendation, No. 19 (1992), para. 22.

impregnated in China were forcibly repatriated and forced to undergo abortion or cases where newborns were neglected to the point of death, some regions in North Korea have authorized the birth of these babies, who were to be given to their Chinese fathers. However, there are numerous testimonies in which testifiers witnessed or heard that women who stayed in China and were forcibly repatriated to North Korea while pregnant with the baby of a Chinese man had to go through a forced abortion in the repatriation process.⁶²⁴

Table IV-2 Cases of Human Rights Violation of Forcibly Repatriated Pregnant Women

Testimonies	Testifier ID
In March 2013, a woman in her 24th week of pregnancy was admitted to Nonpo holding center located in Chongjin, North Hamgyeong Province and was criticized. She ended up being forced to have an abortion with an injection called “adona.”	NKHR2017000047 2017-07-03
In February 2014, a woman who was prisoned in the No. 12 Jeongeori <i>kyohwaso</i> , North Hamgyeong Province witnessed a bleeding prisoner who underwent forced abortion prior to imprisonment. The prisoner eventually died of complication.	NKHR2017000047 2017-07-03
In October 2016, at the holding center in Songpyeong area of Chongjin, North Hamgyeong Province, a pregnant woman was injected with a drug for abortion.	NKHR2017000099 2017-10-23
In November 2016, at MSS detention center in Hyesan, Yangngg Province, a 4-month pregnant woman was investigated taken to hospital to get curettage (<i>sopa susu</i>).	NKHR2017000128 2017-12-18

There are also cases where physical violence is directed at pregnant women who are forcibly repatriated. One North Korean

624_ NKHR2017000047 2017-07-03; NKHR2017000099 2017-10-23; NKHR2017000128 2017-12-18; NKHR2017000058 2017-07-31; NKHR2017000104 2017-10-23; NKHR2017000130 2017-12-18.

defector testified that in January 2014, when the testifier was at an MSS provincial detention center (*guryujang*) in Hyesan, Yanggang Province, the testifier witnessed a woman, who was 24 years old and forcibly repatriated after getting caught on her way to South Korea, being beaten despite the fact that she was three months pregnant.⁶²⁵ Cases of sexual violence at detention facilities have also been identified. One defector testified that he/she witnessed one of inmates detained together in the prison camp was sexually assaulted by a correctional officer.⁶²⁶ One defector testified that in July 2016, when she was in a holding center, was sexually assaulted by a guard who said that “this does not constitute as sexual assault because you are dead here and a dead person cannot say she is assaulted.” She commented that she wanted to die after hearing this.⁶²⁷

Another serious problem is the so-called “uterus examination,” which is not only humiliating but also very unsanitary. The examination is conducted during the body search process to find money, secret letters or secret documents. A substantial number of female North Korean defectors who have experienced forcible repatriation testified that they received such an examination at the MSS detention centers and MSS holding centers etc.⁶²⁸ In most

625_NKHR2014000203 2014-12-02.

626_NKHR2018000050 2018-06-04.

627_NKHR2017000045 2017-07-03.

628_NKHR2017000025 2017-05-08; NKHR2017000045 2017-07-03; NKHR2017000104

cases, it was found that the body searches of women were conducted by women. However, it was identified that there were some cases where these examinations were performed by men. In 2015, a defector who left North Korea in 2014 testified that at the detention center located in the Manpo, Jagang Province, she received a uterus examination with a steel stick by a female military doctor. All her items were confiscated while she was forced to stay naked.⁶²⁹ In other testimonies, the woman who carried out the examination was not a military officer or doctor, but was someone responsible for filing documents.⁶³⁰ In another testimony, while the body search was done by a female, a male officer was watching it and insulted the woman saying “you and your ugly body served the Chinese.”⁶³¹ In these ways, the pretext of finding money brought in from China is used to justify not only uterus examinations but also forcing women to repeatedly sit and stand or force women to eat and then defecate.⁶³²

D. Poor Women’s Health and Maternal Health Care

According to CEDAW, State Parties shall take all appropriate measures to eliminate discrimination against women in the field

2017-10-23.

629_NKHR2017000025 2017-05-08.

630_NKHR2017000104 2017-10-23.

631_NKHR2017000130 2017-12-18.

632_NKHR2016000131 2016-08-09; NKHR2016000149 2016-09-06.

of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning (Article 12, paragraph 1). State Parties shall ensure women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation (Article 12, paragraph 2).

In the combined second, third and fourth periodic reports published in 2016, North Korea emphasized that it took several measures to protect women's health and guarantee maternal health care. For legislative measures, it emphasized that it has provisions to protect women's rights in the Public Health Law, the Law on the Nursing and Upbringing of Children, the Law on the Protection of Persons with Disabilities, the Law on the Protection of Elderly, the Law on Administration of Medical Supplies, among others.⁶³³ In terms of policies, North Korea emphasized that it has established the Medium Term Strategic Plan for the Development of the Health Sector in the DPRK (2010~2015), Health Education Strategy for RH (2013~2015), and Strategy and Action Plan to Control Child and Maternal Malnutrition (2014~2018).⁶³⁴ Moreover, it introduced specific measures, including the establishment of a modern breast cancer center under the OB/GYN clinic of

633_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 143.

634_ *Ibid.*, paras. 164-167, 196.

Pyongyang in 2012 and paid maternity leave of eight months from 2015.⁶³⁵ Related contents are similar to the contents of the country report submitted to the second Universal Periodic Review in 2014.⁶³⁶ However, such measures are limited to Pyongyang and their effectiveness is also questionable. This chapter will examine the details of the actual situation by classifying the issue into the categories of women's health and maternal health.

(1) Women's Health

It is already well known that many North Korean women suffer from poor health conditions including malnutrition and anemia due to the food crisis that has continued since 1990s, excessive labor to support the livelihood of their families and the psychological burden based on their increasing responsibility to support their families. It is of concern that the recent survey indicates the continuity of such dire conditions.

In September 2012, the Central Bureau of Statistics of North Korea conducted a nutrition investigation on the North Korean population with technological support from the UNICEF, WFP and WHO.⁶³⁷ As part of the investigation, an analysis of 7,649

635_ *Ibid.*, paras. 155, 161.

636_ UN Doc. A/HRC/WG.5/19/PRK/1 (2014), paras. 91~95.

637_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 35~37. As for survey results, See, UNICEF *et al.*, "DPRK Final Report of the National Nutrition Survey 2012," Soh-yoon Yun *et al.*, "Status of Maternal Nutrition in South and North Korea," *Korean Journal of Community Nutrition*, Vol.

women of childbearing age from 15~49 with children aged 0~59 months was carried out,⁶³⁸ which measured plasma hemoglobin concentration and mid-upper arm circumference among other indicators. The overall health condition of the women was found to be poor. The results showed that 31.8 percent of women in their 20s, 30.2 percent of those in their 30s and 38.7 percent of those in their 40s were found to have anemia, showing that the prevalence rate of anemia was significantly high among all childbearing age groups. Moreover, 25.2 percent of women in their 20s, 21.4 percent of women in their 30s and 21.8 percent of women in their 40s were found to be malnourished, showing that the nutritional status of North Korean women was significantly poor.

(2) Maternal Health Care

One of the most important indicators related to maternal health care is the maternal mortality rate. Through the integrated CEDAW report published in 2016, North Korea stated that the maternal mortality rate decreased from 97 deaths per 100,000 newborns to 62.7 deaths in 2012.⁶³⁹ In the 2016 report, North Korea stated the

23, No. 3 (2016). (In Korean)

638. 96.3 percent of them are women aged 20~39. Moreover, there was one woman aged 15~19 and teenagers are not mentioned in the following discussion.

639. UN Doc. CEDAW/C/PRK/2-4 (2016), para. 185. In a report North Korea submitted to the UN CRC, it prescribed that the maternal mortality was 85.1percent, 76percent, 68.1percent, and 62.4percent in 2008, 2010, 2012, 2014, respectively. Un Doc. CRC/C/PRK/5 (2016), p. 40.

direct causes for maternal mortality. Specifically, 58.5 percent of the deaths are due to premature birth, among which 50 percent are due to bleeding.⁶⁴⁰ However, according to the UNFPA report, maternal mortality rate in North Korea in 2015 was 82 out of 100,000, which shows difference from North Korea's record.⁶⁴¹

North Korea guarantees various institutionalized benefits for pregnant women for maternal health care.⁶⁴² For example, the State pays for the delivery of the child, (Article 10 of the Public Health Law), provides various benefits to encourage childbirth (Article 11 of the Public Health Law), guarantees 60 days of pre-natal leave and 180 days of post-natal leave (Article 33 of Women's Right Protection Law, Article 66 of the Socialist Labor Law), and ensures responsible medical institutes to provide safe and effective treatment (Article 51 of the Law for the Protection of Women's Rights).

According to the MICS survey conducted by UNICEF on North Korean women who experienced childbirth from 2015 to 2017, 99.5 percent of the respondents said that they had at least one time of medical checkup and 93.7 percent said they had more than four checkups. 99.5 percent responded that they gave birth with the help of skilled medical professionals (doctor, feldsher, nurse,

640_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 185.

641_ UN Population Fund (UNFPA), State of World Population 2018, p. 134.

642_ Refer to Geumsoon Lee et al., Right to Health in North Korea (Seoul: KINU, 2018) pp.34-37. (in Korean)

midwife).

Looking at various institutional measures and statistics from international organizations, it seems North Korea maintains a somewhat satisfactory maternity health status but the results of the in-depth interview say a different story. A representative example is that most of the women who gave birth testified that they gave money or other items to their responsible doctor.⁶⁴³ This is in contrast with the Public Health Law which stipulates that the State will pay the cost of delivering a baby. In addition, not an insignificant number of testimonies claimed that when pregnant, they went to the hospital for registration but did not receive any prenatal tests.⁶⁴⁴

Recently, it appears that most women come to the hospital or maternity hospital to deliver their baby. However, it seems that there are still many cases where women in the rural areas give birth at home.⁶⁴⁵ In these cases, women often receive the help of unqualified midwives.⁶⁴⁶ However, the lack of transportation in emergency situations mean that a high rate of home deliveries are a factor that increases maternal mortality rate as a result of excessive bleeding, infections, etc. Meanwhile, there have been

643_ NKHR2015000015 2015-01-27; NKHR2017000009 2017-04-10; NKHR2018000091 2018-08-27; NKHR2018000093 2018-08-27 and many other testimonies.

644_ NKHR2017000112 2017-11-20; NKHR2018000038 2018-05-08; NKHR2018000117 2018-10-22.

645_ NKHR2015000093 2015-05-12; NKHR2018000038 2018-05-08.

646_ NKHR2016000148 2016-09-06.

more testimonies that birth by cesarian section have been increasing.⁶⁴⁷ According to the 2017 MICS survey, among the women who gave birth from 2015 to 2017, 12.9 percent of mothers gave birth by cesarian section. There is a perception in North Korea that cesarian sections are a safer means of delivery than natural birth, and because of the high cost, it is also considered as a symbol of wealth.⁶⁴⁸

There have been many testimonies that pre- and post-natal leave is relatively well respected,⁶⁴⁹ but because North Korean women tend to quit their jobs and become housewives after marriage, it can be said that pre- and post-natal leave are not that meaningful.

E. Evaluation

As stated in the Preamble of CEDAW, discrimination against women violates the principles of equality of rights and respect for human dignity. Discrimination against women not only becomes an obstacle to women's participation in the political, social, economic and cultural life of a country based on equal conditions to those of men but also limits the prosperity of the society and its

647_ NKHR2018000040 2018-05-08; NKHR2018000049 2018-06-04; NKHR2018000062 2018-07-02; NKHR2018000091 2018-08-27.

648_ NKHR2018000049 2018-06-04.

649_ NKHR2017000001 2017-04-10; NKHR2017000009 2017-04-10; NKHR2017000014 2018-04-10; NKHR2017000075 2017-08-28; NKHR2017000100 2017-10-23; NKHR2018000016 2018-04-09; NKHR2018000081 2018-07-30.

families and the complete development of women's potential. North Korea argued that it was resolving the concept of discrimination as defined in CEDAW in its Law on the Protection and Promotion of the Rights of Women and prohibiting all forms of direct/indirect discrimination. However, in reality, it has been found that North Korean women are still experiencing direct/indirect discrimination due to fixed gender roles, limited social entry, family life centered around male heads of household and the double burden of housework and social labor after marketization. This shows that North Korea is not appropriately fulfilling the duties of State Parties stated in CEDAW which stipulates that State Parties shall take all appropriate measures to eliminate all forms of discrimination. As CEDAW pointed out in its 2017 Concluding Observations, gender discriminatory laws on the minimum age for marriage (male-18, female-17), on retirement age (male-60, female-55), the laws that "reconciliation" or "coordination" come first to punishment when it comes to violence against women still remain as problems.⁶⁵⁰ Moreover, North Korean women are easily exposed to domestic violence, sexual violence and the social conditions where women can be protected from such violence or seek relief were found to be lacking. There are practically no protective shelters for female victims.

The most serious human rights violations against women imposed

650_UN Doc. CEDAW/C/PRK/CO/2-4 (2017), para. 11.

by North Korean authorities are the forced abortions during the repatriation process of female North Korean defectors and their inhumane treatment during the investigation process. Moreover, due to limitation of freedom to enter/exit borders, North Korean women sometimes become victims of organized human trafficking. While female defectors get married and live in China in many cases, they cannot request appropriate protection when they become victims of domestic violence because of limitations in their local status and the risk of forcible repatriation. Meanwhile, North Korean women were found to suffer from poor overall health conditions due to the food crisis that has continued since the 1990s, excessive labor to support the livelihood of their families and the psychological pressure caused by their increased responsibility to support their families, etc. The poor sanitary environment also serves as a factor that threatens women's health. Regarding maternal health care, there are also positive changes including the decrease in the maternal mortality rate and the increase of childbirths at medical facilities. However, in rural areas, maternal health care is still at a poor level due to inadequate medical facilities and unprofessional pre-/post-natal care.

Part I

Part II

Part III

Part IV
Vulnerable Groups

Part V

2

Children

Children need special protection and care, including appropriate legal protection due to their physical/mental immaturity. The UDHR stipulates the protection of motherhood and childhood (Article 25, paragraph 2) and the right to education (Article 26) but does not specifically mention the rights of children. The ICCPR and the ICESCR contain provisions that can be related to the rights of children.⁶⁵¹ However, neither of these two covenants explicitly recognize children as the subject of rights. The CRC, which was unanimously adopted at the UN on 20 November 1989 and took effect on 2 September 1990, is distinct from previous international documents related to children in that it fully recognizes children, who had long remained as the targets of protection, as

651_ For example, the ICCPR stipulates that “every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State” (Article 24, paragraph 1). The ICESCR stipulates that “special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions” (Article 10, paragraph 3).

the subject of rights. The CRC is composed of a preamble, three parts, and 54 articles. Part 1 (Articles 1~41) stipulates the rights of children and the duties of state parties. Part 2 (Articles 42~45) establishes the Committee on the Rights of the Child (hereinafter the Committee) and country report system. And Part 3 (Articles 46~54) sets forth the signature, ratification, accession, and amendment procedures, etc. The rights set forth in the CRC are largely composed of the right to survival, protection, development, and participation.

Table IV-3 Four Major Rights in the CRC

Right to Survival	Rights of the child required for basic life: right to enjoy adequate living standards; right to live in a safe residence; and right to sufficient nutrition and basic medical services, etc.
Right to Protection	Right of the child to be protected from harmful environment including all forms of abuse and negligence, discrimination, violence, torture, conscription, unjust criminal punishment, and excessive labor and substance and sexual abuse, etc.
Right to Development	Rights of the child to realize his or her maximum potential including the rights to receive education, enjoy leisure, engage in cultural life and acquire information, and enjoy freedom of thought, conscience and religion, etc.
Right to Participation	Rights of the child to actively participate in the activities of a country or local community including the freedom of expression and the right to join organizations or participate in peaceful assemblies, etc.

North Korea ratified the CRC on 21 September 1990, and a month later, the Convention took effect in North Korea on 21 October 1990. Moreover, North Korea ratified the Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography on 10 November 2014, which took effect in North Korea on 10 December 2014. States Parties are required to submit a CRC implementation report to the Committee (Article

44). North Korea submitted its first report in February 1996, its second report in May 2003, its integrated third and fourth reports in December 2007, and its fifth report in April 2016. The Committee completed its preliminary review of North Korea's fifth report in February 2017 and announced its Concluding Observations, which included major concerns and recommendations, in its main review session in September 2017.

In the fifth report, North Korea self-evaluated that “children in the DPRK fully enjoyed their rights and their welfare was promoted at a higher level under the policy of love for children of the supreme leader Kim Jong Un.”⁶⁵² Moreover, the report emphasized that North Korea took several measures, including the enactment of the Law on the Protection and Promotion of the Rights of Children (2010), the Law on General Secondary Education (2011), the promulgation of the Ordinance on the Enforcement of Universal 12-year Compulsory Education (2012), and the establishment of the Korean Association for Supporting the Children (2013), etc.⁶⁵³ In addition, children's age was stipulated as “up to the age 16” in the Law on the Protection and Promotion of the Rights of Children, which is different from the definition of children in the CRC. This difference is because North Korean children generally finish their education at the age of 16 or 17 under the existing eleven years of the

652_ UN Doc. CRC/C/PRK/5 (2016), para. 7.

653_ *Ibid.*, paras. 8~10, 17, 21, 25.

compulsory education system. However, the definition of children will be changed to match that of the CRC, since children are now expected to finish their education at the age of 17 or 18 under the new 12-year compulsory education system.⁶⁵⁴ This can be evaluated as a positive measure that considers the recommendations presented in the Concluding Observations set forth by the Committee in 2009. However, provisions in the North Korean Constitution and other laws that do not conform to the CRC should also be revised accordingly. For example, the North Korean Constitution and the Socialist Labor Law stipulate that the minimum age for labor is 16 years old and the Family Law stipulates the minimum age for women to enter into marriage is 17 years of age.⁶⁵⁵

According to the CRC, state parties are obligated to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention (Article 4). North Korea properly reflects most of the rights in the CRC in its Law on the Protection and Promotion of the Rights of Children. Relevant provisions on civil rights and freedoms, including the freedom of thought conscience, and religion, and the freedom of assembly and association, can be found in the Constitution and other laws. In 2017, the Committee evaluated the adoption of the National Plan of Action for the

654_ *Ibid.*, paras. 27-28.

655_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 36.

Well-Being of Children (2011~2020) in its Concluding Observations, and recommended going beyond education and a health-related national plan, suggesting that comprehensive planning also include a resolution to end violence against children, child exploitation, and child poverty.⁶⁵⁶ The following sections will examine issues concerning the status of North Korean children's rights.

A. Status of Children's Health Care/Welfare

(1) Shortage of Educational Facilities for Disabled Children

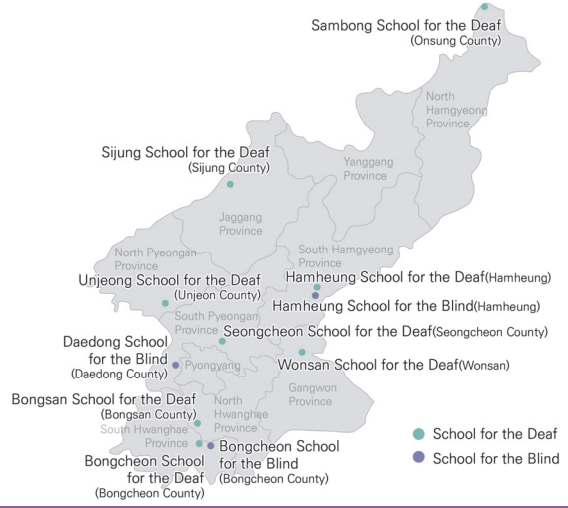
Article 23 of the CRC stipulates that mentally or physically disabled children should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate children's active participation in the community. In the Law on the Protection of Persons with Disabilities, North Korea stipulates matters related to the restorative treatment, education, cultural life, and labor of disabled people, and the Law on the Protection and Promotion of the Rights of Children also has provisions on the protection of disabled children (Article 30). In particular, Article 30, paragraph 2 of the Law on the Protection and Promotion of the Rights of Children stipulates that "educational supervision institutions and health care supervision institutions and local People's Committees

656_ UN Doc. CRC/C/PRK/CO/5 (2017), para. 7.

shall immediately operate schools for the blind/deaf and guarantee the conditions required for the education, treatment and life of disabled children.”

In its fifth report, North Korea emphasized that it has established special classes for disabled students in general schools and special schools for students with visual/hearing disabilities.⁶⁵⁷ It appears there are eight schools for the deaf and three for the blind. In addition, in March 2012, North Korean authorities established the Chosun Rehabilitation Center for Children with Disabilities, in Pyongyang, to promote their rehabilitation.

Figure IV-1 Schools for the Deaf and the Blind in North Korea



Source: Green Tree Korea, <<http://www.greentreekorea.org>>

657_UN Doc. CRC/C/PRK/5 (2016), para. 137.

It is difficult to accurately identify the ratio of children with visual and hearing disabilities among the overall population of North Korean children. However, the provision of special education to disabled children is evaluated as poor, given that there are only 11 special schools for children with visual and hearing disabilities in North Korea and in particular, that there is no such school in Yanggang Province.⁶⁵⁸ According to a defector, who had lived in Wonsan, Gangwon Province, and defected in 2016, there was a school for the deaf in Changchon-dong in Wonsan.⁶⁵⁹ Another defector, who had lived in Hamheung, South Hamgyeong Province and defected in 2016, commented that there was a school for the deaf in Duksan, Hamheung and that families without money could not afford to pay for that school since students had to bear the financial burden of all school-related costs.⁶⁶⁰ However, North Korea stated in its fifth report that it had carried out a project from 2013 to 2015 to improve the living environments at special schools for the disabled.⁶⁶¹ In this regard, it appears there

658_ North Korean defectors, who resided in Kimjongsuk County, Yanggang Province, responded that they have not heard of the existence of special schools for children with disabilities in the region. NKHR2017000023 2017-05-08; NKHR 2017000049 2017-07-03; NKHR2017000056 2017-07-31; It seemed that there was no special school or special class for students with disabilities in Hyesan Yanggang province. NKHR2017000060 2017-07-31; NKHR2017000025 2017-05-08. North Korean defectors, who resided in Baegam County, Yanggang, responded that they too have not heard of the existence of special class or school for children with disabilities. NKHR2017000062 2017-07-31.

659_ NKHR2017000007 2017-04-10.

660_ NKHR2017000049 2017-07-03.

661_ UN Doc. CRC/C/PRK/5 (2016), para. 140.

is a need to evaluate whether these improvements have been made and to what degree. Meanwhile, there has been no verification as to whether special classes for disabled students are provided in general schools, as North Korea has claimed. The question of whether special classes for the disabled are run in general schools have been asked to North Korean defectors who arrived in South Korea in 2018 but no relevant testimonies have been acquired. In 2017, the Committee reviewed whether the nine-year educational course for the disabled is equivalent to the standard 12-year compulsory education system. After its review, the Committee recommended that children with disabilities not be separately educated but receive a comprehensive, integrated education from general schools.⁶⁶²

(2) Poor Health Care and Nutrition

Article 24 of the CRC stipulates that children have the right to enjoyment of the highest attainable standard of health and to facilities for the treatment of illnesses and rehabilitation of health. In its Public Health Law, North Korea stipulates matters related to the free treatment system and health protection based on preventive medicine. Moreover, the Law on the Protection and Promotion of the Rights of Children has provisions on children's right to receive free treatment, medical services for children, children's

⁶⁶² UN Doc. CRC/C/PRK/CO/5 (2017), para. 36.

hospitals, nursing facilities for children, and nutritional supplements and nutritious foods (Articles 33~37). The Law on the Nursing and Upbringing of Children stipulates that systematic medical services be provided to children in daycare centers and kindergartens and that children's wards be established in daycare centers (Articles 25 and 26).

In its fifth report, North Korea explained that hospitals and clinics are available in all regions and that there are designated medical personnel in charge of vaccinations.⁶⁶³ Moreover, the report stated that several medicine factories have produced hundreds of medicines and vaccines, thus sufficiently meeting basic demand for medicines, and that North Korea has made efforts to close the gap between regions on children-related health care services.⁶⁶⁴ According to surveys conducted thus far, North Korea's vaccination levels appear to have been improving (Part III, Chapter 2, Right to Health). However, there are still many cases where children with diseases cannot receive proper treatment due to the shortage of hospitals and medicines, and the situation was identified as particularly serious in rural areas compared to cities.⁶⁶⁵

In its fifth report, North Korea also emphasized that it established the Strategy and Action Plan to Control Child and Maternal

663_ *Ibid.*, para. 152.

664_ *Ibid.*, paras. 154, 157.

665_ NKHR2016000131 2016-08-09; NKHR2016000132 2016-08-09.

Malnutrition (2014~2018) in response to the recommendations made by the Committee in 2009. It also stressed that the mortality rate for infants under the age of one and children under the age of five has dramatically decreased due to the public health care policies and efforts by medical providers.⁶⁶⁶ In fact, the malnutrition rate and the infant/child mortality rate have been declining in North Korea. According to the UNICEF MICS survey in 2017, among infants younger than five, 19.1 percent are under chronic malnutrition, a significant decrease from 62.3 percent and 32.4 percent in 2009.⁶⁶⁷ Although such improvement in infant nutrition is due to the combined measures of North Korean authorities, expansion of the market and private economy, and support from the international community, it is also related to the global trend of a decrease in the rate of infants with chronic malnutrition.⁶⁶⁸

Although the situation is not at its worst, it has been found that a significant number of North Korean children still suffer from malnutrition. The World Food Programme (WFP) stated based on the survey it conducted in 2014, that one out of three North Korean children aged less than five and almost half of the children aged twelve months to twenty-three months suffer from anemia.⁶⁶⁹

666_ UN Doc. CRC/C/PRK/5 (2016), paras. 53, 149.

667_ See, World Bank, "World Development Indicators 2016," (<http://data.worldbank.org/products/wdi>).

668_ *Ibid.* pp. 70-71.

669_ See, WFP, "DPR Korea Country Brief," (2016), (www.wfp.org/countries/korea-democratic-peoples-republic).

In addition, the 2015 WFP survey on children aged six months or older to less than five years, in daycare centers supported by the WFP, showed that 25.4 percent had stunted growth.⁶⁷⁰ Furthermore, the gap between cities and rural areas seems to be substantial. The FAO estimated the ratio of underweight children in rural areas at 26.7 percent and in cities at 13.2 percent in a report titled “The State of Food and Agriculture in 2015.”⁶⁷¹

(3) Collapse of the State Child Care System

Article 27 of the CRC stipulates that every child has the right to a standard of living adequate to the child’s physical, mental, spiritual, moral, and social development. The Law on the Nursing and Upbringing of Children specifies matters related to child care based on state and social support and child care education institutions. Moreover, the Law on the Protection and Promotion of the Rights of Children (Article 31) has provisions on the care of children without care-givers.

North Korea stated in its fifth report that all children at nurseries and kindergartens are provided with food in accordance with Article 15 of the Law on the Nursing and Upbringing of Children, which states that “all children shall be supplied with food from

670_ *Ibid.*

671_ See, FAO, “The State of Food and Agriculture (Social Protection and Agriculture: Breaking the Cycle of Rural Poverty),” (2015), p. 92, (<www.fao.org/publications/sofa/2015/en/>).

birth in the DPRK.” This report also specified that, despite food shortages, pregnant women and children under the age of four are supplied with food on a monthly basis.⁶⁷² However, contrary to North Korea’s claim, North Korean defectors have testified that the free food service at daycare centers and kindergartens ended in 2000.⁶⁷³ A North Korean defector testified that when sending a child to a work-site daycare center, parents were responsible not only for meals but also for diapers and even the teachers’ salaries.⁶⁷⁴ One North Korean defector who sent his/her child to a kindergarten in Hyesan, Yanggang Province from 2016 to 2017 testified that in addition to a daily packed lunch, running fees had to be paid under various pretexts.⁶⁷⁵ These testimonies show that, in reality, North Korean authorities only provide the space, and that parents shoulder all the costs for the operation of daycare centers and kindergartens.

An interesting observation is that as state-run kindergartens lack in quality, some individuals have begun to open private daycare centers, which do not appear to have authorization from the authorities. One North Korean defector who escaped in 2018 testified that people with a little bit of money send their children

672_ UN Doc. CRC/C/PRK/5 (2016), para. 178.

673_ NKHR2016000121 2016-07-26; NKHR2016000133 2016-08-09; NKHR2016000143 2016-08-23; NKHR2016000145 2016-08-23; NKHR2016000151 2016-09-06; NKHR2016000154 2016-09-06.

674_ NKHR2016000153 2016-09-06.

675_ NKHR2018000049 2018-06-04.

to private kindergartens. An acquaintance sent her daughter to a private kindergarten and for 5 yuan a day, the child was provided with lunch and was well looked after.⁶⁷⁶

B. Violation of Children's Right to Education

Article 28 of the CRC stipulates that children have the right to education. Article 29 requires that each child's education be directed toward the following goals: (a) The development of the child's personality, talents, and mental and physical abilities to his or her fullest potential; (b) The advancement of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The advancement of respect for the child's parents, his or her own cultural identity, language and values, the national values of the country in which the child is living and the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship, in relations with all people, including all ethnic, national, and religious groups and persons of indigenous origin; and (e) The development of respect for the natural environment. Moreover, Article 31 of the CRC stipulates that

676_NKHR2018000130 2018-11-19.

children have the right to rest and leisure, to engage in play and recreational activities, and to participate freely in cultural life and the arts. North Korea has enacted and executed the Education Law, the Law on General Secondary Education, the Law on the Nursing and Upbringing of Children, etc., and has educational provisions on the right to receive free compulsory education, the right to develop hope and talents, and the right to have rest and cultural life, etc., in its Law on the Protection and Promotion of the Rights of Children (Articles 22~28).

(1) Excessive Political Ideology Education

In its fifth report, North Korea mentioned that it carries out 12 years of compulsory education and that its educational program has been revised to conform to Article 29 of the CRC, which specifies the goals of child education.⁶⁷⁷ However, when viewing North Korea's education curriculum, it appears to lean heavily towards political ideology education, and focuses on idolizing the present Supreme Leader and his family. The education time allotted for subjects related to Kim Il Sung, Kim Jong Il and Kim Jong Un by grade is presented in <Table IV-4>.

677_UN Doc. CRC/C/PRK/5 (2016), para. 209.

Table IV-4 Education Time of Subjects Related to Kim Il Sung, Kim Jong Il and Kim Jong Un

Category		Kim Il Sung	Kim Jong Il	Kim Jong Un
Junior secondary school (Junior high school)	1st grade	68 hours		34 hours
	2nd grade	68 hours	68 hours	34 hours
	3rd grade		68 hours	34 hours
Senior secondary school (High school)	1st grade	104 hours		27 hours
	2nd grade	56 hours	56 hours	27 hours
	3rd grade		92 hours	27 hours

Subjects on Kim Jong Un have been introduced into the revised education curriculum in 2013. Although their share is relatively smaller compared to subjects related to Kim Il Sung and Kim Jong Il, they still account for a substantial proportion of the curriculum.⁶⁷⁸ While major learning contents are divided into five categories: 1) the greatness of the party and *Suryong*, 2) the principles of *Juche* ideology, 3) party policies, 4) the revolutionary tradition, and 5) revolutionary and communist education, they all converge on recognizing the greatness of *Suryong*.⁶⁷⁹ Political ideology education is considered to be an important part of school education and it appears students accept it without question.⁶⁸⁰

Meanwhile, political ideology education is carried out not only in the general education system, but also in compulsory organizational life, including through the Chosun Children’s Union and Kim Il

678_ Jeong-ah Cho *et al.*, *Educational Policies, Educational Programs and Textbooks under the Kim Jong Un Regime* (Seoul: KINU, 2015), p. 69. (In Korean)

679_ *Ibid.*, pp. 95~96.

680_ NKHR2017000115 2017-11-20.

Sung Socialist Youth League, etc. Children aged 7~13 join the Chosun Children's Union and learn and practice Unitary Ideology through education on ideology and organizational activities. Youths aged 14~30 join the Kim Il Sung Socialist Youth League and engage in organizational life. Although students are obligated to join the Chosun Children's Union and the Kim Il Sung Socialist Youth League, passionate and prize students are selected to join prior to other members. This creates a feeling of pride when becoming a member of the organization.⁶⁸¹

(2) Mobilization for Political Events and Regime Propaganda

In its fifth report, North Korea stated that it took diverse measures related to the education and leisure of children in response to the relevant provisions in the CRC and the recommendations of the Committee.⁶⁸² However, the right to receive education and the right to enjoy leisure are seriously infringed upon in North Korea, as students are still mobilized for various political events or regime propaganda. A North Korean defector said that “As students are mobilized to political events, it surely has negative impact on their learning at school.”⁶⁸³

681_ NKHR2017000025 2017-05-08; NKHR2017000052 2017-07-03; NKHR2017000062 2017-07-31; NKHR2017000041 2017-07-03; NKHR2017000079 2017-09-25; NKHR2017000120 2017-11-20.

682_ UN Doc. CRC/C/PRK/5 (2016), paras. 181~226.

Table IV-5 Cases of Mobilization for Political Events and Regime Propaganda

Testimonies	Testifier ID
Students were mobilized under the name of “choir team” (<i>gachangdae</i>) during the election seasons. In most cases, from one month before the election, students sang songs in lines about election, holding paper sunflowers they made at lunch time and after school hours before they went back home.	NKHR2016000121 2016-07-26
Students were mobilized for the preparations for the birthdays of Kim Jong II, Kim II Sung and Kim Jong Un. Every afternoon for one month, students would go around the neighborhood creating a jubilant atmosphere.	NKHR2016000133 2016-08-09
Students were mobilized for farewell events for those joining the military.	NKHR2016000152 2016-09-06
Students holding flowers were mobilized for campaigning at an election of SPA deputies.	NKHR2017000063 2017-07-31
For every national holiday including Kim Jong II and Kim II Sung’s birthdays, students were to present baskets of flowers. Students from different schools would gather in the square in Hyesan and take part in a solidarity gathering (<i>gyeolyimaim</i>).	NKHR2017000078 2017-08-28
Welcoming projects were proceeded with flowers put in front Kim II Sung portraits (<i>taeyangsang</i>). Students were mobilized for projects welcoming the military. They were also mobilized when Kim Jong II passed away.	NKHR2017000086 2017-09-25
Students were mobilized for Kim II Sung, Kim Jong II, and Kim Jong Suk’s birthdays and were required to sing.	NKHR2018000103 2018-10-01
When mobilized for political events, students are required to take part 100 percent. If not, they are treated as reactionaries.	NKHR2018000104 2018-10-01

It had been found that North Korean students suffer from physical burden and disruption in learning that takes place during long hours of practice for mobilization for political events and regime propaganda, etc. A teenage North Korean defector testified that he/she had to practice group gymnastics, even on weekends,

683_NKHR2018000121 2018-10-22.

from February onwards, to prepare for the April 15 “Day of Sun” every year, in cold weather, and sometimes late into the night.⁶⁸⁴ Another North Korean defector said that some students fainted after practicing three to four hours in the mid-summer heatwave.⁶⁸⁵ Most of them are found to believe that such mobilizations are something they should accept even though they are difficult.⁶⁸⁶ It was noted that not only students, but also their parents view such mobilizations as something they must do.⁶⁸⁷

(3) Compulsory Military Training

Despite the continuous concerns expressed by the Committee regarding compulsory military training, North Korea still maintains the military subject, “preliminary military activities,” in its senior secondary school (high school) program. In its fifth report, North Korea avoided directly mentioning this issue, stating only that the educational goal of senior secondary school “includes promoting sound body and mind instilled in students so as to make them fully prepared for military service, social life, and campus life.”⁶⁸⁸ For

684_NKHR2016000123 2016-07-26.

685_NKHR2016000151 2016-09-06.

686_NKHR2016000122 2016-07-26; NKHR2016000134 2016-08-09; NKHR2016000143 2016-08-23; NKHR2016000152 2016-09-06. NKHR2018000103 2018-10-01; ; NKHR2018000104 2018-10-01.

687_NKHR2017000002 2017-04-10; NKHR2017000041 2017-07-03; NKHR2017000051 2017-07-03; NKHR2017000055 2017-07-31.

688_UN Doc. CRC/C/PRK/5 (2016), para. 198.

one week, students in the second grade of advanced senior secondary school (high school) receive military training at a camping training facility of the Red Youth Protective Guard. Third graders develop preliminary abilities for military activities through one week of outdoor billeting. According to defector testimonies, training on shooting, gun disassembling and assembling, crawling, and forming ranks, and education on military norms, are provided during the military training.⁶⁸⁹

C. Labor Mobilization

Article 32 of the CRC stipulates that children have the right to be protected from labor that threatens their health, education, and development. North Korea prohibits child labor in its Constitution, Socialist Labor Law, and Law on the Protection and Promotion of the Rights of Children. However, as mentioned above, none of those laws conform to the CRC, as the current Law on the Protection and Promotion of the Rights of Children defines the age of children as “up to 16 years old,” and the Constitution and Socialist Labor Law also stipulate the age available for labor as 16 years old.

In its fifth report, North Korea repeated its stance of previous reports, that child labor was eradicated a long time ago.⁶⁹⁰

689_NKHR2016000118 2016-07-26; NKHR2016000121 2016-07-26; NKHR2016000123 2016-07-26.

690_UN Doc. CRC/C/PRK/5 (2016), para. 240.

Moreover, North Korea stated that it included on-site exercises in its educational curriculum to combine theory and practice and have children visit farms and factories.⁶⁹¹ In fact, the North Korean curriculum shows that the junior secondary school (junior high school) program includes tree-planting, and the senior secondary school (high school) program includes tree-planting and production labor.

However, it has also been found that students are frequently mobilized during after-school or school hours aside from the officially established curriculum. Students are mobilized for after-school labor for six or seven days every 10 days in spring, summer, and fall. At times, students are said to be mobilized for weeding and rice-planting in spring, and for potato-digging and corn harvesting for about a month in fall, while skipping classes.⁶⁹² Moreover, students are mobilized for construction work, such as transporting sand and pebbles.⁶⁹³ One North Korean defector testified that such work was physically very demanding, as quotas are assigned to them when they are mobilized to supplement the labor shortage.⁶⁹⁴ Another North Korean defector testified that

691_ *Ibid.*, para. 203.

692_ NKHR2016000139 2016-08-23; NKHR2016000145 2016-08-23; NKHR2016000150 2016-09-06; NKHR2016000152 2016-09-06; NKHR2017000002 2017-04-10; NKHR2017000008 2017-04-10; NKHR2017000029 2017-06-05; NKHR2018000008 2018-03-12; NKHR2018000041 2018-06-04; NKHR2018000121 2018-10-22.

693_ NKHR2016000133 2016-08-09; NKHR2018000103 2018-10-01; NKHR2018000123 2018-10-22.

694_ NKHR2016000131 2016-08-09.

while the testifier was not hungry during the fall labor mobilization, when it was possible to pick and eat potatoes or fruits, the testifier was very exhausted and hungry in the springtime mobilization.⁶⁹⁵ It is said that there are students who do not attend school to avoid mobilization.⁶⁹⁶ However, one testimony claimed that except for those who are sick, a student who missed work had to pay money to the school.⁶⁹⁷ In addition, parents pay money or goods (such as gasoline) to the school to exempt their children from forced labor mobilization.⁶⁹⁸ One defector testified that students stopped being mobilized at the order of Kim Jong Un starting in the fall of 2016.⁶⁹⁹

D. Children in Need of Special Protective Measures

(1) Treatment of Forcibly Repatriated Children

Article 37 of the CRC stipulates that no child shall be subjected to torture or other cruel, inhuman, or degrading treatment or punishment, unlawful imprisonment, or deprivation of liberty. Article 39 stipulates that state parties shall take all appropriate measures to promote the recovery and social reintegration of a

695_ NKHR2016000139 2016-08-23.

696_ NKHR2016000150 2016-09-06.

697_ NKHR2016000152 2016-09-06; NKHR2017000065 2017-07-31.

698_ NKHR2018000041 2018-06-04.

699_ NKHR2017000006 2017-04-10.

child victim of torture, abuse, exploitation, etc. North Korea has relevant provisions in its Criminal Law and Criminal Procedure Law. The Law on the Protection and Promotion of the Rights of Children stipulates the basic requirement of protection for children’s rights in the judiciary, prohibition of the imposition of criminal responsibility and the death penalty on children, application of social educational measures, and respect for the dignity of children in handling cases (Articles 47~49 and 51).

In its fifth report, North Korea stated that “returnees who illegally crossed the border were subject to educational measures.”⁷⁰⁰ In other words, the principle is to improve compliance with the law by making returnees aware of the relevant provisions in the Law on the Protection and Promotion of the Rights of Children, Immigration Law, and Criminal Law after investigating their motivation and goals for illegal border-crossing.⁷⁰¹ North Korea also explained in its report that such education will ensure the adaptation of such children to school life through special care and that the People’s Committee is in charge of continuous contact with their parents to resolve any issues that parents may face in raising such children.⁷⁰²

However, during in-depth interviews with defectors, some testified

700_UN Doc. CRC/C/PRK/5 (2016), para. 239.

701_ *Ibid.*

702_ *Ibid.*

that children repatriated from China receive mistreatment, including verbal abuse, violence, and torture during the interrogation process, and that they suffer beatings, hard labor, and hunger during their detention. In addition, a North Korean defector testified that a 16-year-old child was sold in China through human trafficking after his/her parents died, lived a life as a child beggar (*kotjebi*) in China, was forcibly repatriated in the fall of 2014, and died of malnutrition during the MSS investigation.⁷⁰³ A North Korean defector testified that an elder sister and her nephew were caught while defecting in 2016 and were forcibly repatriated. The nephew was beaten in front of the elder sister to make her confess.⁷⁰⁴

Meanwhile, there were also testimonies which stated that repatriated children were released after only receiving educational measures.⁷⁰⁵ One defector said that when his/her younger brother who was 17 in 2013 was forcibly repatriated after defecting from North Korea with their mother, the mother was sentenced to three years of correctional labor punishment and the younger brother was released after a 15-day education session.⁷⁰⁶ However, they were said to be continuously subjected to surveillance by the people's unit (*inminban*) thereafter.⁷⁰⁷ Another North Korean defector

703_NKHR2016000121 2016-07-26.

704_NKHR2018000109 2018-10-06.

705_NKHR2016000112 2016-07-26; NKHR2016000123 2016-07-26.

706_NKHR2016000131 2016-08-09.

707_Above testimony.

testified that minors were sent to Group 9.27, as they could not be detained in detention centers (*guryujang*) with adults.⁷⁰⁸ As there has been mixed testimony on this issue, it is necessary to continuously examine how cases of forcibly repatriated children are handled. Additional analysis is also required on the specific contents and methods of these educational measures.

(2) “*Kotjebi*”

Article 20 of the CRC stipulates that “a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.” North Korea stipulates in the Law on the Protection and Promotion of the Rights of Children that “children who cannot be cared for by their parents or guardians shall be raised, at a cost paid for by the State, at child-caring institutions (*yugawon*), orphanages (*aeugwon*), and other institutions.” (Article 31).

With regard to this, it is necessary to examine wandering child beggars known as “*kotjebi*.” In its fifth report, North Korea did not explicitly mention *kotjebi*. It only explained that children who are deprived of their family environment due to natural disaster or

708_NKHR2016000143 2016-08-23.

the death or divorce of their parents are protected and that a suitable living environment and learning environment are provided for them.⁷⁰⁹ It is not known how many *kotjebi* exist throughout North Korea. North Korean authorities are known to send *kotjebi* who are caught to accommodation facilities such as “relief centers,” “lodging centers,” “boys’ education centers,” “lodging centers for drifters,” or “protection centers,” to protect and manage them. However, most North Korean defectors testified that *kotjebi* are often found in front of stations or marketplaces (*jangmadang*) in border regions or provinces. However there were many testimonies that recently *kotjebi* has decreased as Kim Jong Un ordered to build more boarding middle schools and orphanages (*aejugwon*).

However, testimonies continuously reveal that even if *kotjebi* have access to accommodations, they eventually run away because of the poor facilities and environments and harsh discipline.⁷¹⁰ North Korean defectors who resided in Hyesan, Yanggang Province, testified that there is a *kotjebi* accommodation facility called “*yuhakwon*” in Seonghu-dong, Hyesan. It is said that the discipline there is very harsh and that only a small portion of meals are provided.⁷¹¹ It is also known that there have been cases of violence and sexual abuse by staff at *kotjebi* accommodation

709_UN Doc. CRC/C/PRK/5 (2016), para. 109.

710_NKHR2016000121 2016-07-26; NKHR2016000122 2016-07-26; NKHR2016000143 2016-08-23; NKHR2016000157 2016-09-20.

711_NKHR2016000139 2016-08-23; NKHR2016000140 2015-08-23.

facilities in North Korea. A North Korean defector who was accommodated at a “lodging center for drifters” testified that he was beaten with a club, for no reason, immediately after entering the facility, and was kicked for talking back.⁷¹² Another North Korean defector also testified that there were cases where *kotjebi* ran away because of violence and sexual abuse by staff at *kotjebi* accommodation facilities.⁷¹³ While not all *kotjebi* are orphans, it appears that the increase in orphanage facilities has meant that some *kotjebi* have been housed in facilities for the orphans.⁷¹⁴

In the deliberation process of the CRC implementation report, North Korea reported in 2017 that under Kim Jong Un’s instructions, 40 facilities nationwide, including child-caring institutions, orphanages, elementary academies (*hagwon*), and middle academies, have been modernized from 2014 to 2017 and that all those institutions had been equipped with the state-of-the-art learning tools and equipment. In addition, North Korea highlighted that those facilities for orphans have been primarily given nutritious food and living supplies in accordance with the standard.

North Korea’s claim has been backed by a number of North Korean defectors.⁷¹⁵ A defector who left North Korea in 2017

712_NKHR2016000132 2016-08-09.

713_NKHR2016000139 2016-08-23.

714_NKHR2017000050 2017-07-03.

715_KHR2017000049 2017-07-03; NKHR2017000088 2017-09-25.

responded that the construction of a child-caring institution and orphanage was completed in the Ranam zone in Chongjin in 2016.⁷¹⁶ A North Korean who defected in 2017 said that following Kim Jong Un's orders in 2016, elementary and middle academies, child-caring institutions, and orphanages were constructed in Hamheung.⁷¹⁷ In addition, another North Korean who defected in 2018 testified that in 2017, middle academies, orphanages, and nursing homes were opened in Hyesan, Yanggang Province. As a member of the Women's Union, the testifier was mobilized in constructing the facilities.⁷¹⁸ Many testified that the quality of food and clothing provided to them had greatly improved.⁷¹⁹ A North Korean who defected in 2017 testified that due to the financial support from the businesses investing in Rajin City, those staying in the orphanage or child caring institutions have better environment than those with their parents.⁷²⁰ A North Korean who defected in 2018 also said that as good clothing and food are provided to orphans, some even said "it's better to be an orphan."⁷²¹

Considering the testimonies of North Korean defectors in a

716_NKHR2017000028 2017-06-05.

717_NKHR2018000004 2018-03-12.

718_NKHR2018000058 2018-07-02.

719_NKHR2018000005 2018-03-12; NKHR2018000041 2018-06-04; NKHR2018000058 2018-07-02; NKHR2018000105 2018-10-01; NKHR20180000128 2018-11-19.

720_NKHR2017000088 2017-09-25.

721_NKHR2018000058 2018-07-02.

comprehensive manner, the Kim Jong Un regime appears to be expanding its projects to support orphans or *kkotjebi* to make it one of the biggest achievement of the regime. A North Korean testified that when Pyongyang middle academy was opened in 2016, it was publicized on TV greatly with propaganda “(*Suryongnim*) felt heartbroken when hearing the stories of orphans,” and “Thank you, father.”⁷²²

E. Evaluation

In its fifth report submitted to the Committee in April 2016, North Korea stated that it carried out diverse measures to realize the rights of the child from 2008 to 2015. However, the 2018 survey found that the human rights situation of North Korean children still remains poor. The overall level of the health care/welfare of children is low, and the gap between Pyongyang and the provinces, and between the cities and rural areas, also appears to be substantial. Moreover, there has been little improvement of North Korea’s educational policies, such as excessive education on politics, which do not conform with the goals of child education, despite the continuous concerns and recommendations of the Committee regarding its educational policies. The mobilization of children for manpower and political events still appears to continue in

722_NKHR2018000058 2018-07-03.

order to supplement the labor shortage, going beyond the goals of education.

However, there have been some positive changes, including declining child malnutrition and infant/child mortality. North Korea's efforts to modernize facilities for orphans and to distribute goods primarily for them are evaluated positively. Attention and cooperation from the international community is essential in order for such measures to continue in the future.

3

Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (CRPD) specifically stipulates the rights of persons with disabilities, declaring that “States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability” (Article 4). On 3 July 2013, North Korea became a signatory to this Convention. By ratifying the Convention on 6 December 2016, North Korea became a state party to the CRPD. In December 2018, North Korea submitted its initial implementation report to the United Nations Committee on the Rights of Persons with Disabilities.

A. Policies on and Population of Persons with Disabilities

(1) Policies on Persons with Disabilities

Taking into consideration criticism and concerns of the international community regarding discrimination against persons

with disabilities, North Korea adopted the Law on the Protection of Persons with Disabilities in June 2003. This law was enacted “to provide favorable living conditions and environment for persons with disabilities by firmly establishing systems and order in terms of treatment, rehabilitation, education, work and cultural life” (Article 1). Article 2 defines persons with disabilities as “citizens whose normal life is hampered for an extended period of time due to the loss or restriction of physical and mental functions.” It also states, “the State shall respect the personal dignity of all persons with disabilities, and guarantee them social and political rights and freedoms, as well as benefits, that are equal to those granted to healthy citizens.” The Law on the Protection of Persons with Disabilities also stipulates details concerning Rehabilitation (Chapter 2), Education (Chapter 3), Cultural Life (Chapter 4), and Work (Chapter 5). Provisions to protect persons with disabilities also exist in the Social Insurance Law, the Socialist Labor Law, and the Social Security Law.

The activities of the Korean Federation for the Protection of the Disabled (hereinafter KFPD) promote the rights of the disabled. The KFPD carries out important tasks such as conducting surveys on the status of persons with disabilities, improving their health and living conditions, and developing action programs to enhance social awareness of and interest in persons with disabilities. It has branch committees at the county, city, and province levels.⁷²³ The KFPD considers itself to be an NGO even though the Ministry of

Public Health pays staff salaries and maintenance costs.⁷²⁴ The KFPD has also established the Deaf Association of Korea, the Korean Rehabilitation Center for Children with Disabilities, the Blind Association of Korea, the Korean Company Supporting the Disabled, the Korean Association for Sports of the Disabled, and the Korean Art Association of the Disabled.⁷²⁵ In addition, the KFPD established its first mission in Beijing in July 2008, and its Shenyang mission in 2015. Pun-hui Ri, the former secretary general of the Korean Association for Sports of the Disabled, is said to be serving as the first representative.⁷²⁶ According to the initial implementation report North Korea submitted to the CRPD, North Korean authorities established and implemented Action Plans for 2008-2010, 2013-2015, and 2016, At present, the Strategic Plan for 2018-2020 is underway.⁷²⁷

(2) Size of the Population of Persons with Disabilities

North Korea has stipulated in the Law on the Protection of

723_CRC, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention: The Combined Third and Fourth Periodic Reports of States Parties Due in 2007: Democratic People's Republic of Korea," UN Doc. CRC/C/PRK/4 (2008), para. 134.

724_Katharina Zellweger, "People with Disabilities in a Changing North Korea. Stanford University," *Shorenstein APARC Working Paper* (2014).

725_ *Rodong Shinmun*, 30 September 2012; *Korean Central News Agency*, 16 December 2014.

726_ *Voice of America*, 13 May 2015.

727_UN Doc. CRPD/C/PRK/1 (2018), para. 30.

Persons with Disabilities, that “the State shall regularly investigate the reality for disabled people, accurately evaluate the levels of disability and establish the right standards” (Article 5). It has not been identified how many times North Korean authorities have conducted a systematic investigation of the overall reality for persons with disabilities in accordance with this provision.

The most recently acquired data is the survey conducted by the Korean Association for Supporting the Disabled (KASD) in 1999. According to the survey, at the time, there were 763,237 persons with disabilities in North Korea, accounting for 3.41 percent of the entire North Korean population. According to these findings, there were 296,518 persons with physical disabilities, accounting for the largest portion of the total disabled population at 38.8 percent, followed by 168,141 persons with hearing impairments, 165,088 with visual impairments, 68,997 persons with severe disabilities, and 37,780 persons with mental disabilities. Around 1.75 percent of the population of Pyongyang was found to be disabled. Persons with disabilities more often lived in cities (64 percent) than in rural areas (35.4 percent).⁷²⁸

North Korea added disability-related survey items to its 2008 Population Census, such as the severity of disabilities, age, sex, and population distribution of the disabled by region (rural area and city). North Korea’s 2009 Population Census suggests that

⁷²⁸ *Yonhap News Agency*, 9 April 2006; *Yonhap News Agency*, 23 November 2006.

North Korea's population includes 519,573 people with visual difficulty (2.4 percent), 374,452 with hearing difficulty (1.73 percent), 537,496 with mobile difficulty (2.48 percent), and 334,852 with cognitive difficulty (1.54 percent). What is noteworthy in the survey result is that the percentage of women (62 percent) far outnumbered that of men (32 percent).⁷²⁹

In November 2011, the Korean Federation for Protection of Persons with Disabilities (KFPD) and the Central Bureau of Statistics conducted a second sample survey of persons with disabilities on 2,400 households in three provinces (South Pyongan Province, South Hwanghae Province, and Gangwon Province).⁷³⁰ Based on the results of that survey, North Korea claimed, in its report on the implementation of the Convention on the Rights of the Child, that the percentage of children with disabilities who are under the age of 15 is 0.9 percent.⁷³¹ Mun-chol Kim, Deputy Chairman of the KFPD's Central Committee, led the North Korean sports delegation to the 14th Paralympics, held in London (30 August~10 September 2012) and partially disclosed the findings of the survey. The number of persons with disabilities in five major categories—sight, hearing, physical movement (limbs), mental abilities (including intelligence), or multiple disabilities—

729_UN Doc. A/HRC/37/56/Add.1 (2018), para. 10.

730_ *Rodong Shinmun*, 30 September 2012.

731_UN Doc. CRC/C/PRK/5 (2016), para. 135.

equaled 5.8 percent of the population.⁷³² According to the 2014 sample survey of persons with disabilities conducted in four provinces (South Hamgyeong Province, Gangwon Province, North Pyeongan Province, and South Pyeongan Province), there are roughly 1.5 million people with disabilities, which account for 6.2 percent of the entire population. Among those persons with disabilities, women (55.1 percent) outnumbered men (44.9 percent).⁷³³ A relief group for North Korea, known as ‘Together-Hamheung,’ which has its headquarters in Germany, held its 7th Gathering of Deaf Persons in Pyongyang for five days starting August 7, 2015. According to this group, around 350,000 deaf persons were said to be registered.⁷³⁴

In December last year, North Korea submitted an initial report to the CRPD, which reflects latest information on the scope and characteristics of the people with disabilities in North Korea.⁷³⁵ According to the report, in 2016, people with disabilities account for 5.5 percent of total population in North Korea. It was higher in female population (5.9 percent) than male population (5.1 percent), the reason for this difference appears to be due to the higher rate

732_ *Yonhap News Agency*, 10 September 2012. North Korea also disclosed that 5.8percent of its population were persons with disabilities in its report submitted to the UPR in 2014. National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council Resolution 16/21.

733_ UN Doc. A/HRC/37/56/Add.1 (2018), para. 10.

734_ *Voice of America*, 13 August 2015.

735_ UN Doc. CRPD/C/PRK/1 (2018), Annex.

of disability among women over 60 years old. In terms of the types of disability, physical disability accounts for 2.5 percent followed by hearing disability (1.2 percent), language disability (0.4 percent), mental illness (0.4 percent), and intellectual disability (0.3 percent). The proportion of people with disabilities among children was 1.8 percent; 2.2 percent for boys while 1.4 percent was for girls.

Table IV-6 Persons with Disabilities by Sex and Age (as of 2016) (Unit: %)

Age	Man	Woman	Total
0~4	0.4	0.2	0.3
5~6	0.6	0.4	0.5
7~16	1.2	0.8	1.0
17~59	5.4	4.2	4.8
60~	13.3	19.1	16.9
Total	5.1	5.9	5.5

출처: UN Doc. CRPD/C/PRK/1.

B. Reality of the Rights of Persons with Disabilities

(1) Training and Rehabilitation

Regarding training and rehabilitation, the CRPD stipulates that “States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life” (Article 26, paragraph 1). North

Korea also stipulates, in its Law on the Protection of Persons with Disabilities, that “the State shall organize professional or comprehensive rehabilitation institutions for rehabilitation of persons with disabilities,” (Article 11) and that “health guidance institutions and institutions in charge and enterprises should guarantee production of assistance devices including alignment apparatus, motor tricycles, glasses and hearing aids, etc., in a planned manner” (Article 14).

Based on the Law on the Protection of Persons with Disabilities, North Korea has taken measures of its own towards the training and rehabilitation of persons with disabilities. To begin, with a focus on children with mental disabilities and disabilities related to their limbs, the Korean Rehabilitation Center for Children with Disabilities was established in Pyongyang, in March 2013, on a mission to conduct projects leading to the early detection and rehabilitation of disabilities.⁷³⁶ On December 6, 2013, the Munsu Functional Recovery Center was founded in Pyongyang, offering comprehensive services for functional rehabilitation of people with disabilities. The Munsu Center is known to have served as North Korea’s hub for functional recovery at physical therapy departments for the treatment of the functionally impaired in provincial, city, and county hospitals.⁷³⁷ Moreover, North Korea

⁷³⁶ *Rodong Shinmun*, 30 September 2012; *Korean Central News Agency*, 29 March 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 69. (In Korean)

has constructed the Dongdaewon Gymnasium for the Disabled in Dongdaewon District, Pyongyang, for athletes with disabilities.⁷³⁸

In North Korea, there are reportedly many alignment apparatus manufacturing outlets, such as the Hamheung Alignment Apparatus Factory, Songrim Alignment Apparatus Factory, and Pyongyang Honored Veterans' Alignment Apparatus Repair Factory. The Hamheung factory is known to use polypropylene resin materials to manufacture various alignment apparatus, and the employees of each of these factories provide mobile on-site repair services.⁷³⁹ However, it is said to be difficult for ordinary persons with disabilities to purchase items such as prosthetic legs and hands, etc., as they are expensive.⁷⁴⁰

According to the initial report North Korea submitted to UN CRPD at the end of 2018, North Korea has implemented a series of “Action Plans” to carry out projects to train and rehabilitate people with disabilities by modernizing correction equipment and surgery tools, promoting job training, and establishing remote education systems for children with disabilities.⁷⁴¹ However,

737_ *Chosun Shinbo*, 17 December 2013; *Korean Central News Agency*, 16 December 2014.

738_ *Tongil News*, 27 February 2016.

739_ *Chosun Shinbo*, 23 May 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance*, p. 71. (In Korean); *Yonhap News Agency*, 3 December 2014.

740_ NKHR2013000057 2013-03-19; NKHR2013000070 2013-04-02; NKHR2015000131 2015-09-22.

741_ UN Doc. CRPD/C/PRK/1 (2018), para. 30.

most testimonies collected during the interviews showed that in reality there is almost no training or rehabilitation programs given to those with disabilities.⁷⁴²

(2) Adequate Living Standards and Employment

The CRPD stipulates that “States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability” (Article 28, paragraph 1).

North Korea also has policies regarding care for persons with disabilities, such as operating factories where they can work, so that persons with disability can maintain an appropriate standard of living. There are two classes of persons with disabilities in North Korea: “honored veterans,” who receive preferential treatment, and “general persons with.” There appears to be separate factories for these two classes.⁷⁴³ Factories for persons with disabilities are also operated in the form of “light workplaces.” Those suffering

742_ NKHR2018000017 2018-04-09; NKHR2018000018 2018-04-09; NKHR2018000101 2018-10-01; NKHR2018000007 2018-03-12; NKHR2018000121 2018-10-22; NKHR2018000114 2018-10-13.

743_ *Daily NK*, 28 August 2012; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance*, pp. 71-72. (In Korean)

from nanocormia and polio engage in work that is not labor intensive, such as carving seals and repairing clocks, bicycles, shoes, and television sets at local convenience service centers, while those with visual impairments earn money by playing the guitar.⁷⁴⁴ North Korea is also known to have provided job opportunities to persons with disabilities. For example, in 2007, North Korea opened the Botonggang Convenience Complex, equipped with a sewing shop, clock repair shop, hair salon, and beauty salon.⁷⁴⁵

According to the initial report North Korea submitted to UN CRPD at the end of 2018, as of 2016 about 58.4 percent of North Koreans with disabilities aged between 17 to 59 have jobs for economic activities (61.6 percent for males and 54.7 percent for females).⁷⁴⁶ Currently there are more than 60 factories statewide which are dedicated for visually impaired people to work.⁷⁴⁷

744_NKHR2012000026 2012-02-21; NKHR2015000036 2015-02-10; NKHR2017000007 2017-04-10.

745_Katharina Zellweger, "People with Disabilities in a Changing North Korea," p. 21.

746_UN Doc. CRPD/C/PRK/1 (2018), Table 5.

747_UN Doc. CRPD/C/PRK/1 (2018), para. 169.

Table IV-7 Factory Operation for Honored Veterans

Testimonies	Testifier ID
There is a factory for blind honored veterans in Sinsang County, South Hamgyeong Province.	NKHR2014000016 2014-03-18
There is an honored veterans factory in Hyemyeong-dong in Hyesan, Yanggang Province. It is said that there are around 200-300 people working there.	NKHR2014000063 2014-06-03
There is an honored veterans factory in Yeonbong-dong in Hyesan, Yanggang Province. It is said that the factory is now producing bags.	NKHR2014000136 2014-09-23
The husband of the testifier worked at Heungnam honored veterans factory.	NKHR2014000157 2014-09-23
There is an honored veterans factory in Hyesan, Yanggang Province. It used to produce a variety of plates but now it does not produce anything.	NKHR2015000043 2015-02-24
There is a communications machinery factory operated by honored veterans in Gilju County, North Hamgyeong Province, and the factory also provides rations. However, the rations are not in normal amounts, but equal to roughly up to 6 months' worth to the maximum per year.	NKHR2015000053 2015-03-10
There are honored veterans factories in Yeonbong 1-dong, Yeondu-dong, Songbong-dong and Wiyeon-dong in Hyesan, Yanggang Province. Currently they are not in normal operation due to issues with electricity and raw materials.	NKHR2015000130 2015-09-22
There is a blind honored veterans factory in Hoeryeong, North Hamgyeong Province.	NKHR2016000099 2016-06-14
There was an honored veterans factory in Gapsan County, Yanggang Province, which had been in and out of operation.	NKHR2017000046 2017-07-03
There was an honored veterans factory in Gapsan County, Yanggang Province.	NKHR2017000050 2017-07-03
There was an honored veterans factory in Namsan district, Musan County, North Hamgyeong Province.	NKHR2018000029 2018-05-08
There was a honored veterans factory in Yeonbong town, Hyesan City, Yanggang Province.	NKHR2018000029 2018-05-08

Table IV-8 Factory Operation for General Persons with Disabilities

Testimonies	Testifier ID
While there was a light workplace for people with disabilities in Rimyongsugu, Samjiyeon County in 2014, it was not in operation.	NKHR2016000030 2016-03-08
There are factories for visually-impaired persons in Suseong district, Chongjin, North Hamgyeong Province.	NKHR2013000036 2013-02-19
There is a light-labor workplace for persons with disabilities in Seoncheon-dong, Hoeryeong, North Hamgyeong Province. Now it is not in normal operation.	NKHR2013000095 2013-05-14 NKHR2015000131 2015-03-22
Although there was a factory for persons with disabilities in Musan County, North Hamgyeong Province, the factory is currently not maintained due to a lack of equipment.	NKHR2013000116 2013-06-11
There are light workplaces for persons with hearing impairments and persons with physical disabilities.	NKHR2013000186 2013-09-17
There are factories for people with hearing, visual and physical disabilities in Samsu County, Yanggang Province.	NKHR2016000083 2016-05-31
There is a middle-sized factory for people with disabilities in Chukjenog-dong, Pyongyang.	NKHR2016000170 2016-11-01
There were two light workplaces in Wonsan, South Hamgyong Province. However, no persons with disabilities actually work there. Those places were only used by merchants for sales purposes.	NKHR2017000007 2017-04-10
There was a factory for the blind in Susung-dong, Chongjin City, North Hamgyeong Province, The factory was not big.	NKHR2018000016 2018-10-01

According to interviews, it appears that North Koreans with disabilities do not benefit from any care or protection from the government, and in most cases, live with the help of their families or by begging on the street. A North Korean who defected in 2018 testified that her brother-in-law was a visually impaired person but did not receive any support from the state and was taken care of by family members. One defector who left North Korea in 2017, testified that there are many persons with disabilities and

Part I

Part II

Part III

Part IV
Vulnerable Groups

Part V

honored veterans in the marketplace (*jangmadang*) who cannot make ends meet, and that sometimes they either pressure people into buying goods or behave violently.⁷⁴⁸ It seems that only honored veterans are entitled to disability benefits or financial support from the government. One defector testified that his/her father, an honored veteran, was given potato rations from the State during a potato harvest season, the portion of which differed every year.⁷⁴⁹ Another defector who resided in Gapsan County, Yanggang Province spoke of having witnessed an honored veteran, who became blind during military service, being given preferential treatment, such as an apartment, telephone, and ration.⁷⁵⁰ Another North Korean defector from South Hamgyeong Province testified that there are some cases in which schools ask students to give cash or supporting materials, including gloves or clothes, for honored veterans.⁷⁵¹ A North Korean defector from Hyesan, Yanggang Province testified to having witnessed that the Hyesan ration center only provided rations to honored veterans, excluding general people (*inmin*), in 2015.⁷⁵²

However, the support for honorable military servicemen does not seem to be provided in a stable manner. A North Korean

748_NKHR2017000028 2017-06-05.

749_NKHR2017000018 2017-04-10.

750_NKHR2017000046 2017-07-03.

751_NKHR2016000135 2016-08-23.

752_NKHR2016000041 2016-04-05.

defector from North Hamgyeong Province whose father was an honored veteran, testified that the goods or subsidies actually provided were at an extremely perfunctory level.⁷⁵³ A North Korean who defected in 2018 testified that the son of his/her aunt became an honorable military serviceman after his eye was injured while serving in the army but received no support from the State.⁷⁵⁴ There was another testimony that people intentionally choose not to register as a honorable military servicemen. This was because those who are registered only receive little State support while the spouse has to work on his behalf.⁷⁵⁵

North Korean Law on the Protection of Persons with Disabilities, stipulates that “educational guidance institutions and the institutions in charge can organize and operate training institutions and vocational schools for masseuses, computer typists, painters and engineers in consideration of academic background, age, and level of disability of persons with disabilities” (Article 22). In accordance with such provisions, North Korea implements policies to support the employment of persons with disabilities. On 2 May 2012 the Chosun Technical and Vocational Skills Class for the Disabled, a specialized class providing vocational training to persons with disabilities, opened in Pyongyang, to help persons

753_NKHR2016000046 2016-04-19.

754_NKHR2018000058 2018-07-02.

755_NKHR2018000072 2018-07-30.

with disabilities to participate more actively in social life. This is a one-year course designed for persons with physical disabilities, including the hearing-impaired and those without limbs.⁷⁵⁶ Moreover, a British relief organization for North Korea, DULA International, entered into an agreement with the KFPD to establish a design school for persons with disabilities in Pyongyang on 2 May 2016.⁷⁵⁷

C. Efforts to Engage Persons with Disabilities at Home and in Local Communities

(1) Violation of the Right to Independent Life and Participation in Local Communities

The CRPD stipulates that “Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement” (Article 19 (a)). The CRPD also stresses the integration of persons with disabilities into local communities, as “Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living

756_ *Korean Central News Agency*, 2 May 2012; *Chosun Shinbo*, 9 May 2012; *Chosun Shinbo*, 23 May 2013; *Ablenews*, 9 August 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 70. (In Korean)

757_ *Voice of America*, 29 December 2015.

and inclusion in the community, and to prevent isolation or segregation from the community” (Article 19 (b)).

A representative case of the violation of this freedom of residence and integration into local communities stipulated in the CRPD is the segregation for persons with nanocormia. A substantial number of North Korean defectors also testified that there are segregated areas for persons with nanocormia. One such area is Yeonha-li, Kimhyongjik County (formerly Huchang County).⁷⁵⁸ However, in addition to such testimonies, other testimonies have claimed that he/she has witnessed people with nanocormia living in non-segregated areas with other residents. One North Korean defector from Rason, North Hamgyeong Province, testified to having witnessed a person with nanocormia and a person with spinal lesions in downtown Rason in 2016.⁷⁵⁹ Given such testimonies, it seems that although there are some segregated areas for persons with nanocormia, not all persons with nanocormia are segregated. Therefore, it is necessary to continue to identify, through testimonies, the accurate situation regarding the segregation of persons with nanocormia.

758_NKHR2015000074 2015-04-07; NKHR2015000106 2015-05-19; NKHR2016000083 2016-05-31.

759_NKHR2016000186 2016-12-13.

Table IV-9 Testimonies on the Segregation of Persons with Nanocormia

Testimonies	Testifier ID
There was segregated accommodation and forced sterilization of persons with nanocormia.	NKHR2014000004 2014-02-18
The testifier heard that persons with nanocormia are segregated in residences and controlled so that they cannot have children.	NKHR2014000055 2014-05-20
The testifier witnessed persons with nanocormia in Yeon-dong, Kimhyongjik County, Yanggang Province. Persons with nanocormia could not live in general residential areas but lived separately in groups in remote mountain villages.	NKHR2014000076 2014-06-17
It is said that persons with disabilities were forced not to have children and live mainly in Huchang so that they do not spread to other areas.	NKHR2014000137 2014-09-12
North Korean defector in her 20s, who defected in 2015, witnessed a segregated area for persons with nanocormia in Huchang on her way back from the sideline field (<i>bueopji</i>) along with her uncle.	NKHR2017000131 2017-12-18

Table IV-10 Testimonies that Persons with Nanocormia Are Not Segregated

Testimonies	Testifier ID
From the childhood up until the testifier defected from North Korea in 2015, there was a person with nanocormia living in Saneop-dong, Hoeryeong, North Hamgyeong Province.	NKHR2015000141 2015-10-06
North Korean defector in her 20s, who defected in 2017, heard about the existence of segregated areas in Huchang but witnessed a person with nanocormia in Hyesan. She thought it was a new change to allow those with nanocormia to live in non-segregated areas if they had relatives in those areas.	NKHR2017000022 2017-05-08
The testifier witnessed many persons with nanocormia selling CD-Rs, etc. in a marketplace (<i>jangmadang</i>) in Chongjin, North Hamgyeong Province.	NKHR2014000100 2014-03-04
The testifier witnessed many persons with nanocormia.	NKHR2014000027 2014-04-01
There was a person with nanocormia in the same <i>inminban</i> as the testifier and he had a wife and children. There are many persons with nanocormia living in Hyesan, Yanggang Province.	NKHR2014000075 2014-06-17
The testifier witnessed a person with nanocormia (male) living in the same neighborhood as his/her aunt in Bocheon County, Yanggang Province.	NKHR2014000131 2014-08-26

Another instance of violating persons with disabilities' freedom to choose their place of residence is the restriction of where they can live. According to North Korean defectors, North Korean authorities restrict persons with disabilities from living in Pyongyang, which is often frequented by foreigners, due to its status as a special district, as well as Nampo, Gaeseong, and Chongjin. With exceptions granted to people with special skills, authorities control the residence of persons with disabilities under the pretext that they may leave an unpleasant impression on visiting foreigners.⁷⁶⁰ One North Korean defector testified that he/she had a conversation when watching South Korean dramas that “It seems there are many persons with disabilities in South Korea, but why are there no persons with disabilities in Pyongyang?”⁷⁶¹

(2) Violation of Respect for Home and the Family

The CRPD stipulates that “The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized” (Article 23, paragraph 1 (a)). Moreover, it specifies, within respect for home and the family, that “the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children...are recognized” (Article

760_NKHR2014000078 2014-07-01.

761_NKHR2015000176 2015-12-15.

23, paragraph 1 (b)).

Inhumane discrimination and the most obvious human rights violations that infringe upon family rights is the sterilization of pregnant persons with nanocormia. A North Korean defector testified that in 2014, persons with nanocormia were forced to be sterilized in Onsong County, North Hamgyeong Province.⁷⁶² However, following continuous protest and complaints, it appears that there are more cases of women with nanocormia giving birth. Defector testimonies on cases of forced sterilization on persons with disabilities is on the decrease.

(3) Mobility

Regarding the mobility of individuals, the CRPD stipulates that “States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities” (Article 20). After signing the CRPD, North Korea established an “Assistance Fund for Persons with Disabilities” on 21 November 2013 and revised the Law on the Protection of Persons with Disabilities in a way that reflected the accessibility stipulated in Article 9 of the CRPD, updating provisions with an emphasis on making buildings and facilities accessible to persons with disabilities.⁷⁶³

762_NKHR2015000171 2015-12-01.

763_ *Chosun Shinbo*, 6 December 2013; *Yonhap News Agency*, 6 December 2013.

As part of its remodeling plan, North Korea created restrooms for persons with disabilities at the Sunan International Airport. Other than such special facilities, North Korea has failed to take measures that guarantee the mobility of persons with disabilities due to its economic hardship facing the nation. A Special Rapporteur on the rights of persons with disabilities visited North Korea in May 2017 and confirmed that persons with disabilities find it hard to access even new public buildings, such as the Science and Technology Center, the Pyongyang Sunan International Airport (arrivals hall), and Pyongyang Elementary Academy.⁷⁶⁴ In addition, persons with disabilities seem to have difficulties in their daily lives due to the restriction of accessibility to residential facilities and public transportation facilities. North Korea reported to the Special Rapporteur on the rights of persons with disabilities that since May 2017, it has provided a free taxi service in a bid to improve accessibility for persons with disabilities, at the guidance of the State Construction Committee operated under the Ministry of State Construction Control.⁷⁶⁵ The Special Rapporteur, however, found that North Korea does not meet the most recent standard for accessibility and welcomed North Korea's request for technical cooperation regarding the relevant international standards.⁷⁶⁶

764_UN Doc. A/HRC/37/56/Add.1 (2018), para. 45.

765_ *Ibid.*, para. 46.

766_ *Ibid.*

In its first UN CRPD report submitted in December 2018, North Korean authorities admitted that persons with disabilities in North Korea have little accessibility to public facilities and planned to adopt and expand the advanced technology to grant them an independent but socially integrated life.⁷⁶⁷ This is one of the few issues in the report which acknowledges a defect concerning the rights of persons with disabilities in North Korea.

D. Raising Awareness on Persons with Disabilities

The CRPD stipulates that the state parties shall “promote positive perceptions and greater social awareness towards persons with disabilities” (Article 8, paragraph 2, (a), ii). North Korea is also engaged in activities to improve public awareness about persons with disabilities, based on the Law on the Protection of Persons with Disabilities. First, North Korean authorities have designated June 18 as the “Day of Persons with Disabilities,” since 2011, in accordance with Article 49 of the Law on the Protection of Persons with Disabilities, and host celebratory events.⁷⁶⁸ Also, since 2010, North Korea has held “Joint Celebrations on the Occasion of the International Day of Persons with Disabilities” every year, hosted by the Central Committee of the Federation, to celebrate the International Day of People with Disabilities in

⁷⁶⁷ UN Doc. CRPD/C/PRK/1 (2018), para. 76.

⁷⁶⁸ *Chosun Shinbo*, 24 June 2014.

Pyongyang on December 3.⁷⁶⁹ North Korea has also carried out projects to raise awareness on persons with disabilities through joint sports events. These efforts are observed in North Korea's Committee on Physical Training Guidance (November 2012), among others. Recently, table tennis matches between persons with and without disabilities have been held on a regular basis with increasing participants.⁷⁷⁰

The Special Rapporteur on the rights of persons with disabilities pointed out, in a report after visiting North Korea, that there is a stigma against having a disability and that there is discrimination toward persons with disabilities in North Korea. Specifically, there is a perception that they are in need of support and that they are not capable of making contributions to society.⁷⁷¹ The Special Rapporteur also found that improper language citing persons with disabilities is used in North Korean laws and recommended that this language be revised.⁷⁷² In addition, the Special Rapporteur

769_ Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance*, p. 72. (In Korean); *Chosun Shinbo*, 7 December 2013.

770_ *Ibid.*, p. 72.

771_ UN Human Rights Council. *Report of the Special Rapporteur on the Rights of Persons with Disabilities on her visit to the Democratic People's Republic of Korea*, paras. 39-44.

772_ *Ibid.*, paras. 26-28. Article 172 and 229 (the mute, the deaf) of the North Korean Criminal Procedure Law and Article 49 (not-able person) of Civil Procedure Law, Article 78 (the disabled) of Socialist Labor Law, Article 13 (those who lost ability to work) of the Public Health Law, Article 49 (partially-able person, not-able person) of Civil Procedure Law, Article 66 (insane person) of the North Korean Socialist Constitution.

found it to be problematic that those with cognitive, psychological, and social disorders have restricted legal rights, including the right to vote, and the right to designate their guardians. The Special Rapporteur, therefore, urged the judiciary to conduct a comprehensive review so as to comply with Article 4 of the CRPD.⁷⁷³ In general, North Korea does not allow persons with disabilities to receive education or service in separate facilities. This prevents persons with disabilities from having access to facilities or services that are equal to those used by persons without disabilities.⁷⁷⁴

Recently, there have been efforts by the North Korean authorities to use mass media to alter public perception of persons with disabilities. A North Korean who defected in 2016 testified that he/she saw a TV commercial which showed the State's consideration for persons with disabilities.⁷⁷⁵ Another North Korean defector also testified that since 2017 there has been an increasing number of news related to persons with disabilities, such as performance troupe consisting of persons with disabilities and schools for persons with disabilities.⁷⁷⁶ Although this can be interpreted as a political effort to propagate the State's achievements, it is also a positive change when considering prior efforts by the

773_ *Ibid.*

774_ *Ibid.*, para. 42.

775_ NKHR2018000056 2018-07-02.

776_ NKHR2018000117 2018-10-22.

State made to avoid the topic of persons with disabilities.

E. Cooperation with the International Community

North Korea has pursued cooperation with South Korea and the international community to support persons with disabilities. In case of inter-Korean cooperation regarding persons with disabilities, as part of the inter-Korean exchange and assistance project for persons with disabilities, an inter-Korean seminar on scientific rehabilitation of persons with disabilities was held for the first time at the Yanggakdo Hotel in Pyongyang on 19 December 2006. The seminar included a discussion of research results on rehabilitative treatment and special education, etc., which was attended by a delegation from Daegu University (South Korea) and a delegation from Chosun Red Cross Hospital.⁷⁷⁷ In addition, in May 2007, the Botonggang Convenience Complex was built and opened on Red Avenue, Botonggang District, Pyongyang, with the support of South Korea's Lighthouse Foundation. It is the first self-reliant rehabilitation center for persons with disabilities, and is jointly operated with the KFPD.⁷⁷⁸

Second, cooperation with international NGOs is also taking place. Green Tree International is seeking to build the Daedonggang

⁷⁷⁷ *Yonhap News Agency*, 22 December 2006.

⁷⁷⁸ 〇〇〇, KINU Advisory meeting, 29 June 2012. Name is not disclosed upon request.

Rehabilitation Center for the Disabled in Pyongyang, which will offer medical support and training on rehabilitative skills for people with disabilities, as well as educational programs for athletes and artists with disabilities.⁷⁷⁹ Humanity & Inclusion also teaches therapeutic skills to physical therapists at the Pyongyang-based Munsu Functional Recovery Center, the Korean Rehabilitation Center for Children with Disabilities, and elsewhere.⁷⁸⁰ In April 2016, a private relief group called, Together-Hamheung, headquartered in Germany, opened the first kindergarten for children with hearing disabilities in North Korea in Moranbong District, Pyongyang, with support from the Catholic organization and donors. The kindergarten has around 10 classrooms and can accommodate around 40 children.⁷⁸¹

Third, exchange projects on persons with disabilities are also carried out with the international community. The Central Committee of the KFPD entered into a memorandum of understanding (MOU) with the World Federation of the Deafblind (hereinafter WFDB) on February 9, 2011, through which the Blind Association of Korea (launched in March 2014) and the Deaf Association of Korea (launched in December 2013) are working on projects to join the World Federation.⁷⁸² On 7 November 2014, through the

779_ See, Green Tree International, <www.greentreekorea.org>.

780_ See, Humanity & Inclusion, <www.handicap-international.org>.

781_ *Nocut News*, 1 July 2016.

782_ *Chosun Shinbo*, 24 June 2014.

offices of the Finnish Association of the Deaf, six North Korean delegates, including three persons with hearing impairment, went to Finland and paid a courtesy visit to Ms. Sirpa Paatero, Minister of Foreign Trade and Development.⁷⁸³ In addition, a concert for students with disabilities was held in the U.K. and France from 20 February to 2 March 2015.⁷⁸⁴ 18 persons with hearing impairment from Japan, Singapore, and the Netherlands also visited North Korea from 8 to 12 August 2014.⁷⁸⁵ An official from the International Paralympic Committee, headquartered in Germany, visited Pyongyang from 13 to 16 May 2016, and explained the “disability grade system” rules, and categorization methods adopted by the Paralympic Games to 21 athletes, including 13 North Korean table tennis players and eight swimmers.⁷⁸⁶

Fourth, persons with disabilities have participated in international sport events. North Korea established the Korean Association for Sports of the Disabled in 2010, and the National Paralympic Committee in September 2011, and officially joined the International Paralympic Committee held in Athens from 22 to 24 November 2013. It has also taken part in a wide range of international competitions for persons with disabilities, including

783_ *Voice of America*, 8 November 2014.

784_ *Chosun Shinbo*, 27 August 2014; *MK News*, 17 September 2014; *The Asia Economy Daily*, 6 February 2015.

785_ *Chosun Shinbo*, 27 August 2014.

786_ *Voice of America*, 7 June 2016.

the 2012 London Summer Paralympics, the Asia Youth Para Games held in Kuala Lumpur, Malaysia in October 2013, the Asia Para Games held in Incheon in October 2014, the Rio Paralympic Games in September 2016, and the PyeongChang 2018 Paralympic Winter Games. In December 2016, the North Korean deaf football team, composed of athletes with hearing and linguistic disabilities, visited Australia for the second time, after their first visit in December 2014, to compete in a friendly match with the Australian team.⁷⁸⁷

What is encouraging is that North Korea is demonstrating an open attitude towards potential cooperation with the international community. In its initial UN CRPD report that North Korea submitted in December 2018, North Korea stressed that it has long been making substantial efforts to promote the human rights of persons with disabilities through cooperation with the international community.⁷⁸⁸ Moreover, North Korea has emphasized that these efforts have been made in order to sufficiently comply with the international human rights standards. However, North Korea has claimed that sanctions imposed by the United Nations Security Council (UNSC) has made it difficult to promote the rights of persons with disability, and has requested sanctions relief.⁷⁸⁹ The

787_ *Voice of America*, 19 November 2016.

788_ UN Doc. CRPD/C/PRK/1 (2018), paras. 199~204.

789_ *Ibid.*, paras. 205~206.

human rights status for persons with disabilities in North Korea still has a long way to go in many aspects. Thus, it is necessary to promote human rights of persons with the disabilities through cooperation with international community.

F. Evaluation

North Korea has clearly stated to both domestic and international audiences that it will perform the duties stipulated in the CRPD by ratifying the Convention in November 2016. By submitting the implementation report for the first time in December 2018, it explained the efforts of the North Korean authorities to raise awareness on the reality of persons with disabilities in North Korea and the State's efforts to promote their human rights. It has defined persons with disabilities as targets for particular protection, and has responded to the issue of the disabilities with forward-looking policies. Although North Korea is making some efforts to improve awareness of persons with disabilities, there still seems to remain a deep-rooted negative perception in North Korean society towards persons with disabilities. In addition, providing education and services to persons with disabilities in separate facilities has, in effect, served as a form of social discrimination. Honored veterans are found to receive partial benefits, but those with disabilities, whose disabilities were caused by industrial accidents or other accidents, rather than by military service, do not seem to be given adequate levels of protection and

supporting measures. Moreover, suspicion over practices that violate the right to integration in local communities, and the right to family, has yet to be resolved. Such practices include the segregation and sterilization of those with nanocormia. Moreover, while efforts toward rehabilitation are also being made through honored veterans' factories and factories for general persons with disabilities, these are assessed as ineffective due to the economic hardship facing North Korea. While authorities emphasize the need to care for persons with disabilities, it seems that they do not invest significant resources toward this need.



White Paper on Human Rights
in North Korea 2019



Part V

Major Issues

1. Political Prison Camps
 2. Corruption
 3. Overseas Defectors
 4. Overseas Workers
 5. Separated Families, Abductees and Korean War POWs
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1

Political Prison Camps

A. Overview of Political Prison Camps

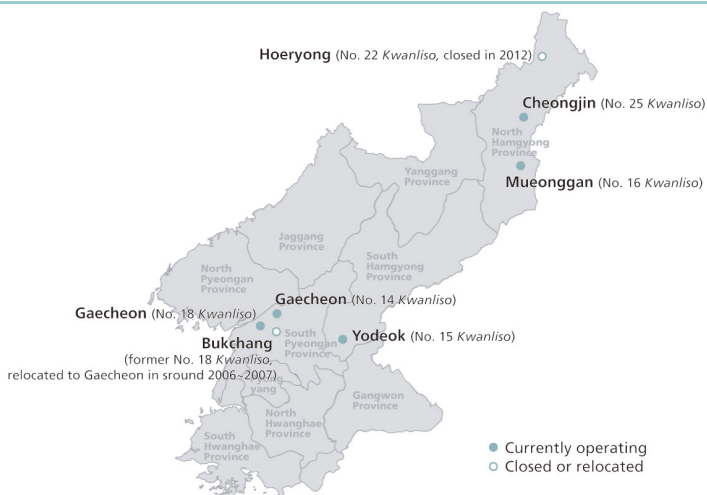
Although North Korea denies their existence, there are political prison camps, called *kwanliso*, in North Korea. Given that these prison camps are not official detention facilities and operate through arbitrary practices, they inherently contain violations of human rights. Five such camps have been identified: No. 14 *Kwanliso* in Gaechon, No. 15 *Kwanliso* in Yodok, No. 16 *Kwanliso* in Myeonggan, No. 18 *Kwanliso* in Gaechon, and No. 25 *Kwanliso* in Chongjin.⁷⁹⁰ No. 14 *Kwanliso* in Gaechon is located in Dongchanggol, Jamsang-li, Chang-dong, Gaechon, South Pyeongan Province. No. 15 *Kwanliso* in Yodok is located

790_ Although previously, six political prison camps had been in operation, No. 22 *Kwanliso*, located in Naksang-li, Haengyoung-li, and Namseok-li in Hoeryeong, North Hamgyeong Province, closed around 2012, according to defector testimonies. In the 2015 survey, several individuals also testified about the closedown of No. 22 *Kwanliso* in Hoeryeong. NKHR2015000023 2015-01-27; NKHR2015000025 2015-01-27; NKHR2015000026 2015-01-27; NKHR2015000031 2015-02-10; NKHR2015000129 2015-09-22; NKHR2015000135 2015-09-22; NKHR2015000163 2015-12-01.

in the 5 lis of Daesuk-li, Ipseok-li, Gueup-li, Yongpyeong-li, and Pyeongjeon-li, in vast areas accounting for one-third of Yodok County. No. 16 *Kwanliso* in Myeonggan is located in Jungpyeong-dong, Gari-dong, and Buhwa-li in Myeonggan County, North Hamgyeong Province. While known by the old name of Myeonggan, it is also called Hwaseong *Kwanliso*. No. 18 *Kwanliso*, in Gaechon, is located in Dongrim-li, Gacheon, South Pyeongan Province. It has been found that sometime between 2006 to 2007, the former No. 18 *Kwanliso* in Bukchang, located in Sepo-dong, Sampo-dong, and Sinheung-li, was dramatically downsized and moved to Dongrim-li, Gaechon, South Pyeongan Province. No. 25 *Kwanliso* in Chongjin is located in Suseong-dong, Songpyeong district, North Hamgyeong Province. While No. 25 *Kwanliso* in Chongjin is also called ‘Suseong *Kyohwaso*,’ it is actually a political prison camp accommodating political criminals. There have also been testimonies that senior officials, including heads of provincial party MPS and chairmen of provincial People’s Committees, have been seen in No. 25 *Kwanliso* in Chongjin.⁷⁹¹

791_NKHR2014000010 2014-03-04; NKHR2014000056 2014-05-20.

Figure V-1 Location of Political Prison Camps



In 2013, KINU estimated that there were between 80,000 and 120,000 political criminals imprisoned in the five political prison camps, based on defector testimonies and evaluation of satellite photos.⁷⁹² The downsizing/relocation of Bukchang *Kwanliso* from 2006 to 2007, and the shutdown of Hoeryeong *Kwanliso* around 2012, also support these estimates. Defector testimonies also support the belief that although the size of the area is not large, the number of accidental deaths is high due to the poor working environment inside the coal mines. However, this reduction in the number and size of the political prison camps cannot be interpreted as an indication of a change in the North Korean

792_Keum-soon Lee *et al.*, *Political Prison Camps in North Korea*, pp. 19-21. (In Korean)

authorities' views and policies on political prison camps. What is important is that North Korea's system of political prison camps, which segregates groups that are regarded as hostile and potentially threatening to the regime, still remains in place under Kim Jong Un.⁷⁹³

North Korea's political prison camps can be classified according to their types, their methods of operation, and their management entity. Some take the form of a town and others the form of a prison entity. Some have both total control zones and revolutionary zones, while others have only total control zones. In some, only political criminals are imprisoned, while in others, criminals are imprisoned together with their families; and some are managed by the MSS, while others are managed by the MPS.⁷⁹⁴

Table V-1 Management and Operation of Political Prison Camps

	No. 14 <i>Kwanliso</i> in Gaecheon	No. 15 <i>Kwanliso</i> in Yodok	No. 16 <i>Kwanliso</i> in Myeonggan	No. 18 <i>Kwanliso</i> in Gaecheon (former Bukchang <i>Kwanliso</i>)	No. 25 <i>Kwanliso</i> in Chongjin
Type	Town	Town	Town	Town	Detention facility
Division of zones	Total control zone	Revolutionary zone Total control zone	Total control zone	Immigrant (No division of zones)	Prison camp (<i>kyohwaso</i>)

793_ *Ibid.*, p. 21.

794_ *Ibid.*, pp. 11~16 for more details.

	No. 14 <i>Kwanliso</i> in Gaecheon	No. 15 <i>Kwanliso</i> in Yodok	No. 16 <i>Kwanliso</i> In Myeonggan	No. 18 <i>Kwanliso</i> in Gaecheon (former Bukchang <i>Kwanliso</i>)	No. 25 <i>Kwanliso</i> in Chongjin
Possibility of release into society	Impossible	Impossible, possible	Impossible	Impossible, possible	Impossible, possible
Accompanying family	Accompanying families	Criminals only/ accompanying families	Accompanying families	Criminals only/ accompanying families	Criminals only
Management entity	MSS	MSS	MSS	MPS	MSS

B. Imprisonment of Political Criminals

While there is no internationally established definition of “political crime,” such crimes are, in general, classified into 1) “absolute political crime,” such as crimes committed against the state, high treason, and espionage; and 2) “relative political crime,” in which acts of general crime, including murder, arson, and theft, are combined with absolute political criminal acts.⁷⁹⁵ Surveys carried out to date suggest that North Korean authorities imprison people in political prison camps mostly for engaging in absolute political crimes, such as criticizing the North Korean regime or insulting the *Suryong*, attempting escape to South Korea, contacting South Koreans or making favorable comments about South Korea, and providing important documents or information to South Korea or foreign countries. In particular, there seems to be

795_ *Ibid.*, p. 9.

a widespread perception that once one has committed crimes related to South Korea, one would be sent to a political prison camp.

Recent surveys show that those close to Ri Yong-ho and Jang Sung-taek were sent to political prison camps. One North Korean defector testified that an uncle was imprisoned in a political prison camp in 2014, because he had been involved in the Jang Sung-taek case.⁷⁹⁶ Such testimony supports South Korean and international media reports that after the purge of Jang Sung-taek, people close to him were sent to political prison camps on a massive scale.⁷⁹⁷

Numerous testimonies have been collected whereby brokers helping North Korean residents defect to South Korea are sent to political prison camps. One North Korean defector testified that an uncle, who worked as a broker aiding North Korean defectors, was sent to a political prison camp in 2015.⁷⁹⁸ A North Korean woman in her 50s who defected in 2017 testified that her sister, who was a broker for defectors went missing after being arrested by the MSS in 2016. It has been assumed that she was sent to a political prison camp.⁷⁹⁹ Another North Korean defector testified that his/her neighbor was a broker for defectors and was caught while handing over the children who remained in North Korea to a

796_NKHR2017000082 2017-09-25.

797_ *Yonhap News*, 7 April 2014.

798_NKHR2017000099 2017-10-23.

799_NKHR2018000028 2018-05-08.

Chinese broker after being requested by their parents who had already defected to South Korea. After being caught, the broker was sent to a political prison camp.⁸⁰⁰

Testimonies where people have been imprisoned in political prison camps after being caught providing documents or information to South Korea or other countries are frequently documented. A North Korean testified that her in-law was caught receiving a watch in exchange for information regarding North Korea to China. This was considered as a form of espionage and she was sent to a political prison camp in 2015.⁸⁰¹ Another North Korean defector testified to having heard that a neighbor had been imprisoned in a political prison camp for smuggling goods from China, and had been searching for separated family members in South Korea when caught through phone detection equipment in November 2014.⁸⁰² It is said that the MPS officer in charge mentioned in a People’s meeting that the person had gone to a political prison camp, and that “not even the law would forgive those who have relations with South Korea.”⁸⁰³

In the 2018 survey, there was a case where North Koreans were sent to political prison camps for being involved in organized human trafficking. A North Korean defector testified that a

800_ NKHR2018000057 2018-07-02.

801_ NKHR2018000105 2018-10-01.

802_ NKHR2015000136 2015-09-22.

803_ Above testimony.

woman who was in the same Women's Union with her was arrested while trafficking 70 people in 2015 and was sent to a political prison camp.⁸⁰⁴ There were other cases of detaining people for taking part in religious practices including worship. For example, a North Korean defector testified that his/her neighbor was sent to a political prison camp because a bible was found in his/her house in December 2015.⁸⁰⁵

Meanwhile, it appears that punishment for political criminals extend beyond the individual perpetrator to his/her family, and sometimes even to his/her relatives. It is said that generally, guilt by association applies to immediate family members. One defector testified to having heard that when a woman and her mother were caught in the process of defecting to South Korea, the woman, her mother, as well as her grandmother were sent to a political prison camp.⁸⁰⁶ One testimony claimed that when a spouse is accused as a political criminal, one may avoid being sent to a political prison camp by divorcing the accused spouse.⁸⁰⁷ Several people have testified that the number of times in which a whole family had been imprisoned in a political prison camp had decreased, since North Korea found it hard to house all those people, due to an increasing number of North Koreans defecting

804_NKHR2018000101 2018-10-01.

805_NKHR2017000012 2017-04-10.

806_NKHR2017000038 2017-06-05.

807_NKHR2013000154 2013-08-20.

to South Korea. This change in policy contrasts with the past, when family members were often sent to prison camps after a member of their family defected.⁸⁰⁸ In addition, several people testified that even when whole families were imprisoned through guilt by association, a child was released from the political prison camp and that when one family who attempted to defect to South Korea became imprisoned in the political prison camp, children were exempted from imprisonment.⁸⁰⁹ One North Korean defector testified to having heard that an entire family had been caught in their attempt to defect to South Korea. They were forcibly repatriated, and were sent to a political prison camp, and that two minors (ages 14 and 7) were released from the camp.⁸¹⁰

It appears suspects do not receive due legal process when they are arrested and taken to political prison camps. One North Korean defector testified that imprisonment in political prison camps is decided exclusively by the MSS without trials.⁸¹¹ Because political criminal suspects are imprisoned at political prison camps in such ways, it is not easy for the general public to know what has happened to their family members, and whether they have been imprisoned in political prison camps.

808_NKHR2015000028 2015-02-10; NKHR2017000067 2017-08-28.

809_NKHR2015000015 2015-01-27; NKHR2015000030 2015-02-10.

810_NKHR2016000171 2016-11-01.

811_Above testimony.

C. Overview of Prison Life

(1) Extrajudicial, Summary, or Arbitrary Execution

According to defector testimonies collected to date, executions are carried out by MSS agents, who do so without following any legal procedures. Reasons for execution include violation of rules or disobedience to orders inside political prison camps. Defectors have testified that such executions are mostly carried out in public, but sometimes carried out in secret.

(2) Forced Labor

It appears prisoners in political prison camps are forced into hard labor. The type of labor differs by political prison camp, but it has been testified that at the former No. 18 *Kwanliso* in Bukchang, prisoners were mostly put to work at a coal mine, as farming was impossible due to the area's geological characteristics.⁸¹² Work units at No. 15 *Kwanliso* in Yodok were forced to take part in industrial, agricultural, and other types of work.⁸¹³ As labor at coal mines is done according to "production plans," if one fails to fulfill the daily workload quota by the end of the normal work day, he/she must continue working until the quota is met.⁸¹⁴

812_North Korean defector ○○○, 14 September 2012, interviewed in Seoul; North Korean defector ○○○, 12 October 2012, interviewed in Seoul.

813_North Korean defector ○○○, 27 September 2012, interviewed in Seoul.

814_North Korean defector ○○○, 14 September 2012, interviewed in Seoul.

Prisoners are mobilized for labor even on weekends, without rest. Hye-suk Kim, a woman who was imprisoned at the former No. 18 *Kwanliso* in Bukchang, testified that she had to work on her rest days to work in the houses of MSS agents in charge of coal mines, or to work for MPS officers, plowing fields, planting potatoes, and weeding, or carrying coal to the warehouse.⁸¹⁵ There have also been cases in which forced labor resulted in death. One North Korean defector testified that he/she worked in the former No. 18 *Kwanliso* in Bukchang and around ten people died each year at that camp.⁸¹⁶

(3) Inhumane Treatment

Violence and mistreatment appear to be widespread in political prison camps. A North Korean defector testified that in the former No. 18 *Kwanliso* in Bukchang, the vice mine captain who was in charge of the coal mine shift kicked him and struck him with a bat when he failed to come up with the required amount of coal. In addition, the MPS officer in charge of the coal mine also beat him.⁸¹⁷

Prisoners also appear to suffer from poor nutrition, poor sanitation, and lack of health care in the political prison camps. Hye-suk Kim, while imprisoned at the former No. 18 *Kwanliso* in

815_ Hye-suk Kim, *A Prison Camp Created in Tears* (Seoul: Sidaejongshin, 2011), p. 38. (In Korean)

816_ NKHR2013000126 2013-07-09.

817_ Above testimony.

Bukchang, testified that her seven family members were given only 8kg of Annam rice per month.⁸¹⁸ Since there was no way to get more rice, they had no choice but to go out and climb hills and mountains to pick wild greens to fill their hungry stomachs, and, even when off duty, all families had to collect edible greens from the mountain and store them for food.⁸¹⁹ A North Korean defector testified that in the former No. 18 *Kwanliso* in Bukchang, his/her father died from chronic sickness and malnutrition, and his/her two younger siblings died from malnutrition and sickness, respectively.⁸²⁰ Moreover, when the testifier's leg was injured, medical staff took only an x-ray of his injured leg, and told him his leg should be amputated at Yongjong Hospital in the former No. 18 *Kwanliso* in Bukchang in April 2004. No other medical treatment was offered.⁸²¹

(4) Restrictions on Family Life

According to defector testimonies collected to date, one cannot live with one's parents, siblings, or even spouse in the total control zones. Moreover, in revolutionary zones, marriage and childbirth are generally prohibited. One testimony claimed that husbands and wives were assigned to opposite work shifts to

818_Hye-suk Kim, *A Prison Camp Created in Tears*, pp. 73~76. (In Korean).

819_ *Ibid.*, pp. 73~76.

820_NKHR2013000126 2013-07-09.

821_Above testimony.

prevent them from having sex.

D. Evaluation

Although the 2018 survey did not contain many testimonies on political prison camps, cases where attempts to defect to South Korea led to imprisonment in political prison camps have been continuously collected. As was the case in the 2017 survey, the 2018 survey also reported many testimonies where brokers helping North Koreans go to South Korea were sent to political prison camps. This suggests that all actions related to defecting to South Korea are considered as political crimes. In addition, many testimonies stated that North Koreans were sent to political prison camps after being caught providing information to South Korea or other countries. In the 2018 survey, there were also cases where those committing organized human trafficking were sent to political prison camps.

That political criminal suspects are imprisoned after arrest without due legal process, and that their families are left in the dark regarding their whereabouts or whether they are alive or dead, constitutes an infringement on the right not to be tortured or to receive inhumane treatment (Article 7 of the ICCPR), the right to liberty and security of person (Article 9 of the ICCPR), and the right to a fair trial (Article 14 of the ICCPR). Meanwhile, the recent survey does not contain any testimonies on the actual life

of prisoners in political prison camps. However, if one assumes that the situation remains essentially unchanged for prisoners, it appears their various rights and freedoms recognized by the ICCPR are being infringed upon. More specifically, summary execution of prisoners and death caused by inhumane treatment constitute infringement of the right to life (Article 6 of the ICCPR), while serious exploitation of prisoners for labor constitutes an infringement of the right not to be forced into labor (Article 8 of the ICCPR). The violence, mistreatment, and poor nutrition, sanitation, and health care that prisoners receive constitute violations of the right to humane treatment in detention (Article 10 of the ICCPR), and, in serious cases, may also constitute infringement of the right not to be tortured or to receive inhumane treatment (Article 7 of the ICCPR). In addition, restrictions on family life at political prison camps also infringe on the right to form a family and be protected by society and the State (Article 23 of the ICCPR). It can be concluded that political prison camps in North Korea form the most comprehensive and definitive version of the violation of human rights.

2

Corruption

A. Overview of Corruption in North Korean Society

Corruption in North Korean society is so prevalent that it is a part of every day life, without distinction between central, provincial, and lower levels. Since the economic crisis of the 1990s, the provision of rations to the general population has technically been suspended, and the planned economy has been operating in a distorted way. Against this backdrop, North Korean people have sought ways to survive through the markets, and the unlawful and anti-socialist practice of abnormally pursuing private interest has spread rapidly in North Korea.⁸²²

North Korea punishes bribery through its Criminal Law and Administrative Penalty Law. North Korea has increased the punishment for crimes concerning large bribes from three years to five years in prison when its Criminal Law was revised in 2015.

⁸²² Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, p. 3. (In Korean)

North Korea also added a provision on additional punishment for serious cases.

Table V-2 Change in North Korean Criminal Law on Crimes of Bribery

2012 Criminal Law	Article 230 (Crime of Bribery) Those who received large amounts of bribes shall receive one year or less of labor training punishment. Those who received especially large amounts of bribes shall receive three years or less of correctional labor punishment.
2015 Criminal Law	Article 230 (Crime of Bribery) Those who received large amounts of bribes shall receive one year or less of labor training punishment. Those who received especially large amounts of bribes shall receive five years or less of correctional labor punishment. In serious cases, five years or more and ten years or less of correctional labor punishment is applied.

Article 163 of the Administrative Penalty Law states that those who receive or offer bribes, or who engage in brokerage of bribes, may be subject to admonitions, stern warnings, three months or less of unpaid labor and re-educational labor, and, in serious cases, three months or more of unpaid labor, re-educational labor, or demotion, dismissal, or loss of employment. However, in spite of such legal restrictions, acts of corruption, including bribery, have become even more prevalent in North Korean society. Also, in the 2018 survey, many people testified about bribery in the investigation or preliminary examination process and in detention facilities, including prison camps (*kyohwaso*), which shows that there is serious corruption within North Korean judicial institutions and bureaucratic society. Bribery is also a general practice in the daily lives of North Koreans, for example, in issuing travel permits,

buying and selling houses, and being assigned to jobs.

B. Corruption in Resident Control and Punishment Process

(1) Corruption in Crackdowns

North Korean authorities' control over the residents has been consistent, although the degree has varied depending on the time period. This control most often takes place in economic and market activities, and is mostly aimed at preventing the relaxation of social order due to marketization. Meanwhile, with stronger control and punishment regarding anti-socialist activities, defined by North Korean authorities, the practice of offering bribes to avoid punishment has become ever more widespread. In the 2018 survey, many people testified cases in which those who were caught using mobile phones, watching recorded videos, and owning electronic products such as memory sticks, were able to avoid punishment or receive only light punishment by paying bribes.

Table V-3 Cases of Bribery in Crackdowns

Testimonies	Testifier ID
In April 2014, a man in his 30s residing in Hyesan, Yanggang Province, was arrested for making phone calls to a relative in China, after a cousin of his former wife informed on him, but he was released after paying a bribe to the MSS.	NKHR2015000070 2015-04-07
The testifier was caught while watching an American film with Korean subtitles in 2015, but avoided punishment by paying a bribe of 50 dollars.	NKHR2017000084 2017-09-25
In July 2015, a woman in her 40s, residing in Hyesan, Yanggang Province, was caught using a mobile phone and avoided punishment by paying 1,500 yuan to an MSS agent.	NKHR2016000139 2016-08-23
In 2015, the testifier was caught watching South Korean drama at home and was requested to pay 1,000 yuan as a bribe. The testifier paid it on site and said everything can be solved with money.	NKHR2018000117 2018-10-22
In October, 2015, the testifier was detained by the MSS as it was found that he/she had contacted China via mobile phone but was released after paying 2,000 yuan as bribe.	NKHR2018000127 2018-11-19
In August 2016, a woman in her 60s, residing in Rason Special City, North Hamgyeong Province, was caught owning an electronic memory device, when her house was searched by the MPS, but avoided punishment after paying a bribe (100 yuan).	NKHR2016000186 2016-12-13
In 2017, the testifier's son was under crackdown from 627 Group while watching a South Korean movie but solved the issue by paying 5,000 yuan as a bribe.	NKHR2018000099 2018-10-01
In 2017, the testifier's neighbor was caught in USB crackdown but solved the issue by paying 100 yuan.	NKHR2018000028 2018-05-08
In March 2018, the testifier was under mobile phone crackdown and they found out that he/she had South Korean songs for children and paid 100,000 won as bribe. 100,000won is an amount that could buy 20kg of rice.	NKHR2018000117 2018-10-22

Crackdowns on mobile phones are mostly carried out by the Anti-socialist group (*bisageuruppa*).⁸²³ Those who are caught

823_NKHR2016000048 2016-04-19.

usually receive labor training punishment, but the level of punishment and amount of bribes that are paid varies by the source and content of the mobile phone calls.⁸²⁴ A North Korean who defected in 2017 testified that people needed to pay a bribe during the investigation stage to be exempt from punishment for using a mobile phone. It costs 3,000 yuan when caught contacting China and 10,000 yuan contacting South Korea.⁸²⁵ In general, it is difficult even for security agents to excuse people from punishment, even when offered bribes, for serious violations like those involving phone calls to South Korea. However, if they give very expensive bribes, they can be excused from the punishment.⁸²⁶ One testifier said that his/her mother was arrested for illegally using a mobile phone in the process of smuggling money to South Korea, but was released by paying a bribe of 10,000 yuan.⁸²⁷ When caught while contacting somebody in order to receive remittance, some make a deal with the crackdown officer by paying the officer a certain percentage of the remitted money.⁸²⁸ One woman who resided in Kimjongsuk County, Yanggang Province in 2015, testified that her husband was arrested and detained after a crackdown on mobile phones, but was released by

824_NKHR2016000092 2016-06-14.

825_NKHR2018000028 2018-05-08.

826_NKHR2018000110 2018-10-06; NKHR2018000058 2018-07-02.

827_NKHR2017000111 2017-11-20.

828_NKHR2015000123 2015-09-08.

paying a bribe of 5,000 yuan.⁸²⁹ One testifier who experienced a crackdown in Pyongsong in 2014 gave a testimony that a mobile phone, once caught, are mostly confiscated and in order to retrieve it, one must pay around 500,000 North Korean won.⁸³⁰

Broadcast materials and recordings are handled by a specialized crackdown institution (the anti-socialist group/*geuruppa* 109), which is composed of one MSS agent, one League of Socialist Working Youth agent, and one MPS agent. A North Korean defector testified that while more North Korean people are watching regulated broadcast materials and recordings, the crackdowns still continue, and when caught, 1,000 yuan is needed to evade punishment.⁸³¹ Another North Korean defector testified more specifically, that those caught watching Korean films or listening to foreign music had to pay bribes of 5,000 yuan per South Korean film, 2,000 yuan per American film, and 50 yuan per song, and that those who are not exempted from punishment may be subject to open trials on anti-Socialist charges.⁸³² One testifier, who had been sent to a labor training camp (*rodongdanryundae*) in 2016, testified that he/she witnessed a prisoner detained in a training camp for two months and released by offering bribes, although one year of correctional labor punishment is the usual

829_NKHR2017000022 2017-05-08.

830_NKHR2017000033 2017-07-03.

831_NHHR2016000092 2016-06-14.

832_NHHR2016000192 2016-12-27.

sentence for getting caught on charges of watching South Korean movies and dramas.⁸³³ Meanwhile, there were testimonies that watching South Korean dramas is considered a serious crime and that even bribes rarely work as the severity of the crime means those who receive the bribe could get into trouble.⁸³⁴

(2) Corruption in the Investigation Process

Many cases of corruption have been observed which involve bribes being paid to avoid punishment or reduce a prison term during the investigation process (investigation and preliminary examination stage) after a case is set. In some cases, the preliminary examination officers reduce the applicable punishment in return for a bribe during the preliminary examination process before trials. For the same violation, preliminary examination officers sometimes fabricate details to reduce the penalty. For example, this can include details about defectors, such as the frequency and purpose of border-crossings, and the suspect's activities in China, so that the suspect can receive the minimum penalty. A North Korean defector testified that he/she was caught while talking to his/her daughter in China on the mobile phone and was released after paying 3,000 yuan to the preliminary examination officer and receiving education punishment. The testifier said that he/she

833_NKHR2017000095 2017-10-23.

834_NKHR2018000091 2018-08-27.

would have received correctional labor punishment, if he/she had not given the bribe.⁸³⁵ One testifier stated that preliminary examination officers tend to prefer offenders who appear to have money because it means they are more likely to receive bribes.⁸³⁶ However, if the timing of the arrest is not favorable, such as during central Party inspections or when the offense is related to activities subject to special crackdowns, then, even with a bribe, avoiding punishment or fabricating documents may be difficult.⁸³⁷

There have also been cases where people avoided punishment and were released or were given a reduced punishment by offering a bribe when detained at MSS detention centers (*guryujang*). A North Korean defector said that her husband was a remittance broker and in 2016, he was arrested and detained at the MSS detention center in Hyesan City, Yanggang Province. He was released after 15 days by paying 15,000 yuan.⁸³⁸ Another North Korean defector testified that he/she was caught while trying to

835_ NKHR2018000058 2018-07-02.

836_ A North Korean defector testified that he/she was caught in 2017 in Yanggang Province while attempting to defect and it was supposed to be another officer who conducted preliminary examination but the officer in inspection department did not give the document to anybody and directly conducted the preliminary examination by himself. The interviewee testified it was because he/she had money and the officer expected to get some bribes during the preliminary examination. The interviewee said that those officers made their living by getting the bribes from those arrested and anybody in higher ranking kept the ones who seemed to be able to pay good bribes. NKHR2018000091 2018-08-27.

837_ Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, pp. 96-97. (In Korean)

838_ NKHR2018000099 2018-10-01.

defect in 2016 and was detained in the detention center. He/she was released after paying a bribe of 15,000 yuan.⁸³⁹ There is another example in which the father of a North Korean defector was detained at a detention center in Musan County, North Hamgyeong Province in late October 2014, for using a mobile phone. He was released after 25 days because his brother in South Korea sent three million South Korean won, and the testifier as well as his/her sister in China sent 6,000 yuan and 4,000 yuan, respectively. The testifier said that the crackdown and punishment seemed to have become more strict, given that getting his/her father out of trouble cost a significant amount of money, even though the mother understood such business well and maintained good relations with the MSS agents.⁸⁴⁰

Even at detention centers where visitors are not allowed in principle, visits are permitted when bribes with cigarettes and cash, etc., are offered. One North Korean testified that visits were not allowed during inspections, but were possible when bribes of 100 yuan were paid per visit or when 200 yuan were paid per week for a visit every other day.⁸⁴¹ As such, even sending food to family members in detention centers during the preliminary examination period requires family members to bribe the guards,

839_NKHR2018000056 2018-07-02.

840_NKHR2015000046 2015-02-24.

841_NKHR2015000149 2015-10-20.

the preliminary examination MPS officers, or at least someone who knows the MPS officers well.

(3) Corruption in Trials

Representative cases of corruption during the trial stage involve bribing judges to give favorable judgments and bail or probation. People frequently have received reduced punishments by paying bribes to the chief judge, or to other judges and prosecutors in the trial process. One defector testified that his/her mother was subject to a trial in 2014 after being caught using a mobile phone and that, in the process of investigation, preliminary examination, and trials, she was exempted from the sentence by paying 100 yuan to the chief judge, giving items valued at around 400 yuan to other judges, and offering 500 yuan to the prosecutors as bribes. However, her accomplice, who did not pay bribes, was sent to a prison camp.⁸⁴² One testifier, who was tried for human trafficking in 2015, testified that his/her sentence was reduced from the expected two years of correctional labor punishment to one year of labor training punishment by bribing the judge. Even this sentence was shortened when the testifier bribed officials again and the testifier was released on bail for reasons of illness.⁸⁴³ One testifier was accused of being involved in South Korea after

842_NKHR2016000078 2016-05-31.

843_NKHR2017000126 2017-12-18.

he/she lent a mobile phone and was caught in 2014. He/she testified to having been sentenced to six months of labor training punishment by bribing 1,000 yuan to then chief judge of the Yanggang Province.⁸⁴⁴

The practice of bribery in North Korean society actually burdens most residents. It is said that bribes, albeit small ones, should be paid to all the related people, instead of just one person.⁸⁴⁵ Meanwhile, there are other cases in which people gather money for bribery through other illegal means. One testimony stated that the brother-in-law of a North Korean defector was sentenced to three years of correctional labor punishment in his first trial, as he had been caught engaging in the business of making phone calls to South Korea, but his sentence was reduced to one year and six months after he paid bribes in the final trial. Meanwhile, the sister of the testifier engaged in human trafficking (sending people to China in cooperation with the border defense unit) to gather money for the bribes.⁸⁴⁶

(4) Corruption in the Execution of Sentences

There have also been cases in which, after one is sentenced, he or she carries out a reduced penalty in return for a bribe, for

844_ NKHR2017000058 2017-07-31.

845_ NKHR2015000043 2015-02-24.

846_ NKHR2015000164 2015-12-01.

example, being sent to labor training camps instead of prison camps, or released on bail for illness. One testifier said that when he/she was detained at an MSS detention center in 2015 for four to five months, the testifier was sentenced to one year of labor training punishment but was exempted after offering a bribe. However, this testifier added that although he/she was exempted from the sentence, he/she had had to stay at home from 2015 to 2017.⁸⁴⁷ A North Korean defector testified that his/her mother was caught while defecting from North Korea in 2014 and sentenced to two years of correctional labor. However, she was able to get sick bail by paying a total of 1,000 yuan as a bribe to the hospital, preliminary examination officer, and court.⁸⁴⁸

With the increasing pace of marketization, practices of bribery have also expanded, along with an increased control by authorities of market activities and economic life. In such cases, one's sentence may be reduced by offering a bribe in the process of the execution of sentences. One testifier from Hoeryong, North Hamgyeong Province testified that his/her mother was imprisoned at a labor training camp, both in 2015 and 2016, on charges of operating a diner at her house, and that her sentence was reduced through bribery of 400 and 100 yuan, respectively.⁸⁴⁹

847_NKHR2017000135 2017-12-18.

848_NKHR2018000134 2018-11-19.

849_NKHR2017000080 2017-09-25.

The basic rights of convicted prisoners, including the right to access to family, also seem to depend on bribery. Another defector who was imprisoned in the Jeongeori *Kyohwaso* from 2013 to 2015, testified that visitors are not allowed at such camps if one does not have money. However, one would be allowed to visit for a long time, and the convicted prisoner could eat the food brought by the visitor, only when money or goods asked for by agents at the prison camps, including the MPS officers, has been offered.⁸⁵⁰ A North Korean defector testified that he/she made a visit to his/her friend's younger brother who was detained in the Gaecheon *Kyohwaso* in 2016 and gave a pack of cigarettes to the officer as a bribe.⁸⁵¹ A North Korean defector who was detained in the Gaecheon *Kyohwaso* from 2012 to 2015 said that the officer required the family to bring items that the prison camp needed (paint, battery, medicine, scissors, etc.). If they were not provided, the officer would confiscate all the food that was brought for the visitation.⁸⁵²

C. Corruption Related to the Issuance of Travel Permits

North Korea maintains a travel permit system that controls

850_ NKHR2017000080 2017-09-22.

851_ NKHR2018000010 2018-03-12.

852_ NKHR2018000050 2018-06-04.

people's movement. People need to apply for travel permits at enterprises, and they can receive travel permits only when they receive inspection tickets from both MSS agent and MPS officers.⁸⁵³ It seems that bribery is the general practice when one wishes to expedite the issuance of a travel permit in North Korea. In particular, while it is difficult to obtain a travel permit to go to Pyongyang, Kaesong, or the border regions, one can obtain a permit for “districts requiring permit numbers” through offering a substantial cash bribe.⁸⁵⁴ One North Korean defector, who resided in Yanggang Province, testified that she received a travel permit to visit her husband's family in South Pyeongan Province in 2014, and that while it varies by region, one can receive a travel permit, even in one day, by paying a bribe of around 100 yuan in cash and cigarettes. It takes ten days or more to receive such a permit without offering a bribe.⁸⁵⁵ A North Korean defector testified that he/she had to go to Pyongyang to attend his acquaintance's wedding ceremony in April 2017 and paid 100 yuan to the officer to be issued a travel permit. He said that a travel permit for Pyongyang cannot be issued without paying money.⁸⁵⁶ Another North Korean defector, who received a travel permit to travel from Yanggang Province to Chongjin, North Hamgyeong

853_NKHR2016000056 2016-05-03.

854_NKHR2015000017 2015-01-27.

855_NKHR2016000097 2016-06-14.

856_NKHR2018000058 2018-07-02.

Province, in March 2015, testified that he/she received a travel permit after paying 20 North Korean won as a bribe.⁸⁵⁷ One North Korean defector who obtained travel permits to the border region through bribery in 2015 testified that people give bribes to the Section 2 Office of the MPS city/county branch and that two packs of cigarettes were required to travel to Pyongyang or the Rason district. According to this testifier, an additional bribe to the Section 2 Office of the MPS city/county branch in the travel destination would buy an extension of the permitted period of travel.⁸⁵⁸ There were testimonies that even the amount of bribe was already set depending on their destination. A North Korean defector who visited Gosong, Gangwon Province testified that he/she paid 100 yuan to the responsible person in the Section 2 Office of the People's Committee. He/she testified that the bribe amount for general regions are 20 to 50 yuan, and regions with an authorization number (Pyongyang, border regions, and military-related areas) are 100 yuan.⁸⁵⁹ At the same time, there is also a case in which a travel permit was not issued even though a bribe was paid. One North Korean defector, who said that she had a record of being caught river-crossing with her husband in 2015, testified that her application was denied when she requested a travel permit to visit her parents.⁸⁶⁰

857_NKHR2016000171 2016-11-01.

858_NKHR2015000142 2015-10-06.

859_NKHR2018000110 2018-10-06

D. Corruption Related to House Sales and Registration

North Korea considers housing buildings as part of state property. As such, housing is decided based on one's workplace and personal sale of one's house is illegal. However, economic crisis has led to a near collapse of the central rationing system and subsequently, private transactions even in the realm of housing space has become a norm.⁸⁶¹ North Korean people pay bribes to relevant institution agents, or to those involved in crackdowns, to avoid crackdowns related to movement or residence or to expedite the process of issuance even when there is a legitimate reason.⁸⁶² Another defector testified that while house sales are illegal, because houses belong to the State, he/she received a permit to use the house after paying 4,000 yuan to the housing agent of the city management division of the city's People's Committee.⁸⁶³ One testifier who sold a house in Hyesan, Yanggang Province in 2015, said that he/she had given 100 yuan to agents in charge of housing management, but that this is not compulsory.⁸⁶⁴ Meanwhile, bribery is also frequent in the process of moving-in

860_NKHR2016000164 2016-11-01.

861_Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, p. 111. (In Korean)

862_ *Ibid.*

863_NKHR2015000140 2015-10-06.

864_NKHR2017000011 2017-04-10.

notifications after the transaction has taken place. One North Korean defector who sold a house in 2015 testified that one can move to the border region by giving 2,000~3,000 yuan to the head of the MPS city/county branch.⁸⁶⁵

E. Corruption Related to Job Assignments and Overseas Dispatch

Bribery relating to job assignment is very common in North Korean society. Several people have testified that they paid bribes in order to be assigned to comfortable enterprises or those they wanted to work for⁸⁶⁶ Changing job is also possible by paying bribes.⁸⁶⁷ Meanwhile, it also seems that there are cases in which bribes are provided in order to avoid discrimination at an assigned workplace based on one's background. One North Korean defector testified that he/she was discriminated against because of a missing family member while working in the instigation group of a paper factory. To appease the situation, the testifier submitted a pack of cigarettes every month for one and a half years.⁸⁶⁸ There seems to be many cases in which bribery is offered to avoid group

865_NKHR2015000142 2015-10-06.

866_NKHR2018000043 2018-06-04; NKHR2018000054 2018-06-04; NKHR2018000091 2018-08-27; NKHR2018000102 2018-10-01.

867_NKHR2018000026 2018-04-09; NKHR2018000030 2018-05-07; NKHR2018000104 2018-10-01.

868_NKHR2015000167 2015-12-01.

allocation.⁸⁶⁹ According to one testifier, people are group-allocated mostly to construction sites, military, and farms, and a bribe of roughly 200 yuan is required to avoid such dispatchment.⁸⁷⁰

Bribery plays an important role in North Korean authorities' decision to dispatch workers overseas. The selection or location of dispatch is also reportedly decided through bribery. Most overseas workers are known to receive low wages and to hand over a substantial part of those wages to North Korean authorities as part of a planned quota or as loyalty money. Nonetheless, North Koreans wish to be dispatched overseas because they can receive higher wages there than they would receive while assigned to jobs in North Korea, and can accumulate a certain level of wealth through private contracts. The actual amount paid in bribes in the selection process is substantial. It is said that the amount required to be dispatched to Russia is the highest, as North Koreans preferred Russia to hotter regions such as the Middle East.

F. Evaluation

In the 2018 survey, corruption, including bribery, was found to be prevalent in North Korean society. The majority of North Korean defectors say that many challenges can be resolved through

869_NKHR2018000027 2018-04-09; NKHR2018000036 2018-05-08; NKHR2018000094 2018-08-27; NKHR2018000110 2018-10-01.

870_NKHR2017000062 2017-07-31.

the use of money, or other material incentives, in North Korean society. Although background (*songbun*) is still an important factor in determining whether one can be accepted for employment as a senior official or accepted as a student in one of the central colleges, it is noteworthy that what used to mainly be decided by background, including whether one can become a Party member or enter a general college, can now be handled through bribery. North Korean residents use the term “business” to describe bribery. This indicates that the people consider the practice of bribery normal and do not perceive using bribery to handle certain issues as being negative. In situations where bribery has become a new social norm that is required not only to be pardoned from criminal offenses but also has become a part of daily life, such as issuing a travel permit or trading houses, North Korean residents have become desensitized to the nature of corruption. In fact, according to interviews with North Korean defectors, many perceived paying bribes to doctor or teacher as a way of “formality”. Meanwhile, it may be more difficult to raise awareness of universal human rights if there is an overwhelming perception that bribery is acceptable as long as it leads to the betterment of one’s life. Moreover, such practices prevent the fair application of standards in punishment and may serve to aggravate the violation of human rights of the North Korean people.

3

Overseas Defectors

A. Size of the Overseas Defector Population and Background

The ICCPR stipulates that “everyone shall be free to leave any country, including his own” (Article 12, Paragraph 2). Although a large number of North Koreans who fled the country are believed to be residing illegally in other countries, such as China and Russia, it is impossible to collect accurate data on the exact number and details of individual conditions, due to defectors’ insecure status, which prevents them from openly asking for help. Many North Koreans use the Duman River region as a defection route, because it is easier to cross there than at other geographic points. However, there are a variety of other ways to flee, such as escaping the workplace when legitimately assigned to jobs abroad, or defecting to a third country after overstaying an authorized visit to relatives.

(1) Tightening Control to Block Defection and Decrease in the Number of Defectors Living in China

Since the late 2000s, the number of defectors living in China has dropped dramatically. It appears the reasons include more stringent border defense and control, continued forced repatriation, fewer new defectors due to the increasing cost of defection, increases in the number of legal visitors in China with an increase in the issuance of border-crossing cards, improved economic conditions in North Korea including the reinvigoration of marketplaces, and increased resettlements of North Koreans in South Korea or other third countries. Since 2009, the MSS has reviewed emergency measures in place to prevent defection. Since then, it has strengthened surveillance and identification of ideological trends in families and relatives of defectors, ideological education, inspection of travel permits and bed-checks in border regions, and inspection of border guard commands. Moreover, North Korean authorities have increased the severity of punishment of residents using cell phones in the border regions. In 2015, North Korea revised its Criminal Law and established the category “crimes on illegal international communications” (Article 222), stating that “those who are engaged in illegal international communications shall be subject to up to one year of labor training punishment,” and “those whose crimes are considered to be heavier shall be subject to up to five years of correctional labor punishment.” This

is the same sentence as that for existing “crimes of illegal border-crossing” (Article 221), which suggests that illegal international phone calls are considered to be as heavy a crime as illegal border-crossing.

During the mourning period following Kim Jong Il’s death on 17 December 2011, defection was considered to be a war crime, and the movement of people was tightly controlled. Every household along the border region was required to take turns standing guard.⁸⁷¹ In addition, barbed wire fences and surveillance cameras were installed, camouflaged traps were set up under barbed wire fences,⁸⁷² and noise makers such as empty cans were hung on barbed wire fences to assist in detection⁸⁷³ of defectors along the major defection routes, such as Hoeryeong, Musan County, and Onsung County, North Hamgyeong Province. One defector testified that in 2014, each middle school student was assigned to bring in five standard sized nail boards in Hoeryong, North Hamgyeong Province (to be used in border closure).⁸⁷⁴ In an effort to prevent re-defection, local Party secretaries seem to be held jointly responsible for defection attempts.⁸⁷⁵ Economic support is also provided, and there is close surveillance of their

871_NKHR2014000020 2014-03-18.

872_NKHR2014000050 2014-05-13.

873_NKHR2012000213 2012-10-16.

874_NKHR2014000050 2014-05-13.

875_NKHR2014000207 2014-12-16.

individual activities.⁸⁷⁶

As Hyesan, Yanggang Province, became a new defection route, authorities have implemented various measures to prevent defections in the area. Electronic barrages have been installed and activities to detect phones have been strengthened. As a result, it became very difficult for brokers to contact potential defectors. Moreover, a barbed wire fence was installed along 12km of the border region in Hyesan. Although the fence was only connected with horizontal wires as of June 2015, vertical wires are expected to be installed in the future.⁸⁷⁷ Two storey posts have also been installed.⁸⁷⁸ One North Korean defector testified that he/she attempted to defect in 2014, but gave up because of very tight border controls in Hyesan. The testifier instead defected in June 2015.⁸⁷⁹ Another North Korean defector who defected in 2017 stated that he/she used to live right across from Amrok River and was unable to obtain water from the river except for a limited designated time due to the barbed wires installed around 2017.⁸⁸⁰

In January 2014, a proclamation from Kim Jong Un was announced, stating that anyone caught talking to defectors or brokers over mobile phones in border areas would not be handled

876_NKHR2012000140 2012-07-10; NKHR2013000019 2013-02-05.

877_NKHR2015000130 2015-09-22.

878_NKHR2015000136 2015-09-22.

879_NKHR2015000130 2015-09-22.

880_NKHR2018000109 2018-10-06.

in their area of residence but would be transferred to the MSS provincial bureau.⁸⁸¹ This change in policy may have been a move to curtail the practice of North Korean defectors avoiding punishment by bribing personnel in their area of residence. In January 2014, training sessions on this issue were held for individual people's unit (*inminban*) in Hoeryeong, North Hamgyeong Province. The participants were told, "The border areas will be transformed into politically stable zones; families with relatives in China and South Korea will be expelled to South Hamgyeong Province and Gangwon Province. Cases of making phone calls or crossing the border will be dealt with by the MSS."⁸⁸² The proclamation is known to include a plan to demolish private houses close to border areas. This plan, however, has not been fully implemented, as forced deportation of the families of defectors might backfire, instead triggering a mass exodus of these families.⁸⁸³

The substantial decrease in the number of defection seems to be attributed to the announcement of a severe warning, that three generations of that family would be wiped out (punished) if any family member defected, or defectors would be executed on-site. Such warnings regarding shootings were made not only during the

881_NKHR2014000040 2014-04-29; NKHR2014000037 2014-04-15.

882_NKHR2014000050 2014-05-13.

883_NKHR2014000166 2014-10-07; NKHR2014000165 2014-10-07; NKHR2014000136 2014-09-02.

mourning period for Kim Jong Il, but also during the special vigilance period when the guidelines were ordered and communicated.⁸⁸⁴ Testimonies stated that, since Kim Jong Un took power, real ammunition had been provided to guards with an order that border-crossers may be shot to death.⁸⁸⁵ Many testifiers have stated that guns were actually used during defection attempts. In contrast, others have testified that guns are only used as threats to prevent defection, and that the guards cannot actually shoot people.⁸⁸⁶

Table V-4 Cases of the Use of Guns during Defection

Testimonies	Testifier ID
In July or August 2014, two men were caught during a crackdown in Samjiyeon County, Yanggang Province, after voluntarily returning to North Korea. One was shot in the arm and the other was killed on the spot after the defense unit opened fire.	NKHR2015000084 2015-04-21
Three men, assigned to a recovery task in the aftermath of flood in Onsung County, North Hamgyeong Province, decided on impulse to defect to China upon watching its border before their eyes from across Duman River but were shot to death.	NKHR2018000107 2018-10-01
One Chinese resident, while fishing on the Chinese side of Amrok River, was shot in the leg by a North Korean border security guard who thought he was a North Korean defector by mistake. Fortunately, the man was able to survive since he was shot in his leg. A border security guard responsible for this shooting was transferred to another unit.	NKHR2018000057 2018-07-02

884_ NKHR2014000024 2014-04-01; NKHR2014000129 2014-08-29; NKHR2014000131 2014-08-26; NKHR2014000175 2014-10-21.

885_ NKHR2014000131 2014-08-26; NKHR2016000028 2016-03-08.

886_ NKHR2015000122 2015-09-08.

With tightening measures to block defection, fees paid to brokers and border security guards have increased.⁸⁸⁷ Border guards in Onsung County, North Hamgyeong Province, where there are frequent defections from North Korea, have been instructed that anyone who has accepted money from defectors would not be penalized as long as they reported it afterwards to the authorities.⁸⁸⁸ As the number of brokers and soldiers who received money and reported it subsequently increased, some defectors began to investigate the border control situation alone and defect without the brokers' help. As the risk of getting caught in the process of defection increased, the number of people trying to enter China to earn money dropped significantly. However, there was also a testimony that the excessively harsh instruction to crack down on defections by Kim Jong Un actually backfired and increased the number of defections.⁸⁸⁹

(2) Defector Attempts to Migrate Globally

In addition to China, defectors appear to attempt to move to Russia, other CIS countries, Mongolia, Southeast Asia, etc. With the support of private organizations and volunteer activists,

887_○○ Yoon, "Current Status and Prospect of Defectors in China," Closed Advisory Meeting of KINU (2 May 2012); NKHR2014000037 2014-04-15.

888_ NKHR2013000133 2013-07-23; NKHR2014000050 2014-05-13; NKHR2014000118 2014-08-12.

889_ NKHR2016000165 2016-11-01.

defectors have been seeking asylum and safe havens around the world, in countries including Thailand, Japan, Canada, Australia, the United States, EU member states, and Israel. According to the UNHCR, as of the end of 2017, there are 1,175 North Korean defectors around the globe with refugee status.⁸⁹⁰

Table V-5 Number of Overseas Defectors with Refugee Status

Year	2010	2011	2012	2013	2014	2015	2016	2017
Number (persons)	917	1,052	1,110	1,166	1,282	1,103	1,422	1,175

Source: Compiled based on the annual Global Trends of the UNHCR

Since 2004, the number of North Korean defectors illegally entering Thailand in hopes of going to South Korea or the United States has risen continuously. As a result, there have been many cases of group arrests of North Koreans illegally entering Thailand. Furthermore, as the period at detention facilities of immigration offices grows longer, some refugees have begun to stage hunger strikes demanding for a speedy process, which has substantially reduced the time for entry procedures. At one point, there had been a rapid increase in North Koreans who had applied for political asylum (refugee status) to EU member states. However, many of these individuals were found to be Chinese, including people of Korean-Chinese descent disguised as North Korean

890_ "Global Trends: Forced Displacement in 2017, Annex Table 2," UNHCR, <www.unhcr.org>.

defectors, or North Korean defectors who had already settled in South Korea. For that reason, the procedure for the review and recognition of refugee status has become stricter. Although as many as 512 North Korean defectors had been recognized as refugees from 2007 to 2008 in the United Kingdom (U.K.), not a single North Korean defector earned refugee status in the U.K. in 2016.⁸⁹¹ For a North Korean citizen to cross the border and apply for political asylum within the EU or another Western country, a large amount of money is needed. With very few exceptions, it seems very difficult for any North Korean defector to file for asylum in a Western country. South Korea has revised its Enforcement Decree to the Act on the Protection and Settlement Support of Residents Escaping from the North in 2009. The revision allows the South Korean government to suspend or terminate protection and settlement support for any North Korean who has obtained South Korean nationality but applies for political asylum in a third country afterwards by concealing their newly acquired South Korean nationality.

B. Reality of Defectors Staying Overseas

The residential status of North Koreans in China appears to have changed significantly, reflecting the prolonging history of defection.

891_Dong-ho Han *et al.*, *An Analysis on Policy Environment for North Korean Human Rights* (Seoul: KINU, 2017), p. 216. (In Korean)

Initially, most North Koreans quickly returned to North Korea after receiving help from their relatives in China, who tried their best to protect them. However, as the food crisis worsened in North Korea, even those without relatives in China began to cross the border in a blind attempt to survive.

As the food shortage continued for a sustained period of time, more North Korean women went to China to earn money, and the number of them who did not return to North Korea but instead settled in China began to increase. Not only those women who were single, but also those who were married with children, ended up living with Chinese men in order to continue their hidden life in China. In such cases, although some women voluntarily engaged in cohabitation after being introduced to Chinese men,⁸⁹² most were sold without them even knowing and were forced into marriage.⁸⁹³ In such cases, they sometimes escaped to other regions, as they could not endure the inhumane conditions of being in a forced marriage and living in poverty. But it has been found that most of them remained married for fear of forced repatriation without hope. Since most North Korean women were traded in the form of merchandise, they were usually under the

892_ NKHR2013000008 2013-01-08 and 37 cases; NKHR201400083 2014-07-01 and 47 cases; NKHR2017000014 2017-04-10 and 8 cases; NKHR2018000007 2018-03-12 and 34 cases.

893_ NKHR2013000019 2013-02-05 and 66 cases; NKHR2014000086 2014-07-01 and 90 cases; NKHR2017000025 2017-05-08 and 11 cases; NKHR2018000004 2018-03-12 and 12 cases.

constant watchful eyes of the families and neighbors of their husbands. One North Korean defector who was trafficked into China in 2015 testified that she could not set a foot outside the house without her husband, since her Chinese husband always locked her in whenever he went outside.⁸⁹⁴

There have been cases in which some defectors were able to obtain resident permits (*hokou*) after prolonged stays in China.⁸⁹⁵ Also, some had children with their Chinese husbands,⁸⁹⁶ some of whom also received resident permits.⁸⁹⁷ In rural Han Chinese villages, no forced repatriation is known to have taken place, except when North Korean defectors are involved in serious problems and are thus reported to local authorities.⁸⁹⁸ One North Korean testified that she was forced to marry a Chinese farmer after defecting from North Korea in 2014. After being caught, she was told while being interrogated by Chinese police and writing down her personal details that she would not get caught and repatriated as long as she stayed out of trouble.⁸⁹⁹ One testifier

894_NKHR2017000094 2017-10-23.

895_NKHR2013000128 2013-07-09 and 6 cases; NKHR2014000192 2014-11-18 and 3 cases; NKHR2017000046 2017-07-03.

896_NKHR2013000036 2013-02-19 and 37 cases; NKHR2014000171 2014-10-07 and 85 cases; NKHR2017000065 2017-07-31 and 5 cases; NKHR2018000020 2018-04-09 and 25 cases.

897_NKHR2013000036 2013-02-19 and 24 cases; NKHR2014000053 2014-05-13 and 53 cases; NKHR2017000014 2017-04-10 and 10 cases; NKHR2018000021 2018-04-09 and 18 cases.

898_NKHR2014000114 2014-08-12.

899_NKHR2017000137 2017-12-18.

suggested that in some regions, such as Hebei Province, it was relatively easier than in other regions to obtain resident permits through bribery. However, since 2013, it has apparently become difficult to forge resident permits in China.⁹⁰⁰

With more North Koreans staying in China for extended periods of time, their way of life has also changed. Unlike the initial years of living in China, North Koreans are living more in the homes of Chinese people, including Han Chinese, than in the homes of relatives or Korean-Chinese. As they adapt to living in China, some people have developed their own ways of living, learning the Chinese language, becoming employed, and getting involved in market activities.⁹⁰¹ Also, although only very rarely, some female North Korean defectors have entered South Korea with South Korean men with whom they resided in China. Some North Korean women in China go to South Korea through brokers after they find out about settlement support grants offered by the South Korean government through the Korean-Chinese men they live with. In such cases, the men typically travel to South Korea first to find jobs, learn about the support grants, and later advise their North Korean partners to come to South Korea. There are also cases of North Korean defectors who obtained Chinese passports with forged resident permits, came to Jeju Island (South

900_NKHR2014000066 2014-06-03.

901_NKHR2017000064 2017-07-31.

Korea), where no visa is required, and declared their identity as North Korean defectors. However, it seems that a substantial number of female defectors continue to live in Han Chinese farming villages in China, as there is little information on South Korea.

C. Punishment of Defectors

(1) Punishment Provisions

The North Korean Criminal Law divides charges for defection into two crimes: illegal border-crossing and treason against the fatherland. It prescribes one year or less of labor training punishment and five years or less of correctional labor punishment for illegal border-crossing (Article 221). It also stipulates that “citizens that commit treason against the fatherland, including those who flee to other countries, surrender or defect or turn over state secrets, shall be subject to five years or more of correctional labor punishment. Those who flee, surrender or defect to other countries, betray the fatherland or commit the treasonous action of handing over secrets of the fatherland are subject to five years or less of correctional labor training, and in serious cases, to unlimited-term correctional labor punishment or the death penalty and confiscation of the entire property” (Article 63). In addition, any North Korean citizen violating North Korean Immigration Law is subject to fines and an administrative penalty banning him or her from overseas travel, and, in serious cases, a criminal penalty may be imposed (Article 55).

In addition to the North Korean Criminal Law, the terms of punishment for defection are dictated by the People's Security Enforcement Law and the Administrative Penalty Law. Article 30 of the People's Security Enforcement Law stipulates that the People's Security Agency shall check for and handle violations of the travel order and the order regarding street wandering behavior. Article 57 of the law states that violators may be directly fined by security agents. These provisions are not intended to punish defections directly, but are utilized to prevent people from moving towards the border regions. Article 185 of the Administrative Penalty Law stipulates that anyone violating an order of border exit/entry shall receive a warning, a serious warning, be subject to confiscation, or be subject to three months or less of unpaid labor or re-educational labor. Article 194 prescribes that those who violated travel orders and engaged in illegal exit/entry of restricted areas shall also receive a warning, a serious warning, fines, or three months or less of unpaid labor or re-educational labor, while in serious cases, they shall be subject to three months or more of unpaid labor, labor education, demotion, dismissal, and discharge.

(2) Reality of Punishment

(A) Investigation and Transfer

North Koreans caught in China are deported to periphery military units along the border, then to the MSS of the repatriation area for background investigation and personal identity checks. They are

then sent back to the authorities in their area of residence. Depending on the case, deportees are sent to their respective regional institution (MPS) via the labor training camp (*rodongdanryundae*) in the repatriated area, or to provincial holding centers (*jipkyulso*). In other cases, they are sent directly to their respective regional institution. The punishment procedure after repatriation differs depending on the initial detention facility to which deportees are sent. If the initial detention facility is at or near areas of detainee's residence, the level of punishment is determined more quickly. However, if the detainee's hometown is far away from the MSS in the border region, the period of detention is extended, because the MPS officers from the detainee's hometown have to travel to the border area detention facility in person to sign the detainee out. Other factors that affect the extended detention include the risk of escape during transfer, securing of the means of transfer, and lack of means to contact the families.

Those who are repatriated from China are investigated at a first-level detention facility for punishment. The MSS detention centers (*guryujang*) in repatriation areas are mostly in Onsung, Musan County, and Hoeryeong, North Hamgyeong Province, Sinuiju, North Pyeongan Province, and Hyesan, Yanggang Province. Here, they must be strip searched, have their belonging checked and undergo a sanitary inspection (for AIDS) before they are detained. Although men and women are known to be detained separately, there are cases in which they are detained together,

depending on the number of people being repatriated.

Article 37 of the Law on the Protection and Promotion of the Rights of Women prohibits any inspection of female bodies. However, it has been revealed that inspectors thoroughly examine forcibly repatriated female defectors by forcing them to squat and stand up repeatedly, conducting strip searches, and checking their uteri.⁹⁰² Such examination is intended to expose money earned in China that can then be confiscated. One North Korean testified that she went through such uterus examination conducted by a female soldier during her time of detention at the MSS detention centers in ○○ city in 2016, and said that it was very painful and extremely shameful.⁹⁰³ Moreover, sometimes defectors were repeatedly made to undergo strip searches everytime their cases were transferred to another agency. One North Korean defector testified that after being caught by the border security guard during defection in 2017, he/she went through a total of six strip searches by platoon, company, battalion, MSS military bureau, MSS city branch, and MPS city branch.⁹⁰⁴

There seems to be a significant number of cases in which forcibly repatriated defectors offer bribes to reduce the terms of their sentence or be exempt from penalties during the process of

902_ NKHR2017000014 2017-04-10; NKHR2017000045 2017-07-03; NKHR2017000046 2017-07-03; NKHR2017000119 2017-11-20; NKHR2018000081 2018-07-30.

903_ NKHR2017000045 2017-07-03.

904_ NKHR2018000091 2018-08-27.

interrogation.⁹⁰⁵ A North Korean defector who was caught in an attempt to defect in 2016, testified that he/she was released, subject only to educational measures, after bribing the MSS intelligence chief of ○○ City, ○○ Province with 5,000 yuan.⁹⁰⁶ Cases have also been found in which the defector bribed “law enforcement workers” to forge the contents of their interrogation documents and therefore avoid punishment. Another North Korean defector who was forcibly repatriated from China in 2015 testified that by bribing prosecutors, judges, and lawyers, he/she was able to forge the length of time she stayed in China. By reducing her time in China, he/she was able to reduce the sentence.⁹⁰⁷ Another North Korean defector testified that he/she was arrested during a defection attempt in 2017 but was able to receive a relatively light sentence of one month at a labor training camp thanks to a bribery of 3,000 yuan to a preliminary examination officer.⁹⁰⁸ As such, it seems there is a widespread practice of avoiding punishment via bribery, even among those who are caught in their attempts to defect. One testifier noted that those without money are often unable to evade punishment.⁹⁰⁹

905_NKHR2017000057 2017-07-31; NKHR2017000058 2017-07-31; NKHR2017000098 2017-10-23; NKHR2017000103 2017-10-23; NKHR2017000121 2017-11-20; NKHR2017000128; 2017-12-18.

906_NKHR2017000057 2017-07-31.

907_NKHR2017000005 2017-04-10.

908_NKHR2018000091 2018-08-27.

909_NKHR2017000026 2017-05-08.

According to the 2018 survey, there has been a significant increase in the amount of bribery required for the exemption of punishment from defection. One North Korean defector said that her husband, a former money transfer broker, was arrested and detained in the MSS city detention center in Hoeryeong, North Hamgyeong Province in 2016 and was able to be released in 15 days by offering a bribe of 15,000 yuan.⁹¹⁰ Another North Korean defector testified that he/she was caught in an attempt to defect in 2016 and was sent to a detention center but was released by paying 15,000 yuan as a bribe.⁹¹¹ Moreover, there was a testimony that someone was even released by paying a bribe of 30,000 to 40,000 yuan.⁹¹² One North Korean defector testified that her sister-in-law's husband was caught during a defection attempt and that she offered a bribe of 10 million won, which was sent by her sister-in-law, who had already settled in South Korea.⁹¹³

The MSS offices located in border areas verify personal information, home address, time and frequency of river-crossing, activities after the river-crossing (whether there was contact with South Koreans or Christians, any travel to South Korea, connections involving human trafficking, and possession or watching of pornography or South Korean videos). After these

910_NKHR2018000099 2018-10-01.

911_NKHR2018000056 2018-07-02.

912_NKHR2018000109 2018-10-06.

913_NKHR2018000105 2018-10-01.

MSS interrogations, the deportees are sent either to the MPS detention center or to the provincial holding centers in the border areas. Under North Korean criminal procedures, there should be a preliminary examination in which prosecutors establish the facts of any crime and indict or exonerate the suspect. During the preliminary examination, prosecutors ask those repatriated to describe in detail the purpose of their border-crossing and activities in China. During this phase, investigators use beatings, abusive language, and threats to induce people to report on the activities of other repatriated defectors during their stay in China.

(B) Imposition of Punishment

With stronger punishment for defectors following the start of the Kim Jong Un regime,⁹¹⁴ it has been found that they are sentenced more to correctional labor punishment than to labor training camps or receive labor training punishment.⁹¹⁵ According to testimonies, until 2013, those who were repatriated to North Korea for the first time were sentenced to around six months in labor training camps, while those repatriated for the second time were sentenced to correctional labor punishment. However, testifiers also indicate that since 2014, all defectors are sentenced to correctional labor punishment, regardless of the number of times

914_NKHR2017000001 2017-04-10; NKHR2017000002 2017-04-10; NKHR2017000067 2017-08-28.

915_NKHR2012000151 2012-07-24.

they have defected.⁹¹⁶ The term of correctional labor punishment is three to five years, varying according to the number of defections and the length of the defector's stay in China.⁹¹⁷ In particular, testifiers noted that those whose period of illegal border-crossing is over three months are subject to aggravated punishment, since those cases are classified as "heavy crime," according to Paragraph 2 of crimes of illegal border exit/entry.⁹¹⁸ However, it is said that for cases of simple defection, one could offer a bribe to have one's sentence reduced to labor training punishment.⁹¹⁹ Most people sentenced to correctional labor punishment for charges of illegal border-crossing are imprisoned at Jeongeori *Kyohwaso* in North Hamgyeong Province and Gaechon *Kyohwaso* in South Pyeongan Province.⁹²⁰ It has been found that around 70 percent of convicted prisoners at Jeongeori *Kyohwaso* are imprisoned for charges of illegal border-crossing.⁹²¹ Many testifiers said that those who attempt to escape to South Korea are punished as political criminals.⁹²²

916_NKHR2015000084 2015-04-21; NKHR2015000092 2015-05-12;

917_NKHR2015000023 2015-01-27; NKHR2015000035 2015-02-10; NKHR2015000080 2015-04-21.

918_NKHR2017000005 2017-04-10.

919_NKHR2015000031 2015-02-10.

920_Dong-ho Han *et al.*, *Prison Camps in North Korea*, pp. 10-12. (In Korean)

921_*Ibid.*, p. 14.

922_NKHR2015000031 2015-02-10; NKHR2017000007 2017-04-10; NKHR2017000039 2017-06-05; NKHR2017000111 2017-11-20; NKHR2017000112 2017-11-29; NKHR2017000130 2017-12-18.

The overall punishment of forcibly repatriated defectors has been recently reinforced. In the case of defection to China, while in the past, defectors had been educated for a period that matched their period of stay in China, the punishment has recently been increased so that the defectors are sentenced to prison terms that are twice as long as their length of time in China.⁹²³ During the Kim Jong Il era, there were cases in which defectors received only educational measures instead of criminal punishment if they voluntarily returned after crossing the river. However, even voluntary returnees receive harsh punishment under the Kim Jong Un era.⁹²⁴ A testifier who defected from North Korea twice, in 2007 and 2014, said that he/she was not punished based on voluntary return in 2007 under Kim Jong Il. In 2014, however, the investigation was carried out in a harsh manner and the testifier was not forgiven despite his voluntary return.⁹²⁵ In the case of forcible repatriation when the defector was clearly headed to South Korea and did not pay bribes, the defector was sent to a political prison camp (*kwanliso*), which is the heaviest punishment.

923_NKHR2016000072 2016-05-17.

924_NKHR2016000131 2016-06-09.

925_NKHR2016000148 2016-09-06.

Table V-6 Cases of Punishment for Defectors

Testimonies	Testifier ID
In 2014, a woman was sentenced to three years of correctional labor punishment and was released after serving the term in Hyesan, Yanggang Province.	NKHR2015000072 2015-04-07
A testifier defected from Musan County, North Hamgyeong Province to China in January 2014, stayed in China for about one month, and was forcibly repatriated. The testifier would have been released after receiving educational measures if this had happened in the past, but this time the defector was subject to seven months of labor training punishment due to the increased severity of punishment for defection.	NKHR2017000093 2017-10-23
The testifier's son-in-law was caught in his attempt to defect in Yanggang Province on September 2015 and was sent to the MSS provincial bureau. The defector was later told that he was sent to Soosung <i>kyohwaso</i> (political prison camp) in Chongjin.	NKHR2018000123 2018-10-22

(C) Punishment of Defectors' Families

Since Kim Jong Un came to power, surveillance and punishment of defectors have been tightened, along with surveillance and punishment of defectors' families. It seems that there are cases in which the entire family is either expelled or sent to a political prison camp.⁹²⁶ One North Korean testified based on what the testifier heard, that when one mother and daughter were caught in their attempt to defect to South Korea in 2014, the entire family, including the mother and daughter, was imprisoned at a political prison camp.⁹²⁷ Many testifiers, however, have stated that the number

926_NKHR2017000038 2017-06-05; NKHR2017000039 2017-06-05; NKHR2017000072 2017-08-28.

927_NKHR2017000039 2017-06-05.

of actual punishment or expelling of defector's families has dropped recently due to the overwhelming number of defectors.⁹²⁸ Another North Korean defector testified that she had been under MSS monitoring after her husband defected in 2015, but was not subject to actual punishment or sanctions.⁹²⁹ In addition, a different defector testified that families of defectors are rarely punished since there is a defector in one out of every two households.⁹³⁰ In fact, in the last 2 years of survey (2017~2018), there was not a single case in which families had been punished or expelled for the defection of another family member.

However, testimonies on the surveillance and control of defectors' family members have continuously been collected. One North Korea defector said that his/her son was taken and interrogated by the MSS for five days on charges of his older sister's defection in 2016.⁹³¹ Another North Korean defector testified that she was frequently taken and interrogated by the MSS regarding the whereabouts of her husband ever since he defected in 2016 and that they called her two to three times a day to check whether she was home.⁹³² Given the multifaceted manner in which surveillance and sanctions are enforced on the families

928_NKHR2014000050 2014-05-13; NKHR2017000077 2017-08-28; NKHR2017000085 2017-09-25; NKHR2017000092 2017-09-25.

929_NKHR2017000092 2017-09-25.

930_Above testimony.

931_NKHR2018000089 2018-08-27.

932_NKHR2018000101 2018-10-01.

of defectors, there has been an increasing number of cases in which someone who initially did not think of defection eventually decided to defect out of frustration after continuous persecutions.⁹³³ One North Korean defector testified that he/she did not intend to defect at first, but decided to do so in 2016, since he/she was subject to constant surveillance after the defection of the mother and was interrogated by the authorities whenever the testifier was not at home thereafter.⁹³⁴

Table V-7 Cases of Punishment for Defector Families

Testimonies	Testifier ID
In 2014, the testifier who was a military officer was discharged in Hyesan, Yanggang Province due to defection of the testifier's sister.	NKHR2015000072 2015-04-07
After the testifier's husband defected in January 2014, she had been subject to phone taps and lived under around the clock surveillance.	NKHR2017000055 2017-07-31
In June 2014, there was a missing person in a family from Hyesan, Yanggang Province, and the testifier's younger brother was subsequently put under surveillance.	NKHR2014000209 2014-12-16
The testifier's neighbor's father, mother, and younger brother were forcibly deported because their daughter defected to South Korea in the summer of 2014.	NKHR2017000072 2017-08-28
The testifier was caught during a check on a travel permit in 2016 on his/her way to see a grandmother who lived in Hoeryeong, North Hamgyeong Province. Interrogators discovered that the testifier's mother had defected, and the testifier was detained for a month on a charge of attempting to defect.	NKHR2017000054 2017-07-31

933_NKHR2017000001 2017-04-10; NKHR2017000054 2017-07-31.

934_NKHR2017000054 2017-07-31.

D. Human Trafficking

International laws and national laws prohibit human trafficking, stressing its inhumane nature. A substantial number of human rights organizations engage in monitoring human trafficking, and have launched international promotional campaigns to root it out. According to the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organized Crime in 2000 (hereinafter, the Protocol on Human Trafficking), human trafficking means “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” In the provision, the meaning of exploitation is very important, and includes “the exploitation of prostitution of others or other forms of sexual exploitation, forced labor and services, slavery or practices similar to slavery and removal of organs.” The main difference between human trafficking and human smuggling is that traffickers continue to exploit people on an ongoing basis after the illegal border-crossing has concluded.⁹³⁵

935_Norma Kang Muico, “*An Absence of Choice: The Sexual Exploitation of North Korean Women in China.*” (Anti-Slavery International, 2005), p. 3.

(1) Organized Human Trafficking

As the number of illegal border-crossing rapidly increased, organized rings of human traffickers began to appear, earning profit by trafficking North Korean defectors. There were many incidents in which these ring members sought to capture North Koreans around train stations or marketplaces in China for sale. There are many stages to this form of human trafficking and involves many people. There were people who lured women from North Korea and people who received women on the Chinese side of the border. There were brokers who hid the women at certain places and led the exchange of these women. In this process, the cost of such transaction increases at every stage. As organized human trafficking began to occur, the practice of selling North Koreans spread to inner areas of China's three northeastern provinces, which are far away from the border. In most cases, North Korean women become subjects of human trafficking, but North Korean men have also been traded to remote areas of China where there was a dire need for labor.

With increasing attention on cases of human rights violation caused by human trafficking in China, Chinese authorities have launched a massive roundup campaign targeting human trafficking rings. Subsequently, the number of organized human trafficking cases has been significantly reduced. However, as North Koreans stay in China for longer periods of time, some illegal North Korean residents become involved in the trafficking of fellow North

Koreans. For example, there seem to be cases in which some North Korean women living with a Korean-Chinese or a Chinese man engaged in human trafficking make money by handing over North Korean women to Chinese men or to an entertainment establishment. The brokers, who include people of Korean-Chinese descent, trade the female defectors to Chinese men, telling each woman that she can contact the broker again if she does not like the man or has difficulties living with him. If the female defector contacts the broker, she is moved to another area, through which the broker reaps the profit.

Human trafficking is illegal in China, and, if detected, those involved are fined. Since those involved in human trafficking pocket money in the process of transferring women, they become the subject of vigilance when others around them learn of their human trafficking activities. It has been reported that the border patrol battalions conduct intensive investigations on North Korean defectors arrested in China, focusing on human trafficking and narcotics trade.

(2) Human Rights of Women Victims

With China's industrialization, many women in rural areas began to move to cities or foreign countries such as South Korea to make more money. As a result, there is an increased demand for marriage partners or women as subjects of sexual desires. Due to such demand for North Korean women in China, they are often

traded as live-in partners for Chinese men. It seems that most North Korean women were taken to Chinese men without knowing to whom they had been sold. However, even if they know that they will be subject to human trafficking, some North Korean women ask for help to a broker in river-crossing to cover the cost of crossing the border. Furthermore, cases have been identified where some decided to be sold voluntarily because they realized that human trafficking is the only way to escape North Korea due to a tightened control on defection since Kim Jong Un came to power.⁹³⁶ One North Korean defector who defected in 2015 testified that being sold to China through traffickers was the only way to defect and even in such circumstances, many North Korean women find it difficult to defect because it is hard to hire a broker.⁹³⁷

When a North Korean woman is forcibly married to a Chinese man, the marriage sometimes lasts for a long period. However, it appears there are a significant number of cases where the woman often flees to another region when the marriage encounters trouble due to sexual abuse, violence, gambling or drinking. When the husband desires to continue the relationship with the North Korean woman, he usually assumes various expenses, such as buying a resident permit for the woman and providing financial help to her and her family. Even if a North Korean woman was

936_NKHR2017000033 2017-06-15; NKHR2017000094 2017-10-23; NKHR2018000033 2018-05-08.

937_NKHR2017000094 2017-10-23.

able to cross the border without the help of a broker, she is more likely to voluntarily live with a Chinese man because she has no other option if she wants to live in China. Such cases also appear to be no different from the situation of women in forced marriages. Unable to speak Chinese, it is impossible for North Korean women to work at any public place or a restaurant. Thus, they come to realize that there is no choice but to have a de facto relationship with a Chinese man to avoid security checks. In one case, a North Korean woman managed to run away after being trafficked into a forced marriage only to find herself in a relationship with another Chinese man again because it was the only way for her to survive in China.⁹³⁸

In other cases, North Korean women traded in China are forced to provide sexual services at karaoke bars and adult entertainment establishments.⁹³⁹ There are situations where, in order to prevent them from fleeing, the business owners refuse to pay them regularly or brokers snatch their payment in the middle. One North Korean woman testified that she was lured by a broker in 2014 and sold to a brothel in China and that the broker took all her pay stating that he will get her an identity card and a house with that money.⁹⁴⁰ It has also been identified that there is an

938_NKHR2017000065 2017-07-31.

939_NKHR2014000183 2014-11-04; NKHR2017000066 2017-08-28.

940_NKHR2017000066 2017-08-28.

increasing number of organizations operating pornographic computer chatting businesses in China, using female North Korean defectors.⁹⁴¹ One North Korean defector testified that she defected in 2015 through the help of a human trafficking broker, but was sold to a pornographic computer chatting business in Shandong, China, and worked there for two and a half years.⁹⁴² It is said that with the recent increase in demand for human trafficking in China, there have been more cases where Chinese smugglers become also involved in human trafficking.⁹⁴³

Meanwhile it has become more difficult to find human trafficking agents in North Korea as the crackdown against them has strengthened. Many testimonies were collected that human traffickers are subject to public execution or imprisonment at political prison camps.⁹⁴⁴ There were also testimonies that while human trafficking is still active in Hoeryeong and Musan County, North Hamgyeong Province, it has decreased substantially in Onsung County due to the tightened crackdown.⁹⁴⁵ The problem, however, is that both trafficker and trafficked are punished.⁹⁴⁶

941_NKHR2015000125 2015-09-08.

942_NKHR20180001133 2018-11-19.

943_NKHR2015000170 2015-12-01.

944_NKHR2017000009 2017-04-10; NKHR2017000010 2017-04-10; NKHR2017000067 2017-08-28; NKHR2017000103 2017-10-23; NKHR2017000113 2017-11-20; NKHR2017000134 2017-12-18; NKHR2018000057 2018-07-02; NKHR2018000105 2018-10-01.

945_NKHR2015000171 2015-12-01.

946_NKHR2017000011 2017-04-10; NKHR2017000014 2017-04-10; NKHR2017000035

One North Korean defector testified that she was trafficked into China in 2011 and forcibly repatriated to North Korea in 2016 and that she was able to have her sentence reduced through bribery in the trial process even though over two years of stay in China is subject to correctional labor punishment.⁹⁴⁷

E. Evaluation

The forced repatriation of defectors involves many human rights issues. Given that the issue of entering and exiting a country is at the discretion of that country, it cannot be said that North Korea's punishment of acts involving violation of border regulations based on its Immigration Law and Criminal Law is illegal in itself. However, after repatriation, there is serious infringement on the right to not be tortured or receive inhumane treatment (Article 7 of the ICCPR) and the right to humane treatment in detention (Article 10 of the ICCPR) during the investigation and trial processes at holding centers, detention centers, labor training camps and prison camps (*kyohwaso*). Those who attempt to go to South Korea or contact Christians in China are publicly executed or imprisoned at political prison camps (*kwanliso*), constituting a violation of the right to life (Article 6 of the ICCPR) and the right to a fair trial (Article 14 of the ICCPR). The abortions forced on

2017-06-05: NKHR2017000134 2017-12-18.

947_NKHR2017000014 2017-04-10.

female defectors who are impregnated in China and the trafficking of North Korean women also constitute violations of the right to not receive inhumane treatment (Article 7 of the ICCPR) and the right to liberty and security of person (Article 9 of the ICCPR).

Approximately since the beginning of the Kim Jong Un regime, border control and crackdowns on defection have continuously strengthened. Consequently, there is concern that the infringement on the human rights of the North Korean people who are caught defecting or forcibly repatriated may become more serious. It appears that the success rate of re-defection has decreased dramatically. To resolve the defector issue, the North Korean regime ultimately needs to be changed. In addition, the North Korean judicial, trial, and correctional systems should be improved to comply with international standards. Moreover, it should be communicated to China that the forced repatriation of defectors is unjust. Furthermore, provisions prohibiting forced repatriation stipulated in Article 33 of the Convention relating to the Status of Refugees and Article 3 of the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment should be continuously invoked.

4

Overseas Workers

North Korea has dispatched workers to countries such as China and Russia. The number of dispatched workers was estimated to be at 50,000 to the maximum of 100,000 although the accurate number is difficult to grasp.⁹⁴⁸ North Korea has dispatched workers on a massive scale to earn foreign currency. The money coming into North Korea through their overseas dispatched workers was estimated to be around hundreds of millions dollars per year. Subsequently, the United Nations adopted a series of resolutions sanctioning North Korea 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 workers were required to return to North Korea within two years. To that end, the number of North Korean overseas workers is estimated to

948_The National Intelligence Service reported at the National Assembly Intelligence Committee on 2015 that the number of North Korean workers working overseas was 58,000. "In spite of risks of being favorable to capitalism, North Korea sent 80,000 workers on a mission to earn foreign currency," *JoongAng Ilbo*, 10 November 2015.

have significantly decreased.

Issues have been raised with regard to North Korea's practice of sending its workers overseas given that workers are used as a means of earning foreign currency and that their human rights are not properly protected in the process. The current human rights situation of North Korean overseas workers will be analyzed below based on defector testimonies.

A. Discriminatory Selection Process

Every individual has the right to work, allowing him/her to live in dignity. The right to work contributes to the survival of both the individual and to that of his/her family, forms an inseparable and inherent part of human dignity, and is essential to realizing other human rights.⁹⁴⁹ Article 6, paragraph 1 of the ICESCR stipulates that States Parties shall “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.” As a State Party to the ICESCR, North Korea 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 North Korea, workers' freedom to choose jobs is inherently restricted.

949_ UN CESCR, General Comment, No. 18 (2005), para. 1.

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,⁹⁵⁰ 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.

In general, one needs to have a good background to be dispatched overseas.⁹⁵¹ Family background checks usually examine up to third cousins⁹⁵² as well as the wives' family background in the case of married men.⁹⁵³ One also needs to be a Party member to be dispatched overseas.⁹⁵⁴ Although there were testimonies that one does not need to be a Party member in order to be dispatched overseas,⁹⁵⁵ most testifiers said that Party members are most often selected.⁹⁵⁶ Moreover, in many cases, their workplaces prior to dispatch had been in Pyongyang. In this respect, it appears that those who are middle class or above in terms of social class or financial capabilities, are given the opportunity to be dispatched abroad. In addition, there were testimonies that a single person,

950_NKHR20170000007 2017-04-10; NKHR20180000022 2018-04-09.

951_There are also testimonies that those who were dispatched as loggers in Russia in the 1980s were dispatched because of their unfavorable family background. NKHR2014000122 2014-08-12.

952_NKHR2013000196 2013-10-29.

953_NKHR2014000020 2014-03-18.

954_NKHR2014000112 2014-08-12; NKHR2018000008 2018-03-12.

955_NKHR2013000196 2013-10-29.

956_NKHR2014000080 2014-07-01.

who does not have a potential hostage (child) at home, is not allowed to be dispatched overseas for the risk of defection,⁹⁵⁷ and that a person has to have at least two children to be eligible to be dispatched abroad.⁹⁵⁸

It seems that bribery is a decisive factor in the selection process. One North Korean defector helped people work overseas through a contact of senior officials in the Provincial Party Committee around 2013. The defector testified that he/she gave 250 dollars per worker to an official as a bribe while pocketing 150 dollars for him/herself and that the amount of bribe increased if the worker was dispatched as a restaurant server (700 dollars) or a doctor (2,000~3,000 dollars).⁹⁵⁹ Another defector who was dispatched to construction sites in the United Arab Emirates (UAE) in 2010 and Russia in 2013, explained that general workers need to pay at least 200~300 dollars to the Senior Officers Section to be dispatched even though the testifier was able to be dispatched without a bribe through connections with a senior agent of enterprises.⁹⁶⁰ 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

957_NKHR2018000031 2018-05-07.

958_NKHR2018000008 2018-03-12.

959_NKHR2018000022 2018-04-09. This case appears to require a relatively higher amount of bribery since dispatching workers overseas is done through an unofficial route.

960_NKHR2016000163 2016-11-01.

home. The testifier found out that a payment of 150 to 300 dollars was required when he/she tried to send her daughter for such jobs.⁹⁶¹ There was one exceptional case where one North Korean defector was able to work abroad without bribery. The testifier said that he/she may have been recommended by the head of unit in an enterprise he/she was assigned to at that time because the head was impressed by how diligently the defector was working.⁹⁶²

As such, bribery and corruption prevalent in the selection process for overseas workers deprive people the fair opportunity to seek a livelihood by working overseas. In particular, the qualifications based on background and party membership in the selection process violate the right to equality, which prohibits all kinds of discrimination based on social background, birth, property or class. Thus, the freedom to choose jobs is not guaranteed in practical terms due to such requirements. Moreover, various factors are considered in the selection process to prevent flight by the dispatched workers. These include whether he/she has close family members in North Korea. Such requirements also serve as obstacles to choosing jobs based on fair opportunity according to one's abilities.

961_NKHR2017000073 2017-08-28.

962_NKHR2018000043 2018-06-04.

B. Excessive Working Hours

It appears that overseas North Korean workers work longer hours. 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 excessively past pace, in many cases, violating local labor regulations. One North Korean defector who worked from 2010 to 2014 for a North Korean enterprise that had a contract with a Russian company, said 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.”⁹⁶³ One North Korean defector who worked in Magadan Oblast, Russia until 2014 testified that he/she worked for 16 hours a day.⁹⁶⁴ One North Korean defector who was dispatched to the construction site of a royal palace in the UAE from December 2012 to August 2013 testified that while workers from other countries went inside and rested when the temperature peaked, North Korean workers had to continue working with an average of around 16 hours of work a day.⁹⁶⁵ One North Korean defector

963_ NKHR2014000202 2014-12-02.

964_ NKHR2018000002 2018-03-12.

965_ NKHR2013000196 2013-10-29.

who was dispatched to Kuwait until 2017 stated that he/she had a slave-like life where the testifier went to work in the morning, came back home late at night, and fell asleep right away after drinking alcohol.⁹⁶⁶

Meanwhile, North Korean workers sometimes face situations where they not only endure excessive working hours, but also have to do “personal contract work” to earn the required amount to be paid to the State. This infringes upon the basic rights of workers to safe and healthy working conditions. One North Korean defector who was dispatched to Kuwait from 2006 to 2008 testified that the testifier used money earned through personal contract work to submit part of the required amount to be paid to the State because the monthly salary he/she received from the Kuwait company was not enough to fulfill North Korea’s required amount.⁹⁶⁷

C. Excessive Pay Levy and Wage Exploitation by Middle Managers

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 corresponding to their work. Two factors appear to explain this discrepancy.

966_NKHR2018000031 2018-05-07.

967_NKHR2015000144 2015-10-06.

First, it is possible that North Korean workers are given relatively lower wages than those from other countries. One North Korean defector who was dispatched to a construction site in Russia from 2014 to 2015 said that the wage of North Korean workers was the lowest at around 75 percent that of fellow workers from Tajikistan, Ukraine, and Chechnya.⁹⁶⁸

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 wages⁹⁶⁹ after deducting payments submitted to the North Korean authorities, tax, and social security fees.

However, since labor-related contracts are mostly concluded between the North Korean site manager and the local company, the majority of North Korean overseas workers do not know the ratio of their actual wage and the required payment to the State. One North Korean defector who used to work in Eastern Europe

968_ North Korean defector ○○○, 12 October 2016, interviewed in Seoul.

969_ There are also testimonies that workers received their wages directly from a local company. Even in such cases, however, they must submit a substantial part of the received wages as loyalty payments, payments to the Party, and the State planned quota. North Korean defector ○○○, who was dispatched to a construction site in Sakhalin Island, Russia from 2006 to August 2013, testified that the testifier earned 60,000~70,000 rubles on average a month and submitted 25,000 of them to the State a month until 2013. (NKHR2015000001 2015-01-13)

asked the manager of the unit for the details of payment but was told that the manager was not allowed to do that.⁹⁷⁰ 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.

One North Korean defector who was dispatched to a construction site in Russia in 2013 testified that he/she had to pay 800~850 dollars per month to the enterprise that the testifier was working for. The testifier said that as the value of the ruble declined due to the Russian financial crisis in 2013, there were cases where it was not possible to meet the State planned quota when remitting money after exchanging the wages to dollars.⁹⁷¹ There was a testimony that 60 percent of workers' salaries was taken by the State and only 40 percent was given to the workers themselves. Even among the remaining 40 percent, 10 percent of the wages was spent on giving presents to the central authority as well as administrative expenses.⁹⁷² One North Korean defector who used to work in Eastern Europe up until 2018 testified that about 150~220 dollars out of the company's monthly salary of around 500 dollars was recorded as his/her monthly payment and

970_NKHR2018000037 2018-05-08.

971_NKHR2016000163 2016-11-01.

972_NKHR2017000063 2017-07-31.

that the remaining balance was reportedly paid to the North Korean authorities.⁹⁷³ Workers sometimes raise complaints about this practice but enterprise's managers justify the practice citing that North Korean workers are dispatched as a means to secure funding paid to the Party, not to gain personal profits.⁹⁷⁴

Table V-8 Testimonies on Excessive State Planned Quota

Testimonies	Testifier ID
A North Korean defector who was dispatched to Russia from 2004 to 2007, testified that 80 percent of the wage is taken by the State directly, and the testifier received only 20 percent.	NKHR2014000168 2014-10-07
A North Korean defector who was dispatched to Kuwait from 2006 to 2008, testified that while the Kuwaiti company paid salaries, 60 percent was taken by the State and only 40 percent was given to the workers.	NKHR2014000144 2015-10-06
A North Korean defector who was dispatched to Qatar from 2007 to August 2013, testified that only 10 percent of the wages was given to the testifier.	NKHR2013000167 2013-09-17
A North Korean defector who was dispatched to Russia in 2013, testified that the monthly salary was around 1,500 US dollars, from which 950 US dollars went to the company head, the head of the working group, the Party secretary, and the State Party fund.	NKHR2014000112 2014-08-12

Part of the money deducted in the name of the State planned fund seems to be exploited by middle managers and senior officials, and are not actually paid to the State. One North Korean defector testified that a greater part of the wages go to middle officials than to the State.⁹⁷⁵ One testifier who defected in 2017

973_NKHR2018000043 2018-06-04.

974_NKHR2014000112 2014-08-12.

975_NKHR2015000158 2015-11-17.

said that at times, he/she was given less than 30 percent of the monthly payment since middle managers siphoned off much of his/her remaining salary. The testifier believed that because of such wage exploitation, being dispatched overseas is not as lucrative as it once used to be.⁹⁷⁶

Meanwhile, there appeared to be many cases where the local companies employing North Korean workers delay their payment.⁹⁷⁷ One North Korean defector who was dispatched to a construction site in Russia from 2011 to 2015 testified that when he/she was not paid for six months, the North Korean company he/she belonged to did not appropriately respond to the situation.⁹⁷⁸

D. Monitoring and Control by North Korean Authorities

Workers dispatched from North Korea live under the management of the North Korean enterprise signed to the local company. The local North Korean enterprises provide workers with interpreting services, accommodations, and management services. Most overseas North Korean workers live in groups in areas close to the work sites. Their living conditions are mostly identified to be poor. One North Korean defector who was

976_NKHR2017000134 2017-12-18.

977_North Korean defector ○○○, 29 September 2016, interviewed in Seoul.

978_North Korean defector ○○○, 10 October 2016, interviewed in Seoul.

dispatched as a construction worker to St. Petersburg, Russia in 2013 testified that containers and bedding are provided for sleeping, with one container divided into three sections with about 10 people in one section. The testifier said that the sanitary conditions were very poor with shared bathrooms used by hundreds of people, and he/she could not wash clothes or take any break.⁹⁷⁹ Cases where the workers live in dormitories provided by the local companies have also been identified.⁹⁸⁰ Depending on the work site, there are also cases where workers live and eat in temporary accommodations at the work site.⁹⁸¹ Given the characteristics of the work sites, one cannot categorically conclude that those forms of living indicate that group life is forced upon, or arbitrary or illegal intervention is committed in individuals' housing. However, it is true that the space for personal activities is limited as people essentially move in work groups.

What is more worrisome regarding the breach of personal privacy is the daily life surveillance and mutual surveillance system by officials dispatched from the North Korean authority. North Korean authorities also operate a centralized and controlled regime at overseas workplaces. Specifically, North Korean authorities apparently send around one Party Secretary and one MSS agent

979_NKHR2014000112 2014-08-12.

980_North Korean defector ○○○, 6 October 2016, interviewed in Seoul.

981_North Korean defector ○○○, 10 October 2016, interviewed in Seoul; North Korean defector ○○○, 12 October 2016, interviewed in Seoul.

assigned to manage overseas workers.⁹⁸² Given the testimonies of North Korean defectors who were dispatched to Russia and Kuwait, MSS agents are found to be dispatched in the official position of “Labor Safety Officer.”⁹⁸³

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 Life Review Session (*saenghwalchonghwa*) held at a dormitory of their enterprise.⁹⁸⁴ 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.⁹⁸⁵ Those who engage in deviant behavior can be punished or forcibly repatriated to North Korea. Listening to South Korean radio or watching South Korean TV were punished most severely.⁹⁸⁶ One North Korean defector who was dispatched to Sakhalin Island, Russia from 2006 to 2013 testified that workers might be punished when caught watching South Korean TV but can be exempted from punishment by offering a bribe to the agents and filling out self-criticism forms as the goal of the dispatched MSS staff was

982_North Korean defector ○○○, 29 September 2016, interviewed in Seoul.

983_North Korean defector ○○○, 12 October 2016, interviewed in Seoul; North Korean defector ○○○, 30 October 2016, interviewed in Seoul.

984_Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean Workers in the Maritime Province of Russia* (Seoul: KINU, 2015), p. 35. (In Korean)

985_NKHR2013000196 2013-10-29.

986_NKHR2015000068 2015-04-07.

also to earn money.⁹⁸⁷

Workers dispatched overseas are known to be discouraged from going outside the work sites alone.⁹⁸⁸ One North Korean defector who was dispatched to a construction site in Russia from 2012 to 2014 testified that they had to move in groups and around ten to fifteen people moved together.⁹⁸⁹ Another North Korean defector who was dispatched to a construction site in Russia from 2006 to 2013 testified that when going outside, they needed to move in groups of three or more.⁹⁹⁰ One North Korean defector who was dispatched to Eastern Europe up until early 2018 also testified that he/she was only allowed to visit a designated store in a group of three only when reported to the authority in advance.⁹⁹¹ North Korean workers are prohibited from contacting outside people, with only the on-site manager and interpreters having the right to do so.⁹⁹² However, there have also been testimonies that the testifier occasionally moved alone or with the supervisor's approval.⁹⁹³ Some testimonies revealed that such limitations on personal

987_NKHR2015000001 2015-01-13.

988_North Korean defector ○○○, 4 October 2016, interviewed in Seoul.

989_North Korean defector ○○○, 5 September 2016, interviewed in Seoul.

990_NKHR2015000001 2015-01-13.

991_NKHR2018000043 2018-06-04.

992_Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean Workers in the Maritime Province of Russia*, p. 35. (In Korean)

993_North Korean defector ○○○, 30 October 2016, interviewed in Seoul; North Korean defector ○○○, 7 October 2016, interviewed in Seoul; North Korean defector ○○○, 10 October 2016, interviewed in Seoul.

outings are due to external factors such as linguistic barriers and the risks that may arise when going out alone.⁹⁹⁴

E. Risk of Being Subject to Forced Labor

Article 8, paragraph 3 of the ICCPR prohibits forced labor, which refers to “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”⁹⁹⁵ The “penalty” in the provision includes deprivation of rights or privileges and is not limited to criminal penalties.⁹⁹⁶

Whether the labor of overseas North Korean workers constitutes “forced labor” can only be determined by examining several contexts in great detail. In terms of whether the labor is voluntary, which is the primary standard in establishing whether labor is forced, it is hard to regard the labor of overseas North Korean workers as labor that is forced under the threats of punishment and thus involuntarily provided. This is because testimonies suggest that most workers were dispatched overseas on a voluntary basis and that they gave bribes to be selected.⁹⁹⁷ When

994_ North Korean defector ○○○, 6 October 2016, interviewed in Seoul.

995_ Convention Concerning Forced or Compulsory Labour, No. 29 (1930), Article 2, paras. 1 and 2.

996_ Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary*, 3rd ed. (Oxford: Oxford University Press, 2013), p. 324.

997_ NKHR2017000064 2017-07-31; NKHR2017000120 2017-11-20.

asked about the motivation behind wanting to be dispatched abroad, North Korean defectors who were dispatched overseas answered that they had the expectation that they could earn money if they went overseas regardless of the time of their dispatch even if it might be difficult.⁹⁹⁸ When asked about having the autonomy to suspend or terminate work, it has been found that while requests to rest due to excessive labor are not accepted,⁹⁹⁹ it is possible to end the dispatch period if the worker wants to return to North Korea for health reasons.¹⁰⁰⁰ It seems that in some exceptional cases, it is possible to terminate the dispatch period even when it is not based on health reasons out of concern that continued dispatch may lead to deviant behavior.¹⁰⁰¹ Given such context, it appears they were not necessarily forced into overseas dispatch and then into subsequent work after being dispatched.

However, the International Labour Organization (hereinafter ILO) views that even such voluntary dispatch and work can also be regarded as “forced labor” because of several factors in the later processes including debt bondage, withholding of wages,

998_ North Korean defector ○○○, 4 October 2016, interviewed in Seoul; North Korean defector ○○○, 7 October 2016, interviewed in Seoul; North Korean defector ○○○, 23 October 2016, interviewed in Seoul, etc.

999_ “No, it is not possible. Unless you are dead or broke your legs, you need to keep going to work,” North Korean defector ○○○, 4 October 2016, interviewed in Seoul.

1000_ North Korean defector ○○○, 29 September 2016, interviewed in Seoul; North Korean defector ○○○, 7 October 2016, interviewed in Seoul.

1001_ North Korean defector ○○○, 5 September 2016, interviewed in Seoul.

confiscation of identity documents, and abuse of vulnerability, etc.¹⁰⁰² As described above, overseas North Korean workers live in groups with external contact prohibited, and their identity documents (including passports, etc.) are confiscated and retained by the manager dispatched from the North Korean authorities. As shown in <Table V-9>, it appears it is the Security Department (police), officer, and Party committee that confiscate identity documents. According to another testimony, it was the local company, not the North Korean authority, which confiscated the identity documents.¹⁰⁰³ There have been recent cases where North Korean overseas workers whose contract period expired were forced to continue working overseas ever since sanctions against the DPRK have made the dispatch of laborers difficult. This practice in a sense falls into the category of forced labor.¹⁰⁰⁴

1002_ILO, "Indicators of Forced Labour, Special Action Programme to Combat Forced Labour," 2012, <www.ilo.org/forcelabour>. The ILO presented eleven indicators of forced labor that include not only labor that is forced under coercion or the threat of penalty, which is derived from the definition of forced labor, but also other indicators that can be regarded as potentially involving forced labor. These include 1) abuse of vulnerability, 2) deception, 3) restriction of movement, 4) isolation, 5) physical and sexual violence, 6) intimidation and threats, 7) retention of identity documents, 8) withholding of wages, 9) debt bondage, 10) abusive working and living conditions, and 11) excessive overtime.

1003_North Korean defector ○○○, 10 October 2016, interviewed in Seoul; North Korean defector ○○○, 12 October 2016, interviewed in Seoul.

1004_NKHR2018000043 2018-06-04.

Table V-9 Testimonies on the Agent Confiscating Identity Documents

Testimonies	Testifier ID
"(Immediately after dispatch) We need to give it all to the Security Department."	North Korean defector OOO, 4 October 2016, interviewed in Seoul.
"Our officer collected and took all of my identity documents and passport."	North Korean defector OOO, 5 October 2016, interviewed in Seoul.
"When we were going, I carried my passport until I arrived at the destination. After that, the police took it all. They did not give it back. They took all the passports."	North Korean defector OOO, 6 October 2016, interviewed in Seoul
"When we arrive, they give the passports back before we cross (the border), and after passing, they confiscate all of them. So, we cannot hold our passport more than five minutes because the Security Department and the police take them all."	North Korean defector OOO, 17 October 2016, interviewed in Seoul
"We cannot carry it, and we have to give it to the Party committee when we are there."	North Korean defector OOO, 12 October 2016, interviewed in Seoul.

In addition, most North Korean workers start their overseas life with debts from flight costs and visa commissions. They are required to work for several months to repay the costs associated with their dispatch after they arrive. One North Korean defector who was dispatched as a construction worker to St. Petersburg, Russia in 2013 testified that he/she was paid around 1,500 US dollars per month, from which 950 dollars were taken by the company head, the head of the working group, and the Party secretary, as well as for the State Party fund. For the first year, he/she was effectively unpaid due to the additional deduction in the name of cost of airfare, residence, and other expenses.¹⁰⁰⁵ Such circumstances might lead to their forced labor due to debts.

As such, North Korean managers' control over workers' lives, confiscation of identity documents, and the automatically-incurring debt from being dispatched, are factors that inevitably put workers in a situation where they have no choice but to work against their will even though they voluntarily applied to be dispatched overseas.

F. Evaluation

The number of North Korean overseas workers is evaluated to be in decline since the second half of 2017 when sanctions imposed against the DRPK banned the overseas dispatch of North Korean workers. In the past, being dispatched overseas was recognized as a money-making opportunity. As such, there was an increasing demand to be dispatched overseas. However, such opportunity tended to be given mostly to a selected few who have good family backgrounds and can afford to offer bribes. This discrimination has led to the violation of the right to equality in the selection process.

Dispatched workers, after having gone through the entire process, are faced with difficulties on the work site. First, there appears to be many cases where workers are subject to long hours of excessive labor. Cases were reported that a substantial amount of their wages earned through such labor is submitted to the State

1005_NKHR2014000112 2014-08-12.

as part of the State planned quota and that in some cases, part of the remaining wage is exploited by middle managers. Furthermore, workers during their entire period of dispatch are subject to live in groups under the surveillance and control of the North Korean authorities with their identity documents confiscated. Such way of living constitutes a violation of privacy. In addition, there have been cases that workers are subject to forced labor due to the debt incurred in the process of being dispatched. Involved countries, therefore, should make efforts to take more active actions for the improvement of such unfair treatment of overseas North Korean workers.

5

Separated Families, Abductees and Korean War POWs

The issues surrounding separated families, abductees, and Korean War POWs are among the humanitarian issues subject to international humanitarian law. At the same time, they are human rights issues to which international human rights law apply. Therefore, it can be said that those are pressing issues that call for a resolution regardless of the ups and downs in inter-Korean relations. This chapter will examine the issues of separated families, abductees, and Korean War POWs and their human rights.

A. Separated Families

(1) Current Status

“Separated families” refers to family members who are living separately in South and North Korea, including relatives up to

third cousins and current or former spouses.¹⁰⁰⁶ Many Korean families have been forced to live separately since September 2, 1945 when General Douglas MacArthur, Supreme Commander of the Allied Powers, issued General Order No. 1, which divided the Korean Peninsula in half along the 38th Parallel Northern Latitude and American and Soviet Forces moved in to occupy South and North Korea, respectively. As the two sides agreed on a cease-fire for the Korean War in July 1953, establishing the Military Demarcation Line on the Korean Peninsula, the history of family separation has long continued to this date. There are various causes behind family separation depending on the situation at the time, including the division of the Korean Peninsula, voluntary defection to the South or North, abduction or joining the Korean Voluntary Army (hereinafter KVA) during the Korean War, repatriation to the North from Japan, the failure or inability to return after the armistice agreement, being kidnapped to North Korea, and defection from North Korea. The number of separated families in the South and the North differs depending on the timing of the survey, survey organization, and the criteria for separated families.

The 1959 simplified census, conducted by the Ministry of Internal Affairs, suggests that the number of North Koreans who

¹⁰⁰⁶ Article 2 of Act on Inter-Korean Confirmation of the Life or Death of Separated Families and Promotion of Exchange.

had come to South Korea was 731,666 at that time.¹⁰⁰⁷ According to a population and housing census by Statistics Korea (South Korea) which has carried out a census every five years since its founding in 1990, the number of North Koreans who have come to South Korea has gradually decreased with 420,000 in 1990, 400,000 in 1995, and 350,000 in 2000. In the survey conducted in 2005, 720,000 people responded that they had a family in North Korea, and among them around 160,000 said that they themselves came from North Korea.¹⁰⁰⁸

The Ministry of Unification and the Korean Red Cross, along with the Committee of Five North Korean Provinces, have jointly established and operated an Integrated Information System for Separated Families. As of 31 December, 2018 there were a total of 133,208 registered members of “separated families,” with 55,978 surviving and 77,221 deceased. With each year, the number of the deceased has rapidly increased and in 2016, the deceased outnumbered the survived for the first time. Furthermore, the surviving separated family population is rapidly aging. For the

1007_ Quoted in *the White Paper on the Korean Separated Families, The Korean Red Cross* (Seoul: The Korean Red Cross, 2016), The Ministry of Internal Affairs, *The 1st Population Census* (Seoul: The Ministry of Internal Affairs, 1959).

1008_ In the 1990 survey, a question addressed to the respondents was whether they came from North Korea. In the 1995 and 2000 survey, a question was revised to whether they were born in North Korea. Results of each survey show no significant difference. Starting with the 2005 survey, a question of the place of birth was removed from a questionnaire. But at the request of the Unification Ministry, additional survey was carried out on whether they have a family in North Korea. The Korean Red Cross, *the White Paper on the Korean Separated Families* (Seoul: The Korean Red Cross, 2016).

first time in 2013, the proportion of those aged 80 or above exceeded 50 percent of the surviving separated family members. As of late 2018, that percentage has increased to as high as 61.7 percent. Those aged 70 or older represent as high as 84.7 percent.

Table V-10 Registered Separated Family Members

Year	Registered (persons)	Survivors (persons)	Deceased (persons)
2008	127,343	88,417	38,926
2009	128,028	85,905	42,123
2010	128,461	82,477	45,984
2011	128,668	78,892	49,996
2012	128,779	74,836	53,943
2013	129,264	71,480	57,784
2014	129,616	68,264	61,352
2015	130,808	65,674	65,134
2016	131,143	62,631	68,512
2017	131,344	59,037	72,307
2018	133,208	55,978	77,221

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

Table V-11 Surviving Members of Separated Families

Category	90 years or older	80-89 years old	70-79 years old	60-69 years old	59 years or younger	Total
Persons	11,533	23,013	12,850	4,655	3,936	55,987
Percent (percent)	20.6	41.1	23.0	8.3	7.0	100

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

Table V-12 Surviving Members of Separated Families: Those Aged 80 or Above

Year	2012	2013	2014	2015	2016	2017	2018
Survivors (persons)	74,836	71,480	68,264	65,674	62,631	59,037	55,987
80 years or older (persons)	34,225	37,769	37,717	37,442	37,259	36,499	34,546
Percent (percent)	45.7	52.8	55.3	57.0	59.5	61.8	61.7

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

Table V-13 Current Status of Deceased Members of Separated Families

Category	90 years or older	80-89 years old	70-79 years old	60-69 years old	59 years or younger	Total
Persons	17,956	34,929	18,921	4,466	949	77,221
Percent (percent)	23.3	45.2	24.5	5.8	1.2	100

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

(2) Human Rights Issues

(A) Infringement on the Right to Family Unification

Separated families live without the knowledge of whether their family members are still alive, without opportunities to exchange letters or the freedom to meet their family members. In other words, their family right under international humanitarian law is infringed upon. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949 (Geneva Convention (IV)) specifically stipulates the protection of family rights.¹⁰⁰⁹

Table V-14 Provisions on Family Rights in the Geneva Convention (IV)

Article 27, paragraph 1	Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs (The rest is omitted)
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At the time of the Korean War in 1950, South and North Korea were not Parties to Geneva Convention (IV). South Korea signed the Convention on 16 August 1966, and North Korea signed the Convention on 27 August 1957. Soon after the outbreak of the Korean War, the President of the International Committee of the Red Cross (hereinafter ICRC) stated that both South and North Korea are entitled to the benefits of the Convention even if they are not signatories. On 5 July 1950, South Korean President Syng-man Rhee pledged that his government would observe all provisions of the Geneva Convention. On 13 July 1950, North Korea also sent an official letter to the UN Secretary General accepting the proposition of the ICRC. Consequently, Geneva Convention (IV) has had a legally binding effect on both South and North Korea since the Korean War.¹⁰¹⁰

Moreover, the separated family members' right to family unification, recognized by international human rights laws, is

1009_ International Committee of the Red Cross, "Geneva Convention Relative to the Protection of Civilian Persons in Time of War," 12 August 1949.

1010_ Seong-ho Jhe, "A Study on Kidnapping Civilians on Time of War in International Humanitarian Law Perspective Especially Focused on North Korea Abduction of South Koreans During the Korean War," *Seoul International Law Study*, Vol. 1, No. 18 (2011), p. 200. (In Korean)

infringed upon. Among family rights, the right of a family to live together is called “the right to family unification” or “the right to family reunification.” The UDHR and other international human rights treaties stipulate that men and women of full age have the right to marry and form a family, and the family is entitled to protection by the State.¹⁰¹¹ Moreover, when family members increase with the birth of a child, Article 9 of the CRC stipulates that a child shall not be separated from their parents against their will. The right to family unification derives from the right to marry and form a family, and the right of the child to not be separated from their parents.

Family rights and the right to family unification are also stipulated in the Constitution of both South and North Korea. The South Korean Constitution stipulates, “Marriage and family life shall be entered into and sustained on the basis of individual dignity and equality of sexes, and the State shall do everything in its power to achieve that goal” (Article 36, paragraph 1). The North Korean Constitution stipulates, “marriage and family shall be protected by the State. The State shall take deep interest in consolidating the family as the basic unit of social life” (Article 78).

To realize the right to family unification, the South Korean

1011_ Article 16, paragraph 3 of the UDHR; Article 17 and 23 of the ICCPR; Article 5 (d) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination; Article 12 of the ECPHRRF (European Convention); and Article 17, paragraph 2 of the ACHR (American Convention on Human Rights).

government has made efforts to resolve the issues surrounding separated families through inter-Korean Red Cross meetings and ministerial meetings, etc. Especially in 2018, 170 families (833 persons) met their family members in North Korea at a reunion meeting held in Mt. Geumgang resorts on August 15. According to the statistics on exchanges of separated families as of 2018, there has been confirmation of survival or death in 8,262 cases (59,563 persons), 679 cases of letter exchanges (679 persons), 331 reunion meetings in South Korea (2,700 persons), 4,024 reunion meetings in North Korea (18,061 persons), and 557 on-screen meetings (3,748 persons).

Table V-15 Exchanges between Separated Families at the State Level
(Unit: Cases/(Persons))

Year/ Category	Confirmation of Survival/Death	Letters Exchanged	Reunion Meetings in South Korea	Reunion Meetings in North Korea	On-screen Meetings
1985-2002	1,862 (12,005)	671 (671)	331 (2,700)	735 (2,817)	-
2003	963 (7,091)	8 (8)	-	598 (2,691)	-
2004	681 (5,007)	-	-	400 (1,926)	-
2005	962 (6,957)	-	-	397 (1,811)	199 (1,323)
2006	1,069 (8,314)	-	-	594 (2,683)	80 (553)
2007	1,196 (9,121)	-	-	388 (1,741)	278 (1,872)
2008	-	-	-	-	-
2009	302 (2,399)	-	-	195 (888)	-

Year/ Category	Confirmation of Survival/Death	Letters Exchanged	Reunion Meetings in South Korea	Reunion Meetings in North Korea	On-screen Meetings
2010	302 (2,176)	-	-	191 (886)	-
2011~2012	-	-	-	-	-
2013	316 (2,342)	-	-	-	-
2014	-	-	-	170 (813)	-
2015	317 (2,155)	-	-	186 (972)	-
2016~2017	-	-	-	-	-
2018	292 (1,996)	-	-	170 (833)	-
Total	8,262 (59,563)	679 (679)	331 (2,700)	4,024 (18,061)	557 (3,748)

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

In view of the urgency of the separated family issue, the South Korean government has been filming a series of “video letters” from South Korean families to be delivered to their family members in North Korea at a later date when inter-Korean exchanges re-open or even after the death of these individuals. In 2018, 1,500 video messages from South Korean separated families were additionally produced, totaling 21,040. The government is exploring ways to deliver these messages to the North in the future.¹⁰¹²

In addition to government-level exchanges, the South Korean government has continuously provided support for separated

1012_ Separated Families Division, Ministry of Unification (as of 2018-12-31).

family exchanges at the civilian level. Since the 1998 enactment of the “Guideline on Support of Expenses for Exchange of Separated Families,” the government has provided expenses necessary for the confirmation of life or death of separated families, family reunion, and exchange of letters. With a revision of the Guideline in 2017, the government has increased the amount of individual grants to 3 million Korean won for confirmation of survival or death, to 6 million Korean won in the event of a reunion, and to 800,000 Korean won for continued contact, such as exchange of letter. In 2018, the number of confirmation of survival or death was 7, for exchange of letters 36, and for reunion of separated families 1 at the civilian level. The number of separated family contacts at the civilian level has decreased in general due to frozen inter-Korean relations since Kim Jong Un took power. However, given the improving inter-Korean relations since the 2018 PyeongChang Winter Olympics, exchanges at the civilian level are expected to gradually grow in the future.

Table V-16 Separated Family Exchanges at the Civilian Level

(Unit: Cases)

Year	Confirmation of Survival/Death	Letters Exchanged	Personal Meetings
1990	35	44	6
1991	127	193	11
1992	132	462	19
1993	221	948	12
1994	135	584	11
1995	104	571	17

Year	Confirmation of Survival/Death	Letters Exchanged	Personal Meetings
1996	96	473	18
1997	164	772	61
1998	377	469	109
1999	481	637	200
2000	447	984	152
2001	208	579	170
2002	198	935	208
2003	388	961	283
2004	209	776	188
2005	276	843	95
2006	69	449	54
2007	74	413	55
2008	50	228	36
2009	35	61	23
2010	16	15	7
2011	3	21	4
2012	6	16	3
2013	9	22	3
2014	6	11	5
2015	4	5	1
2016	6	43	3
2017	10	46	1
2018	7	36	1
Total	3,893	11,618	1,756

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

(B) Social Discrimination Against Families of Those Who Fled to South Korea

North Korean residents whose family members fled to South Korea face social discrimination. In particular, it appears that they cannot gain Party membership or join the military, and are discriminated against in college admissions and marriage. In

addition, family members of those who went to South Korea are subject to constant surveillance by North Korean authorities. For example, one North Korean defector testified that since it was known through a 2006 program of finding separated families in South Korea that his/her paternal grandfather is still alive in South Korea, the testifier had been under a constant surveillance and been followed by the authorities for ten years, which had led him/her to defect in 2016.¹⁰¹³

Discrimination based on the social class of families of those who fled to South Korea may constitute a violation of the ICCPR and the ICESCR. Article 2, paragraph 1 of the ICCPR and Article 2, paragraph 2 of the ICESCR prohibit any kind of discrimination.

Table V-17 Cases of Discrimination against Separated Families in North Korea

Testimonies	Testifier ID
The testifier's father was a Party member, but he could not become an MSS agent or join Party organizations, and the family was deported from Pyongyang when he/she was in elementary school. This was because his/her great-grandfather had fled to the South during the Korean War.	NKHR2013000127 2013-07-09
The testifier's brother could not join the Party or become a senior officer because his grandfather went missing during the Korean War.	NKHR2014000088 2014-07-15
The testifier's father was discriminated against in obtaining Party membership and senior officer positions since his grandfather's brother had fled to South Korea.	NKHR2014000099 2014-07-29
The testifier's father could not obtain Party membership as his/her grandfather had defected to South Korea.	NKHR2014000150 2014-09-23

1013_NKHR2017000084 2017-09-25.

Testimonies	Testifier ID
The testifier could not join the military because his/her father had fled to South Korea during an overseas business trip in 1994.	NKHR2014000160 2014-10-07
The testifier was discriminated against in promotion as his grandfather had defected to South Korea during the Korean War.	NKHR2014000196 2014-12-02
The testifier had a bad family background as her husband's grandfather was a traitor and uncle was an overseas resident. Her husband joined the military but was not promoted. Moreover, as her grandfather was missing during the war and a cousin went to South Korea and had a press conference, all relatives were sent to prison camps.	NKHR2016000021 2016-01-26
The testifier's family background was bad with her father's family labeled a family of traitors and deported from Pyongyang in the 1960s. Her elder brother could join the military only after paying bribes and her son joined the military but could not enter the school for military officers.	NKHR2016000041 2016-04-05
The testifier had been under the surveillance of North Korean authorities and social discrimination all her life because her maternal grandfather fled to South Korea. She had no choice but to marry a guy who does not have a good family background because she was told that "birds of a feather flock together."	NKHR2017000032 2017-06-05
All the family members of the testifier were forcibly deported to Anju, South Pyeongan Province in 1976 since the testifier's grandfather and uncle went to South Korea during the Korean War. The testifier was born in a place of deportation.	NKHR2018000085 2018-08-11
All the family members were forcibly deported to Geumsan, Yanggang Province since the testifier's grandfather went to the U.S. during the Korean War. The testifier was born in a place of deportation.	NKHR2018000025 2018-04-09

(3) Survey of the Current Situation

On 25 March 2009, South Korea enacted the Act on Confirmation of Life or Death and Promotion of Exchanges of Inter-Korean Separated Families (hereinafter the Inter-Korean Separated Families Act). The Act went into force on 26 September 2009, and stipulates that a survey be conducted to identify the current status

and levels of exchange between the separated families (Article 6, paragraph 1). Accordingly, the Ministry of Unification and the Korean Red Cross conducted an extensive joint survey every five years on the current status of separated families. The first survey was carried out in 2011, followed by the second survey in 2016. The second survey identified the accurate personal data of 51,174 people who applied to find their separated family members so that more accurate information can be utilized in the event of future separated family exchanges. Among those applicants, 6,142 were selected, for which a survey was conducted regarding the situation of separated family exchanges and policy perception.

The Inter-Korean Separated Families Act was partially revised on 22 May 2013. Revisions included a new section on DNA testing to confirm family relationship between separated family members (Article 8, paragraph 2). To that end, from 2014 to 2018, the government had collected genetic samples of a total of 22,693 separated family members, such as blood, saliva, and hair.¹⁰¹⁴ The genetic samples were initially collected and managed by a private contractor. However, for reasons of security concerns, the government (Korea Centers for Disease Control and Prevention under the Ministry of Health and Welfare) decided to assume direct management of such samples.

¹⁰¹⁴ In 2018, two additional tests (Y chromosome, mitochondria) were conducted on those surveyed from 2015 to 2017.

(4) Special Cases in Family Relationships of Separated Families

The Act on Special Cases Concerning Family Relationships, Inheritance between Residents in South and North Korea (hereinafter the Inter-Korean Family Special Cases Act) was enacted on 10 February 2012. This law stipulates special cases of provision on marriage and inheritance property at the level of civil law with regard to human rights of the North Korean people. It stipulates that when bigamy occurs because a couple was separated by the border between South and North Korea, and consequently married another person, the latter marriage cannot be revoked. However, exceptions are recognized when there is agreement from both spouses in the later marriage to revoke it (Article 6 and 7). Moreover, the law stipulates that North Koreans who acquired inherited or bequeathed property in South Korea shall appoint a South Korean estate administrator to be responsible for management of the North Korean's property in South Korea (Article 13). This provision is intended to effectively protect and manage such property and to limit the loss of North Koreans' property in South Korea to North Korea. If a North Korean who owns property in South Korea intends to bring that property to North Korea to directly use or manage property, he/she shall obtain permission from the South Korean Minister of Justice (Article 19).

B. Abductees

(1) Current Status

(A) South Koreans Abducted during the Korean War

The exact number of South Koreans abducted by North Korea during the Korean War is unclear. The seven lists of abducted persons identified thus far show significant differences. It is only possible to make partial estimations of the number of abducted persons based on the followings: a list of abducted Seoul citizens revealed by the Statistics Bureau of South Korea's Ministry of Public Information (2,438) in 1950; a list of abducted persons during the Korean War published by the Statistics Bureau of South Korea's Ministry of Public Information in 1952 (82,959); a list of abducted persons by the Police Headquarters of the Ministry of Internal Affairs (17,532) in 1954; the Missing Civilians List compiled by the Korean Red Cross in 1956 (7,034); and the Missing Civilians List compiled by the Ministry of Defense in 1963 (11,700).¹⁰¹⁵ It is easier to confirm an abduction when the same names appear on different lists, but there are many others

¹⁰¹⁵ In addition to these lists, there is a list of abducted persons during the Korean War (2,316) published by the Family Association for the Korean War Abducted Persons, which was founded in September, 1951. The Association has compiled the list based on the registry of its members since the Second Battle of Seoul on September 28, 1950. Korean War Abductees' Family Union (KWAFU), "Korean War Abductee List-Abductees' Database," <<http://www.kwafu.org/korean/directory.php>>

who are not listed on any of them. There are even some cases where the same person appears on a list of South Koreans abducted by North Korea and a list of defectors to the North (1952, Ministry of Public Information).

Table V-18 Number of South Koreans Abducted during the Korean War

Category	Compiled by	Year	Number of Abductees	Existence of the list
List of victims from Seoul	Statistical Bureau, Ministry of Public Information	1950	2,438	○
List of persons abducted during the Korean War	Statistical Bureau, Ministry of Public Information	1952	82,959	○
Number of persons abducted during the Korean War	Police Headquarters of the Ministry of Internal Affairs	1952	(126,325)	×
List of persons abducted during the Korean War	Statistical Bureau, Ministry of Public Information	1953	(84,532)	×
List of persons abducted due to circumstances of the Korean War	Police Headquarters of the Ministry of Internal Affairs	1954	17,532	○
List of citizens registered as missing	Korean Red Cross /Statistical Bureau, Ministry of Public Information	1956	7,034	○
List of missing citizens	Ministry of Defense	1963	11,700 –	Vol. 1 ○ Vol. 2 ×

Source: The website of the Committee on Fact-Finding of Korean War Abductions and Restoration of the Reputation of the Victim, "Information Board - Current Status of South Koreans Abducted during the Korean War," (http://www.abductions625.go.kr/home/dta/dta01/dta01_02.jsp) (data accessed: April 25, 2019)

Based on the lists available thus far, the Association of Families of Korean War Abducted Persons has analyzed a list of 96,013

abducted persons. The age distribution at the time of abduction can be seen in <Table V-19> below. An overwhelming majority (98.1 percent) of them were male.

Table V-19 Age Distribution of South Koreans Abducted during the Korean War

Age	Number of Persons	Percent (percent)
10 years old or younger	338	0.4
11~15 years old	376	0.4
16~20 years old	20,409	21.2
21~30 years old	51,436	53.6
31~40 years old	14,773	15.4
41~50 years old	5,456	5.7
51~60 years old	1,675	1.7
61years or older	746	0.8
Age Unknown	804	0.8
Total	96,013	100

Source: Korean War Abductees Research Institute, *Source Book on Abduction to North Korea during the Korean War 2*(Seoul: Korean War Abductees Research Institute, 2009). (In Korean)

It has not been officially confirmed whether anyone forcibly abducted to the North during the Korean War has returned to South Korea. Although the number of South Koreans abducted during the Korean War is very large, none of them have been able to return on their own. The reasons are as follows. First, a large number of these abductees were killed as they did not cooperate with the North. Some of them also lost their lives in the process of wartime mobilization (e.g. military service and labor). Second, since the onset of the food shortage, a large number of North Koreans came to South Korea, but none of the wartime abductees returned to the

South, perhaps because most of them are in their senior years, or they may have chosen not to reveal to their North Korean family that they had been forcibly abducted during the war.

(B) Post-War Abductees

A total of 3,835 persons have been abducted to North Korea since the cease-fire that ended the Korean War. Some of them have been held against their will in North Korea as a result of their utility, such as their physical condition and educational background.¹⁰¹⁶ Most post-war abductees were taken to North Korea in the mid-1950s to the 1970s. Some who had been detained in North Korea — Jeong-uk Kim (missionary) in 2013 and Guk-gi Kim (missionary) and Chun-gil Choi in 2014 — have still not returned to South Korea. 3,310 post-war abductees (86.5 percent) have been returned to South Korea after being held for six months to a year. Nine of them defected from North Korea and have returned to South Korea after 2000. As of the end of 2018, one of the nine returning abductees passed away, leaving eight currently living. As of late 2018, the total number of abducted South Koreans still detained in North Korea is estimated to be 516 individuals.

¹⁰¹⁶ Lee who returned to South Korea after abduction to North Korea, testified that the 27 men in the crews of boats Bongsan No. 21 and No. 22 were transferred from Haeju to Pyongyang. They were interrogated to ascertain whether or not they were spies. In the process, they picked seven healthy and educated (10 years of education or higher) individuals, and gave them special training in Chongjin. The North released the rest of the crew back to South Korea.

Table V-20 Current Status of Post-War Abductees (estimated)

(Unit: persons)

Category	Total	Fishermen	Staff of Korean Airlines	Soldiers /Policemen	Others		
					Domestic	Overseas	
Abducted to North Korea	3,835	3,729	50	30	6	20	
Returned	Repatriated	3,310	3,263	39	-	-	8
	Defected	9	9	-	-	-	-
Remaining in North Korea	516	457	11	30	6	12	

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

Table V-21 Number of Detained Abductees by Year

(Unit: persons)

Year	Number of Persons Abducted	Cumulative Total	Year	Number of Persons Abducted	Cumulative Total
1955	10	10	1973	8	429
1957	2	12	1974	30	459
1958	23	35	1975	28	487
1962	4	39	1977	4	491
1964	16	55	1978	4	495
1965	20	75	1980	1	496
1966	19	94	1985	3	499
1967	52	146	1987	13	512
1968	133	279	1992	1	513
1969	20	299	1995	1	514
1970	36	335	1999	1	515
1971	20	355	2000	1	516
1972	66	421			

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

Table V-22 Current Status of Abducted Persons Who Have Returned to South Korea

Name	Date of Abduction	Occupation	Date of Return
○○ Lee	29 April 1970	Crew, the Bongsan No. 22 (fishing boat)	26 July 2000
○○ Jin	12 April 1967	Crew, the Cheondaeh No. 11	30 October 2001
○○ Kim	24 November 1973	Chief engineer, the Daeyounggho	23 June 2003
○○ Go	17 August 1975	Crew, the Chunwanggho	12 July 2005
○○ Choi	17 August 1975	Crew, the Cheonwanggho	16 January 2007
○○ Lee	17 August 1975	Crew, the Cheonwanggho	10 September 2007
○○ Yoon	2 July 1968	Crew, the Geumyunggho	9 January 2008
○○ Yoon	17 August 1975	Crew, the Cheonwanggho	26 February 2009
○○ Jeon	28 December 1972	Crew, the Odaeyang No. 61	5 September 2013

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

(2) Human Rights Issues

(A) Infringement on the Right to Family Unification

As with separated families, abductees also suffer from human rights issues in relation to family unification, letter exchanges, and personal meetings. In this regard, abductees and Korean War POWs are sometimes categorized as special separated families.

Since the inter-Korean summit in 2000, the South Korean government has continuously raised the issue of abductees and Korean War POWs to North Korea. North Korea, however, has

never acknowledged the existence of South Korean abductees and POWs, seeking to avoid drawing attention to these issues. In February and August of 2012, South Korea proposed a working-level inter-Korean Red Cross meeting at which it planned to discuss both separated families, POWs, and abducted South Koreans, a proposal that was only met by North Korea's refusal.¹⁰¹⁷ In August 2013, during the working-level Red Cross meetings on the reunion of separated families, South Korea also raised the issue of POWs and abducted South Koreans. However, they were excluded from the final Inter-Korean Red Cross Working-level Agreement adopted on 23 August 2013. At the 19th reunion for separated families held in February 2014 at Mt. Geumgang resorts, the only confirmation received was that two of the South Koreans abducted during the Korean War, whose whereabouts were requested by the South, were dead. In the 20th reunion for separated families held in October 2015, Geon-mok Jeong, who was abducted in the Odaeyangho (a South Korean trawler) incident in 1972, met his mother living in South Korea.¹⁰¹⁸ In a family reunion on August 2018, 21 POWs and abductees' life or death were confirmed and 12 people of 6 families were reunited with their family members residing in the North. After the 2000 inter-Korean summit and up until the end of 2018, the life or death of 133 South Korean

1017_ Ministry of Unification, *2013 Unification White Paper* (Seoul: Ministry of Unification 2013), p. 135. (In Korean)

1018_ *Yonhap News Agency*, 24 October 2015.

abductees and POWs have been confirmed. During the same period, there were 60 cases of family reunions.¹⁰¹⁹

(B) Forced Transfers and Detention

The abduction of civilians during the Korean War by North Korea constitutes a serious violation of Article 49 of Geneva Convention (IV), which prohibits forced transfer of civilians. At the time, this had already been an established norm under international customary law.¹⁰²⁰ Moreover, the Geneva Convention (IV), on protection of civilians during wars, prohibits detention of civilians in principle (Article 79).

Table V-23 Provisions on Forced Transfer and Detention in the Geneva Convention (IV)

Article 49	Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. (the rest is omitted)
Article 79	The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

(C) Enforced Disappearances

The abduction of civilians by North Korean authorities is

1019_ Ministry of Unification, *2019 Unification White Paper* (Seoul: Ministry of Unification 2019), p. 184. (In Korean)

1020_ Min-jeong Jeong, "Analysis of the Issues of Abductees and Korean War POWs from the Perspective of International Laws," in *Abduction and Enforced Disappearances by North Korea*, eds. Center for North Korean Human Rights Research (Seoul: KINU, 2015), p. 93. (In Korean)

closely related to enforced disappearances. Enforced disappearance is a serious issue in that it violates various human rights at multiple levels. In other words, committing enforced disappearances in itself infringes upon the right of individuals. Moreover, the act of enforced disappearance violates various civil, political, economic, social, and cultural rights due to the possibility of inhumane treatment that could occur in the process, including torture and deprivation of the right to health and education.¹⁰²¹

Since 1950, North Korea has systematically abducted nationals of other countries as part of State policy and refused their repatriation. The COI estimates that victims of enforced disappearances exceed far over 200,000 persons, including children.¹⁰²² It has been identified that the final approval of executing enforced disappearances is made by the Supreme Leader.¹⁰²³ The majority of the enforced disappearances were carried out to exploit labor and technology for North Korean authorities, and some victims were deployed for espionage and terrorist activities. Women abducted from Europe, the Middle East and Asia were forcibly married to men from other countries.¹⁰²⁴

1021_OHCHR, Enforced or Involuntary Disappearance, Fact Sheet No. 6/Rev.3. (2009); Ku-youn Chung, "Emergence and Spread of the Concept of Enforced Disappearances," in *Abduction and Enforced Disappearances by North Korea*, eds. Center for North Korean Human Rights Research, requested in p. 7. (In Korean)

1022_UNHRC, "Report of Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea," (2014), para. 6.

1023_ *Ibid.*, para. 67.

North Korea, however, has strongly denied the existence of these enforced disappearances. The “Korean Air Abductees’ Families Committee” (hereinafter “the Families Committee”) filed, with the UNHRC’s Working Group on Enforced or Involuntary Disappearance (hereinafter WGEID), cases of abductees following the KAL incident who have not returned including Won Hwang (17 June 2010), Dong-gi Lee (8 October 2010), and Jeong-woong Choi (8 November 2010).¹⁰²⁵ North Korea responded that “the cases of three people who have not returned do not constitute enforced disappearances” and “there is not a single case in North Korea which constitutes enforced or involuntary disappearances and detainment against their will.” Moreover, North Korea asserted regarding the incident of Korean Air Lines hijacking in the Working Group on Enforced or Involuntary Disappearances meeting held in Geneva, Switzerland that “This is part of a scheme to fight with North Korea, driven by hostile powers,” responding that “It is impossible to confirm their life or death” to the request of the Families Committee for repatriation of abductees sent through the

1024_ *Ibid.*, para. 67.

1025_ In 1969, when an airplane operated by Korean Air was hijacked, 50 persons (4 flight attendants and 46 passengers) were abducted. North Korea returned only 39 passengers on 14 February 1970 but did not return the other 11. (4 flight attendants and 7 passengers). UNHRC’s Working Group on Enforced or Involuntary Disappearance (WGEID) was established by the resolution of the UN Commission on Human Rights (currently UN Human Rights Council). WGEID reviews the cases of disappearances, submitted by families of enforced disappearances or civil organizations, and notifies the suspected countries of the review results demanding that those countries report accurate investigation outcomes.

International Committee of the Red Cross in April 2011, and the request for confirmation of life or death by the South Korean government in June 2006.¹⁰²⁶

WGEID requested in its report submitted to the UNHRC in 2014 that the UN Security Council refer North Korea's enforced disappearance to the International Criminal Court (ICC).¹⁰²⁷ It has also made a request to the North Korean authorities to reveal the information on a total of 66 enforced disappearance between May 2017 and May 2018,¹⁰²⁸ among which include Jeong-uk Kim, Guk-gi Kim, and Chun-gil Choi as stated above.¹⁰²⁹ WGEID has so far made a request on a total of 233 enforced disappearance cases to North Korea to reveal the information by 2018.¹⁰³⁰

Among the forcibly disappeared, some were abducted through physical force or persuasion with false information. There may be others who voluntarily moved to North Korea. In any cases, however, their right to leave North Korea were infringed upon. In that regard, they can be called the victims of enforced disappearances. Moreover, they were deprived of the right to freely move within North Korea and the right to not receive brutal, inhumane treatment. All those who were forcibly disappeared are put under strict

1026_ *Yonhap News Agency*, 18 September 2012.

1027_ UN Doc. A/HRC/27/49 (2014), para. 72.

1028_ UN Doc. A/HRC/39/46 (2018).

1029_ UN Doc. A/HRC/WGEID/114/1 (2018).

1030_ UN Doc. A/HRC/39/46 (2018).

surveillance and are refused opportunities for education or jobs.¹⁰³¹ In the 2014 resolutions on North Korean Human Rights adopted after publication of the COI report, the UNHRC criticized the organized abduction, refusal to repatriate, and enforced disappearances by North Korea,¹⁰³² and urged North Korean authorities to immediately allow their return home.¹⁰³³ Since then, there have been numerous UNHRC resolutions on North Korean human rights expressing concern about enforced disappearances.¹⁰³⁴

(D) Use of Abductees by North Korean Authorities

Some of the abducted South Koreans are used in broadcasts delivered to South Korea or in espionage training. Two Korean Airlines flight attendants, Kyung-Hee Sung and Kyung-sook Chung, have been used in broadcasts sent to South Korea, while other detainees are used as instructors for North Korean espionage agents sent to the South. According to testimonies of defectors who came to South Korea in 1993, about twenty unidentified abductees from South Korea are working as spy instructors at the “Center to Revolutionize South Korea” located in the Yongseong District of Pyongyang. This center replicates parts of South Korea and is designed to teach and train graduates of the Kim Jong Il

1031_ UN Doc. A/HRC/25/63 (2014), para. 68.

1032_ UN Doc. A/HRC/RES/25/25 (2014), para. 2(f).

1033_ *Ibid.*, para. 3(f).

1034_ UN Doc. A/HRC/RES/28/22 (2015), paras. 1(f), 2(f).

Political Military College (renamed in 1992) on how to adjust to life in South Korea. The center is under the direct control of the Operations Division in Building No. 3 of the Central Party, which is responsible for training espionage agents to infiltrate the South. In addition, North Korea is training some of the abductees in anti-South Korea operations. According to the testimonies of a formerly kidnapped fisherman who defected from North Korea in June 2000, some of his colleagues were also engaged in anti-South Korea operations after undergoing a period of special training. The testifier himself admitted to having received espionage training.¹⁰³⁵

The remainder of the abducted, whom North Korea presumably did not find useful, were estimated to be detained in various political prison camps (*kwanliso*) for a certain period. Some of these abducted individuals from South Korea detained in political prison camps can be identified from the Amnesty International special report, entitled “New Information on Political Prisoners in North Korea” published in 1994. Included are the names of abducted individuals, who appear to have been detained in the now defunct prison camp at Seungho-ri until 1990. In January 1999, South Korea’s National Security Planning Agency also reported that 22 abducted South Korean individuals, including Jae-hwan Lee, were detained in a political prison camp.

1035_North Korean defector ○○○, 7 January 2004, interviewed in Seoul.

(3) Fact Finding on Abduction during the Korean War and Restoring the Honor of Abductees

In April 2004 and again in 23 July 2008, the National Human Rights Commission of Korea called for the implementation of the recommendations set forth in the survey and the enactment of special legislation for abductee relief and compensation. On 26 March 2010, South Korea enacted and promulgated the Act on Discovering the Truth of Abduction during the Korean War and Restoring the Honor of Victims (6·25 Abductee Law in short). On 13 December 2010, the Committee on the Act on Discovering the Truth of Abduction during the Korean War and Restoring Honor of Victims (hereinafter “the Committee”) was officially launched. Article 10 of the 6·25 Abductee Law stipulates that the Committee shall prepare a report on the discovery of the truth of abductions and report it to President and the National Assembly and release the report. As such, the Committee published a 480-page-long “Report on Discovering the Truth of Abduction during the Korean War” on August 2017.¹⁰³⁶ The report contains the establishment of the Committee and its fact finding activities, the progress of abduction cases during the Korean War, analysis of abduction cases, and a legal review of abduction acts during the war along with 15 supplements that contain documents regarding abduction

1036_ “Report on Discovering the Truth of Abduction during the Korean War,” by the Committee on the Act on Discovering the Truth of Abduction during the Korean War and Restoring Honor of Victims, 2017. (In Korean)

cases of the Korean War.

Meanwhile, the Committee constructed the National Memorial for Abductees during the Korean War as part of the efforts to discover the truth and restore the honor of the abductees. The groundbreaking ceremony of the memorial was held in *Imjingak* Pavilion on 20 October 2016. The memorial opened one year later in 29 November 2017.

The Committee received information on 5,505 abduction cases from 3 January 2011 to December 2015. Among them, the Committee evaluated 5,375 cases after excluding overlapping application and cases that have been withdrawn by the applicant. Out of those cases, 4,777 cases were evaluated as abductions. 138 cases were decided as non-abductions and 460 cases were deemed be impossible to determine.

Decision as Abductions	Decision as Non-Abductions	Impossible to Determine	Total
4,777	138	460	5,375

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

(4) Grants and Assistance for Post-War Abducted Victims to North Korea

On 27 April 2007, the Act on the Compensation and Assistance for Victims Abducted to North Korea since Conclusion of the Armistice Agreement (hereinafter referred to as the Post-War

Abduction Victims Act) was enacted. Accordingly, when an abductee returns home, he/she will receive a government grant for re-settlement. The victims and their families are also entitled to compensation from the government. In accordance with Article 6 of the Act, the Committee on Compensation and Assistance for Victims Abducted to North Korea (hereinafter “the Committee”) was formed on November 30, 2007 to review and determine the grant amount and the scope of assistance and compensation. The Committee received a total of 451 requests up to December 2016. Through 49 meetings, the Committee recognized 428 cases and granted around 14.9 billion won in consolation payments.

Table V-25 Application and Receipt of Consolation Payments for Returning Abductees
(Unit : cases)

Category	2008	2009	2010	2013	2015	Total
Consolation Payment	232	99	97	0	1	429
Settlement and Housing Support	7	1	0	1	0	9
Compensation	0	8	4	1	0	13
Total	239	108	101	2	1	451

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

Table V-26 Decisions on Consolation Payments, etc. for Returning Abductees

Category	Number of Applications	Cases of Disbursement	Amount (1 million Korean won)
Consolation Payment	429	417	12,958
Settlement and Housing Support	9	9	1,773
Compensation	13	2	181
Total	451	428	14,912

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

Table V-27 Meetings of the Committee on Compensation and Assistance for People Abducted to North Korea

Category	2007	2008	2009	2010	2011	2013	2014	2015	2016	Total
Number of meetings	1	11	11	11	6	2	2	3	2	49

Source: Separated Families Division, Ministry of Unification (as of 2018-12-31)

C. Korean War POWs

(1) Current Status

The term “Korean Armed Forces prisoners” refers to those members of the South Korean Armed Forces detained in enemy countries, unable to return to South Korea. The UN Command at the time of the armistice following the Korean War estimated that 82,000 members of the Korean Armed Forces were missing. However, only 8,343 POWs were returned during three rounds of prisoner exchanges between April 1953 and January 1954. Accordingly, it is estimated that many more POWs remain detained in North Korea.¹⁰³⁷

All Korean POWs who have not returned were classified as Killed in Action based on the Military Personnel Management Act that requires all persons Missing in Action (hereinafter referred to as MIAs) be re-classified as Killed so that after a certain period their families may benefit from compensation and consolation

¹⁰³⁷ Ministry of Defense, *2012 Defense White Paper* (Seoul: Ministry of Defense, 2012), p. 110. (In Korean)

payments. Starting with the late Lt. Chang-ho Cho, a former Korean War POW, who returned to South Korea in 1994, other POWs have continued to return. As of December 2018, a total of 80 Korean War POWs have returned home to South Korea with 430 members of their families surviving. An absolute majority of former POWs returning home came from North Hamgyeong Province, as they were found to have been forcibly assigned to work at coal mines there.

Since 2011, there have been no former POWs returning home to South Korea, seemingly because patrols and surveillance along the border regions have strengthened since Kim Jong Un came to power, and the POWs themselves have aged considerably, which makes it physically difficult for them to cross borders on their own.

Table V-28 Status of Returning Korean War POWs by Year
(Unit: persons)

Year	Returning POWs	Cumulative Total	Year	Returning POWs	Cumulative Total
1994	1	1	2005	11	59
1997	1	2	2006	7	66
1998	4	6	2007	4	70
1999	2	8	2008	6	76
2000	9	17	2009	3	79
2001	6	23	2010	1	80
2002	6	29	2011~2018	-	80
2003	5	34	Total		80
2004	14	48			

Source: Ministry of Defense (as of 2018-12-31)

Table V-29 Origin of POWs in North Korea (including the deceased)

Province/ Category	North Hamgyeong Province	South Hamgyeong Province	North Pyeongan Province	South Pyeongan Province	Yanggang Province	Jagang Province	North Hwanghae Province	South Hwanghae Province	Gangwon Province	Total
Number of persons	60	9	0	3	4	1	1	1	1	80
Percent (percent)	75.0	11.25	0.0	3.75	5.0	1.25	1.25	1.25	1.25	100

Source: Ministry of Defense (as of 2018-12-31)

(2) Human Rights Issues

(A) Infringement on the Right to Family Unification

The human rights of Korean War POWs are infringed upon, as is the case for separated families and abductees, with regard to family unification, letter exchanges and personal meetings, etc. From the time when prisoner exchanges took place after the Korean War to the 1960s, the United Nations Command at Military Armistice Commission meetings repeatedly demanded return of the remaining South Korean POWs to South Korea. However, North Korea insisted that they had returned “all” South Korean POWs to the Neutral Nations Supervisory Commission, and that no South Korean POWs were forcibly detained in North Korea. North Korea’s position on this issue remains unchanged to this day.¹⁰³⁸

Korean War POW reunions should be carried out quickly for

1038_Ministry of Defense, *2012 Defense White Paper*, p. 110. (In Korean)

humanitarian reasons and to realize the right to family unification. As of late 2018, 53 of the 80 returned Korean War POWs had passed away. The 27 surviving returned Korean War POWs are in their 80s, with six of them aged 90 or above. There have been 56 Korean War POWs that were identified through a reunion event of separated families up until 2018, among which 18 Korean War POWs have met with their families.¹⁰³⁹

Table V-30 Age of Surviving POWs

Age (years)/ Category	84	85	86	87	88	89	90	91	92	93	94	Total
Number of persons	1	1	3	7	2	7	2	2	0	1	1	27
Percent (percent)	3.7	3.7	11.1	25.9	7.4	25.9	7.4	7.4	0.0	3.7	3.7	100

Source: Ministry of Defense (as of 2018-12-31)

Table V-31 Age of POWs at the Time of Death

Age (years)/ Category	70 or younger	71~75	76~80	81~85	86 or older	Total
Number of persons	1	4	11	23	14	53
Percent (percent)	1.9	7.5	20.8	43.4	26.4	100

Source: Ministry of Defense (as of 2018-12-31)

1039_ Ministry of Defense, *2018 Defense White Paper*, p. 218. (In Korean)

(B) Forced Detainment

The Geneva Convention Relating to the Treatment of Prisoners of War of August 12, 1949 (Geneva Convention (III)) stipulates that prisoners of war must be released or returned without delay after the cessation of hostilities (Article 118).¹⁰⁴⁰ North Korea joined the Geneva Convention on 27 August 1957. Its denial of the existence of Korean War POWs and refusal to repatriate them violate Article 118 of Geneva Convention (III), which stipulates the release and return of prisoners of war. Even in customary international law, immediate release and return of prisoners of war is regarded as the duty of all states.¹⁰⁴¹ This was a norm that was established as customary international law at that time.¹⁰⁴²

(C) Forced Labor

According to the testimonies of defectors and returned POWs, many POWs were forced to join the KPA during the Korean War. After the ceasefire between 1954 and 1956, they were group-assigned to coal mines, factories, and farm villages to participate

1040_ International Committee of the Red Cross, "Geneva Convention Relating to the Treatment of Prisoners of War," 12 August 1949.

1041_ International Committee of the Red Cross, *Customary International Humanitarian Law* (Cambridge: Cambridge University Press, 2005), p. 451; Requoted in Buhm-suk Baek, "Enforced Disappearances by North Korea and the Crime against Humanity," in *Abduction and Enforced Disappearances by North Korea*, eds. Center for North Korean Human Rights Research, p. 63. (In Korean)

1042_ UN Doc. A/HRC/25/CRP.1 (2014), para. 1143, footnote 1626.

in post-war rehabilitation projects. According to a U.S. Department of Defense document declassified on 12 April 2007, a “Report on the Transfer of Korean War POWs to the Soviet Region,”¹⁰⁴³ several thousand South Korean POWs were transferred to Okhotsk and other Soviet Far Eastern ports between November 1951 and April 1952. They were then detained in Kholima detention center (*guryujang*) near Yakutsk.¹⁰⁴⁴ The number of POWs transferred to the Chukchi Sea region was at least 12,000. The report also mentioned that the death toll was high due to the difficult road and airfield construction work to which they were assigned. With regard to this issue, the Ministry of National Defense in South Korea announced on 18 December 2007 that it was unable to confirm or discover any evidence concerning the transfer of South Korean soldiers (POWs) into the Russian Far Eastern Province, even though it had visited Russian military research institutes and conducted extensive interviews with the Pentagon personnel who wrote the report, the son of former Soviet Union general officer Seong-ho Kang who claimed that the South Korean POWs were transferred to the Soviet Union, around ten Korean Russian veterans who had participated in the Korean War, former POWs who returned to South Korea, and over 100 North Korean defectors in

1043_ This report was written by the U.S. and Russia on 26 August 1993, as a part of the investigative activities of the “Joint U.S.-Russian Committee for POWs and MIAs,” which was formed after the Cold War to confirm the status of Korean War U.S. POWs in Russia and the return of their remains.

1044_ *Yonhap News Agency*, 13 April 2007.

Russia.

Most Korean War POWs are believed to have been assigned to coal mines in North and South Hamgyeong Provinces. At the time, North Korea was in great need of manpower at their coal mines, and ordinary North Koreans were reluctant to work there. It was also easy to control and conduct surveillance on those living in coal mine communities. According to a series of previous research conducted by KINU, many South Korean POWs were assigned to work and lived at coal mines that included Sanghwa Coal Mine in Onsung County, North Hamgyeong Province (Hwa-sik Ahn, Kwang-yoon Woo, ○○ Jang, Seung-ro Hong, In-kong Park, Sang-jin Kim, Sang-won Shin, ○○ Choi, Sam-sik Ok, Myong-jo Bae, Bu-jae Baek, Won-mo Chung, and Bok-man Lee), Musan Coal Mine (Gap-do Lee, Young-ho Kang, and Hee-keun Lee), and Hakpo Coal Mine in Sechon County, Hoeryeong (Yong-yeon Jang, Tae-in Ryu, ○○ Oh, Jeung-ho Lee, and Soo-hwan Jeong). The POWs assigned to work as miners had to work 12-hour shifts with up to 1,100~1,200 of them estimated to be assigned to coal mines in North Hamgyeong Province during a certain period.¹⁰⁴⁵

It appears that after the Korean War, Korean War POWs were detained in No. 25 *Kwanliso* in Chongjin. This *Kwanliso* was used as a POW camp after the War, and later transformed into a political prison camp.¹⁰⁴⁶ Korean War POWs were given People's

¹⁰⁴⁵ *The Chosun Ilbo*, 30 April 2013.

registration cards and released to society from political prison camps in June 1956, but most were assigned to coal mines in their previous political prison camp.

The forced labor of Korean War POWs violates both international humanitarian laws and international human rights laws. First of all, it violates Articles 13, 51, and 52 of Geneva Convention (III), which stipulates that prisoners of war must at all times be humanely treated (Article 13), and that they must be granted suitable working conditions (Article 51). Moreover, Geneva Convention (III) prohibits labor that is dangerous or harmful to the health of a prisoner of war (Article 52). The forced labor of Korean War POWs also violates Article 8, paragraph 3 of the ICCPR, which stipulates the prohibition against forced labor, and Article 10, paragraph 1 of the ICCPR, which stipulates humane treatment to everyone deprived of liberty.

Table V-32 Provisions on Forced Labor in the Geneva Convention (III)

Article 13	Prisoners of war must at all times be humanely treated. Any unlawful act or commission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in their custody is prohibited and will be regarded as a serious breach of the present Convention. (The rest is omitted)
Article 51	Prisoners of war must be granted suitable working conditions, regarding accommodation, food, clothing and equipment. These conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work. (The rest is omitted)
Article 52	Unless it is voluntary, no prisoner of war may be employed on labor unhealthy or dangerous in nature. (The rest is omitted)

1046_North Korean defector ○○○, 27 September 2012, interviewed in Seoul.

(D) Social Discrimination against Korean War POWs and their Families

Korean War POWs and their families face social discrimination in North Korea. It appears that they are constantly subject to oppression and discrimination, in terms of their choice of jobs and residence, because of their background as former POWs. Since their personal background impacts the lives of their children, many POWs chose not to tell their children about their past. Notwithstanding that fact, children of former POWs are discriminated against in their careers, as well as in Party membership, and college admission.¹⁰⁴⁷

While there are testimonies of exceptional cases that even former POWs joined the Party or do not experience significant discrimination, discrimination against former POWs is identified to be a broad and continuous phenomenon that remains fixed in North Korean society. Social discrimination against Korean War POWs and their families or relatives may constitute violation of the ICCPR (Article 2, paragraph 1) and the ICESCR (Article 2, paragraph 2) which stipulate that discrimination is prohibited.

1047_NKHR2015000095 2015-05-12.

Table V-33 Discrimination against Korean War POWs and their Families

Testimonies	Testifier ID
The testifier’s uncle faced discrimination in job assignments on the grounds that his grandfather was a Korean War POW from South Korea.	NKHR2014000093 2014-07-15
The testifier’s nephew was accepted into the No. 5 Department, but this was cancelled on the grounds that his grandfather was an exchanged POW.	NKHR2014000168 2014-10-07
The testifier’s family background was very bad because the testifier’s grandfather was a POW and other family members faced discrimination in joining the Party, being selected as a senior official and promotion.	NKHR2016000099 2016-06-14

(3) Treatment and Support for Korean War POWs

The South Korean government has set standards and detailed rules about the treatment of and assistance for former POWs who have returned, and on 29 January 1999, enacted “The Act on Treatment of the Republic of Korea Armed Forces Prisoners of War.” It also enacted “The Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War” on 24 March 2006 in an effort to help resettle and assist returned POWs and their families. Based on “the Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War” and the Enforcement Decree to this Act, all returned POWs receive back pay, pensions, resettlement grants, and housing assistance, based on their days served from the date they were taken prisoner, to the day they retired from active duty after returning to South Korea. If a POW died in North Korea, where he had been detained, his spouse or children, upon return to South Korea, receive special

grants for POW families in addition to normal settlement assistance that North Korean defectors receive upon entry into South Korea.

The Ministry of Defense revised “the Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War” on 31 December 2008, and inserted a new section allowing “social adjustment education” for the returning POWs (Article 6-2). Since late 2008, the Ministry of Defense has conducted special reorientation programs for the returning POWs so they can quickly adjust to life in South Korea. They also receive professional education and psychiatric assistance offered by civilian organizations to gain the necessary skills and knowledge for their new lives.¹⁰⁴⁸

The revised Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War, revised on 22 March 2013, improved the level of assistance and support for POWs and their families. It also includes the following articles that cover the provisions given in their titles: Protection of ROKAF Prisoners of War and Family Members of ROKAF Prisoners of War from Places of Detention (Article 5-2); Support of Employment for Family Members of Prisoners of War from Places of Detention (Article 15-2), Support for Admission to Ancient Palaces, etc. (Article 15-3), and Respectful Treatment for ROKAF Prisoners (Article 15-4).

1048_Ministry of Defense, *2012 Defense White Paper*, p. 112. (In Korean)

Table V-34 Residence of Returning POWs (including the deceased)

Region/ Category	Seoul	Incheon	Gyeonggi	Gangwon	Daejeon	S. Chung cheong	N. Chung cheong	Daegu	N. Gyeongsang
Persons	22	1	20	5	2	0	1	4	6
Percent (percent)	27.5	1.3	25.0	6.3	2.5	0.0	1.3	5.0	7.5

Region/ Category	Busan	Ulsan	S. Gyeongsang	Gwangju	S. Jeolla	N. Jeolla	Jeju	Total
Persons	5	2	6	1	3	2	0	80
Percent (percent)	6.3	2.5	7.5	1.3	3.8	2.5	0.0	100

Source: Ministry of Defense (as of 2018-12-31)

Table V-35 Residence of Surviving POWs

Region/ Category	Seoul	Incheon	Gyeonggi	Gangwon	Daejeon	S. Chung cheong	N. Chung cheong	Daegu	N. Gyeongsang
Persons	8	0	10	2	0	0	0	2	0
Percent (percent)	29.6	0.0	37.0	7.4	0.0	0.0	0.0	7.4	0.0

Region/ Category	Busan	Ulsan	S. Gyeongsang	Gwangju	S. Jeolla	N. Jeolla	Jeju	Total
Persons	1	1	1	0	2	0	0	27
Percent (percent)	3.7	3.7	3.7	0.0	7.4	0.0	0.0	100

Source: Ministry of Defense (as of 2018-12-31)

D. Evaluation

The issues of separated families, abductees, and Korean War POWs are humanitarian issues where international humanitarian laws apply and at the same time, have the characteristics of human

rights issues where international human rights laws apply. As for separated families, their family rights are being infringed upon in violation of international humanitarian laws (Article 27 of Geneva Convention (IV)). Moreover, the right to family unification is being violated in terms of separated families, abductees and Korean War POWs, i.e. the right to not be subjected to arbitrary or unlawful interference (Article 17 of the ICCPR) and the right to form a family and be protected by society and the state (Article 23 of the ICCPR).

South Korea and North Korea held a reunion for separated families in August 2018 at Mt. Geumgang. At this event, families of Korean War POWs and those abducted to North Korea were able to meet their family members. However, the two Koreas have been unable to make significant progress in resolving the issues of separated families, abductees and Korean War POWs. To realize the right to family unification for these people, there is a need to confirm the survival or death of these groups on a massive scale, and a need for regular reunions and expansion of the size of those reunions.

The abduction of civilians during the Korean War and their detention by North Korea constitute violation of Article 49 and 79 of Geneva Convention (IV), which prohibit forced transfer and detention of civilians. Moreover, North Korea's denial of the existence of Korean War POWs and its refusal to repatriate them violate Article 118 of Geneva Convention (III), which stipulates

the release and return of POWs. Furthermore, the forced labor of Korean War POWs violates the right to humane treatment (Article 13), the right to appropriate work conditions (Article 51) and the right to not be used for labor that is harmful to health or dangerous (Article 52) in Geneva Convention (III), the right to not be forced into labor (Article 8), and the right to receive humane treatment when deprived of liberty (Article 10) in the ICCPR. The social discrimination against families of those who had fled to South Korea, Korean War POWs and their families, may violate Article 2 of the ICESCR and Article 2 of the ICCPR, which stipulate that discrimination is prohibited. Meanwhile, it has been found that there is a substantial number of victims of enforced disappearances among these abductees.

Also in the 2018 survey, there were very few testimonies on the specific realities and human rights violations of families of those who had fled to South Korea, or abductees and Korean War POWs and their families. To make progress in resolving these issues, they should be handled separately from the political situation between South Korea and North Korea.

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