

White

Paper

on

Human

Rights

in

North

Korea



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Chapter I

Purpose for Publication and Research Methodology

The *White Paper on Human Rights in North Korea 2017* aims to increase awareness on North Korean human rights issues in Korea as well as abroad by providing the basic materials required for related discussions and activities. Also, this *White Paper* comprehensively and systematically analyzes the human rights situation in North Korea and North Korean human rights issues.

This *White Paper* bases its views of the human rights situation of the North Korean people on the framework of international human rights standards. As is well known, North Korea is a State Party to major international human rights treaties. To identify the extent to which the individual rights recognized in each treaty are guaranteed, we first reviewed the relevant laws and regulations of North Korea and examined the related realities. Such analysis is meaningful in that we can identify the level of compliance by North Korea in the laws and regulations it has enacted on its own as well as the degree to which it has fulfilled its international obligations as a State Party to these treaties.

Under circumstances where we do not have direct access to internal information on North Korea, the Korea Institute for National Unification (hereinafter KINU) uses in-depth interviews of North Koreans who have escaped North Korea and settled in South Korea as the most important tool to investigate the realities. The *White Paper on Human Rights in North Korea 2017* incorporates information from in-depth interviews of 196 interviewees selected in consideration of their demographic and social background from North Koreans who have recently escaped from North Korea to South Korea. In addition, we refer to materials, in Korea and abroad, related to North Korean human rights including official documents from North Korea and the United Nations (hereinafter UN).

This *White Paper on Human Rights in North Korea 2017* mainly describes the results of investigations in 2016, with the major focus of investigation and analysis being events that occurred within five years from the year of this investigation. Moreover, it mainly includes events experienced or witnessed by North Korean defectors. As for North Korean laws, the latest versions of the ones collected are used.

Chapter II

The Reality of Civil and Political Rights

According to the investigation in 2016, the right to life of the

North Korean people is identified as not being properly protected. The execution of high-ranking figures that has continued since the Kim Jong Un regime came to power is at a very concerning level. Moreover, North Korea has an extensive list of crimes that are punishable by death, and it was confirmed that the death penalty was added as the statutory penalty for the illegal cultivation of opium and manufacturing of narcotics through the revision of North Korea's Criminal Law in 2013. Narcotics-related crimes are not regarded as a "most serious crime" for which the death penalty is accepted as an exception in Article 6, paragraph 2 of the International Covenant on Civil and Political Rights (hereinafter ICCPR). Therefore, such a legislative revision can be assessed as a regression in terms of the protection of the right to life.

Moreover, it was found that the use of torture and inhumane treatment is prevalent in the process of handling criminal cases in North Korea. Cases of carrying out the death penalty in public or public execution, and the forced witnessing of such executions, have been continuously collected. For example, a North Korean defector who resided in Yanggang Province testified that a command was given to watch public trials and public executions through direction in August 2014, and around 300 residents gathered at a sports field and watched them.

It was also found that the humane treatment of those detained in detention facilities is at a very poor level. Violence and

mistreatment at a range of detention facilities including prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*), detention centers (*guryujang*), etc., have become daily practice, and in particular, it was found that the realities of violence and mistreatment at Ministry of State Security (hereinafter MSS) detention centers (*guryujang*) in the border regions where forcibly repatriated people are mostly detained and investigated is exceptionally grim. For example, a North Korean defector who said he or she was in an MSS detention center (*guryujang*) in Hyesan, Yanggang Province, from March to June 2015 after being forcefully repatriated testified that he or she was forced to remain in a fixed position and was punished with 5,000 “pumps” (repeating standing up and squatting with hands folded behind the back hundreds of times) if he or she only slightly moved and was beaten frequently. The nutrition, sanitation and medical situations in detention facilities are also very poor, and it seems that there are also cases where detainees die as a result of such conditions. A North Korean defector who was detained in Gaecheon *Kyohwaso* from August 2014 to July 2015 testified that around 80 percent of detainees were infirm.

Meanwhile, North Korea under the Kim Jong Un regime is identified to be still limiting the freedom of movement of the people, and in particular, applying stricter control on defection from North Korea. It was said that security was reinforced particularly

around border patrol posts and high-tension wires were installed from the second half of 2015. Such reinforced control is also leading to forced deportation. In the case of Samjiyeon County of Yanggang Province where river-crossing was relatively easier than in other border regions, testimonies stated that around 200 households near the borders were forcibly moved to control defection from North Korea and all of the existing houses were demolished in 2015.

Also through investigations in 2016, it was found that the right to a fair trial is not properly protected. While North Korea stipulates the independence of trials in its constitution, such independence of trials is not protected in reality. Moreover, there are quasi-judicial systems including the Comrade Trial System and the MSS political criminal trial system, etc., and the appeal system and right to counsel are operated only in a perfunctory manner. With regard to the right to a fair trial for foreign citizens, US citizen Otto Frederick Warmbier and US citizen Dong-chul Kim both received criminal trials in the Supreme Court (currently Central Court) in 2016. North Korea provides only a perfunctory right to appoint a North Korean counsel for foreign citizens under trial and was found to be arbitrarily limiting the right to consultation with a consulate during the detention period. Moreover, it is infringing upon individuals' right to appeal by finishing a case with the first trial for foreigners.

Meanwhile, the infringement of privacy by the North Korean authorities seems to have worsened recently. According to the investigation in 2016, it seems that surveillance and social control in the border regions have been reinforced since Kim Jong Un came to power, and in relation to this, smuggling has been reduced, house searches have been conducted to track down fugitives and punishment after forced repatriation is being reinforced. Noteworthy is the surveillance of people's private lives that is comprehensive and carried out at random. This means that the North Korean authorities are assuming that all people are potential criminals.

According to the investigation in 2016, it was confirmed that discrimination based on background (*songbun*) and classification is functioning as the core system of social inequality in North Korea. Discrimination based on background (*songbun*) and classification is continuing in the areas of social entry, job assignment, employment as a senior official and promotion and allocation of residence. While measures that partially relieved discrimination based on background (*songbun*) were taken with the "reform" of citizen registration documents since Kim Jong Un came to power, the reduction of discrimination based on background (*songbun*) is assessed to be influenced more by the progress of the market economy in North Korea than by the reform program. However, the prevalence of corruption and deepening gap between the rich and poor based on the market economy are causing another kind

of discrimination based on financial capability.

Chapter III

The Reality of Economic, Social and Cultural Rights

Food production in North Korea has somewhat improved in 2016. However, North Korean people are still experiencing a shortage of food. Testimonies state that even senior military officials who are known to receive a relatively large amount of rations have to ask for help from others or earn money to get food as their families do not have enough food. Above all, due to the inefficiency and discriminatory nature of the rationing system, many people are excluded from food rations. Because of this reality, people are mobilizing self-rescuing measures such as vending and peddling and cultivating their own paddies to supplement the insufficient food supply.

The right to health of the North Korean people is also identified to have had no significant improvement. North Korea stipulates free health treatment through its Health Law and Law on Medical Care. However, according to testimonies, North Korean people are finding it difficult even to receive basic treatment or have access to medicine. It is also found that distrust of hospitals and doctors is high due to misdiagnosis and outdated hospital facilities. Moreover, testimonies state that doctors demand bribes for treatment. Due to such a reality, the right to health of the North

Korean people is under serious threat as they are exposed to an illegal healthcare system, including through acquiring medicine at markets on their own or receiving treatment from individual doctors including those without licenses, etc. In particular, the number of tuberculosis patients in North Korea has steadily increased in the 2010s and was found to be 561 per 100,000 people, or 141,000 patients, in 2015.

As for the right to work, there were multiple testimonies stating that people's wishes are not reflected in the selection and assignment of jobs, and instead their parents' financial capability or occupation or background affects job assignment. Moreover, the status of the implementation of the basic labor hours of eight hours was found to vary by work site. There were testimonies of cases when the interviewees worked eight hours or less due to the dramatically lowered utilization of factories as well as testimonies that interviewees worked for long periods of eight hours or more in some factories. Meanwhile, in the investigation in 2016, it was found that the regulations on working conditions of pregnant women are relatively well-complied with even under the poor working conditions of North Korea. North Korea amended its Socialist Labor Law and Law for the Protection of Women's Rights on June 30, 2015, to expand pregnant women's pre-/post-natal leave to 60 days before childbirth and 180 days after childbirth from 60 days before childbirth and 90 days after childbirth, but

continuous observation is required to determine whether such regulations are properly enforced.

Chapter IV

Vulnerable Groups

North Korea has been relatively active in terms of the rights of vulnerable groups. In 2016, North Korea submitted the combined second, third and fourth periodic reports on the implementation of the Convention on the Elimination of all Forms of Discrimination Against Women (hereinafter CEDAW) and the fifth periodic report on implementation of the Convention on the Rights of the Child (hereinafter CRC) and ratified the Convention on the Rights of Persons with Disabilities (hereinafter CRPD).

Regarding the implementation of the CEDAW, North Korea stated in its self-evaluation in its report, “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.” However, in reality, North Korean women are still identified to suffer from direct and indirect discrimination due to the stereotype of the predominance of men over women, fixed gender roles, limited social entry and family life focused on the male household head and the double burden of domestic labor and social labor after marketization. Moreover, North Korean women are easily exposed

to domestic violence, social exploitation, violence based on their gender, and the social conditions to protect them from such violence or allow for rescue are lacking. The main problem is the forced miscarriage and inhumane treatment in the process of the forced repatriation of North Korean women defectors, as there were many related cases found in the 2016 investigation. Meanwhile, it was found that most North Korean women suffer from poor health conditions due to food crisis, excessive labor to maintain the livelihood of the family and psychological burden due to their increasing responsibility to support the family, etc. A poor sanitary environment also serves as a threat to North Korean women's health. With regard to maternal health, there have been positive changes including a reduced maternal mortality rate and an increasing rate of childbirth at medical institutions. However, in rural areas, it was found that maternal health is still vulnerable due to poor healthcare facilities and unprofessional pre-/post-natal measures.

With regard to the implementation of the CRC, North Korea stated in its self-assessment in its report, "North Korean children fully enjoyed their rights based on the policy of loving children by Supreme Leader Kim Jong Un, and their welfare was promoted to a higher level." However, the investigation in 2016 found that the human rights situation of North Korean children remains to be poor. The healthcare/welfare level of children is generally low,

and the gap between Pyongyang and the provinces, cities and rural areas is also identified to be seriously wide. Moreover, there has been little improvement in spite of continuous concerns and recommendations by the Committee on the Rights of the Child on North Korea's education policy that does not meet the goals of children's education. Going beyond the original goal of education, it seems that students are continuously mobilized to address the labor shortage. Special protection measures on children are still at an insufficient level, with proper protection for homeless child beggars (*kotjebi*) still not taking place. However, there are some positive changes including the improvement of the vaccination rate, decrease in the malnutrition rate of children and reduction of the infant mortality rate, etc. In the 2016 investigation, a case where a forcibly repatriated child was sent back home after educational measures was collected and further investigation seems to be required to more accurately identify the relevant situation going forward.

Chapter V

Major Issues

In the 2016 investigation, it was also found that corruption including bribery is prevalent in North Korean society. North Korea increased the penalty on crimes related to large amounts of bribes from three years to five years and added the provision that

serious crimes would be subject to additional punishment through a criminal law amendment in 2015. However, in spite of this reinforcement of legal measures, corruption including bribery is becoming more prevalent. Also in the 2016 investigation, there were many testimonies about bribery occurring in the investigation and preliminary examination process, at detention facilities including prison camps (*kyohwaso*), etc., and during the trial process, revealing that corruption in North Korea's judiciary institutions and bureaucratic society is serious. There are also cases which are very closely related to the daily lives of North Korean people. For example, bribery regarding the issuance of travel permits, house sales and job assignment, etc. is a common practice. Given the current characteristics of the North Korean regime, bribery in North Korean society can be seen as a form of self-rescue by North Korean people against the unfair or excessive exercise of public power. However, ultimately, the possibility to provide bribes being the core factor in an individual's exercise and enjoyment of rights can undermine the rule of law and the development of human rights consciousness in North Korean society.

At the same time, KINU's investigation from 2013 to 2016 collected specific cases of overseas workers from North Korea dispatched to Qatar, the UAE, Kuwait, Libya, Russia and China who mostly worked in logging and construction. It was found that overseas workers from North Korea apply to enterprises that

dispatch workers overseas, and they are dispatched after a selection process including a physical examination and interview, etc., and they pay bribes to the Senior Officers Section for selection. Even after their dispatch is decided, it was found that they receive pre-training including a review of ideology. Those who are dispatched after this process are found to be working under poor working conditions without basic labor rights guaranteed at the sites. Their lives at the local sites are controlled by managers who are dispatched from the North Korean authorities in the position of “Safety Officer,” etc., and it was found that workers’ ID cards are confiscated by the Safety Division, Responsible Manager, Party Committee or their local employer. A substantial part of their salary is also paid in the name of a “planned quota,” which implies that workers are not receiving proper compensation for their labor. In particular, due to the depreciation of the ruble after the financial crisis in Russia in 2013, the situation of North Korean workers dispatched to Russia who have to pay a required amount in dollars was found to have worsened further. While some dispatched workers are allowed to return after their work is finished, it was found that many cannot freely decide this due to issues of transportation costs. It was found that although they are mostly dispatched based on voluntary application, they face the risk of forced labor due to the confiscation of their ID cards and the obligation to repay both the costs when dispatched and realistic costs of returning.



White Paper on Human Rights
in North Korea 2017



Chapter I

Purpose for Publication and Research Methodology

- 1 Purpose for Publication
 - 2 Research Methodology
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1

Purpose for Publication

North Korea has one of the worst human rights records in the world. As systematic and widespread human rights violations continue, the international community has been urging North Korea to improve the situation. The UN Commission on Human Rights adopted resolutions on North Korean human rights from 2003 to 2005, and the UN Human Rights Council (hereinafter UN HRC), the successor to the UN Commission on Human Rights, has adopted resolutions on North Korean human rights every year since 2008.¹ The UN General Assembly has also adopted resolutions on North Korean human rights every year since 2005, to express the grave concerns regarding the situation in North Korea.² In March 2013, based on the resolution of the UN HRC, the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (hereinafter COI) was established

¹-The UN HRC adopted a resolution on North Korean human rights by consensus on March 23, 2016. UN Doc. A/HRC/RES/31/18 (2016).

²-The UN General Assembly adopted a resolution on North Korean human rights by consensus on December 19, 2016. UN Doc. A/RES/71/202 (2016).

with a term of one year. Through one year of investigative activities, the COI indicated that systematic, widespread and grave human rights violations have been committed in North Korea, and the violations of human rights found by the Commission constitute 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. At the same time, the UN Security Council discussed North Korean human rights issues for three years in a row from 2014 to 2016. An objective investigation and analysis should be made towards realizing substantial results from the multi-faceted endeavors to improve the human rights situation in North Korea.

The Korea Institute for National Unification (hereinafter KINU) established the Center for North Korean Human Rights Studies in December 1994 for in-depth research and professional, systematic collection and management of data on North Korean human rights, and has published this *White Paper on Human Rights in North Korea* in Korean and English every year since 1996. This *White Paper* aims to increase interest in Korea and abroad regarding North Korean human rights issues and provide basic material for discussion and action through objective investigation and analysis of the North Korean human rights situation and the comprehensive and systematic handling of North Korean human rights issues.

2

Research Methodology

This *White Paper* views the human rights of North Korean people based on the framework of international human rights standards. As is well known, 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 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 and Access of International Human Rights Treaties by North Korea

Treaty	Status	Date of Access/ Ratification (based on date of notification/deposit)	Effective Date	Remark
ICCPR	Accessed ³	September 14, 1981	December 14, 1981	
ICESCR	Accessed	September 14, 1981	December 14, 1981	
CRC	Ratified	September 21, 1990	October 21, 1990	
CRC-OP2	Ratified	November 10, 2014	December 10, 2014	
CEDAW	Accessed	February 27, 2001	March 29, 2001	Reservation to Article 29, Paragraph 1
CRPD	Ratified	December 6, 2016	January 5, 2017	

The Vienna Convention on the Law of Treaties stipulates that a State Party to a treaty has the duty to faithfully fulfill the treaty (Article 26). Meanwhile, a substantial part of the contents of the Universal Declaration of Human Rights (hereinafter UDHR), which sets out a minimum universal standard for dignity and rights that every human being deserves, can be assessed to have

³North 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 September 23, 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.

developed into the international customary law of today, although it is not legally binding as it was adopted by a resolution of the UN General Assembly.

International human rights treaties, which North Korea is a State Party to, indicate that necessary measures should be taken to realize the rights recognized in those treaties. As administration and jurisdiction are implemented based on laws, legislation is regarded as the most important measure in implementation of treaties. Therefore, we will first review the relevant laws of North Korea and then examine the relevant realities to identify the degree to which individual rights recognized in each treaty are respected and guaranteed. If regulations in the North Korean laws themselves run counter to regulations in the treaties, it is difficult to regard the treaties as faithfully implemented. If regulations in the North Korean laws coincide with regulations in the treaties but are not abided by in reality, it is also difficult to regard the treaties as faithfully fulfilled. Such analysis is meaningful in that we can identify the extent to which North Korea is fulfilling its international duties as a State Party, as well as how much it abides by the laws it has enacted on its own.

Human rights realities in a certain country should be identified through direct visits to the country. The international community has requested the North Korean authorities to grant continuous access to the country to identify the human rights situation in North Korea. However, the North Korean authorities have refused

visitations by the UN Special Rapporteur on the Situation of Human Rights in the DPRK as well as by any international human rights organization. As a result, it is impossible to monitor human rights conditions independently or access internal information directly. Under such constraints, KINU has investigated the reality of North Korean human rights and published the *White Paper on Human Rights in North Korea* using the following methods.

First, KINU utilizes in-depth interviews of North Korean defectors who have settled in South Korea as the most important tool to investigate reality. The *White Paper on Human Rights in North Korea 2017* is based on interviews with 196 North Korean defectors who have recently entered South Korea. These interviewees were selected based on their demographic and social background (area of residence, experience in detention facilities, etc.). The demographic profile of the 196 samples with whom we had in-depth interviews in 2016 is as follows:

Table I -2 Demographic Profile of In-depth Interviewees in 2016

Category	Details	Events (persons)	Percent(%)
Gender	Male	42	21.43
	Female	154	78.57
Total		196	100.00
Year of Last Defection	Before 2006	14	7.14
	2007~2012	51	26.02
	2013	20	10.20
	2014	20	10.20
	2015	53	27.04
	2016	38	19.39
Total		196	100.00
Date Arriving in South Korea	2015	25	12.76
	2016	171	87.24
Total		196	100.00
Age Groups	Teens (1997~)	6	3.06
	20s (1987~1996)	74	37.76
	30s (1977~1986)	45	22.96
	40s (1967~1976)	50	25.51
	50s (1957~1966)	20	10.20
	Over 60s (~1956)	1	0.51
Total		196	100.00
Number of River Crossings	Once	136	69.39
	Twice	46	23.47
	3 Times	11	5.61
	4 Times or More	2	1.02
	No Response	1	0.51
Total		196	100.00
Last Residence ⁴	Pyongyang Directly-Governed City	3	1.53
	South Pyeongan Province	5	2.55
	North Pyeongan Province	2	1.02
	Jaggang Province	2	1.02
	South Hwanghae Province	1	0.51
	North Hwanghae Province	3	1.53
	Gangwon Province	3	1.53
	South Hamgyeong Province	15	7.65
	North Hamgyeong Province	60	30.61
	Yanggang Province	100	51.02
	Gaeseong Industrial District	1	0.51
	No Response	1	0.51
Total		196	100.00

KINU systematically manages data by assigning unique personal identification numbers (e.g., NKHR2016000000) to all North Korean defectors participating in the in-depth interviews. When citing their responses in the *White Paper on Human Rights in North Korea 2017*, the interviewees are referred to by their identification numbers to protect their personal information. When more detailed interviews were needed on certain rights or topics in addition to the in-depth interviews conducted in the early stages of their stay in South Korea, additional interviews were carried out. As for these additional interviews, the sources of information are marked as “North Korean defector ○○○, [Month] [Day], [Year], interviewed in Seoul.” In addition, memoirs by North Korean defectors were used as supplementary data.

Second, KINU leveraged official documents of North Korea including North Korean laws, proclamations by the Ministry of People’s Security (hereinafter MPS) and written judgments.

Third, we used UN documents on North Korean human rights including reports submitted by the North Korean authorities to the UN human rights organizations, General Comments and Concluding

4- “Last Residence” was added to the demographic profiles of in-depth interviewees, and it was found that 80 percent or more of them were residents of Yanggang Province and North Hamgyeong Province. This is assessed to be due to the fact that the Duman River area is more appropriate for defection than the Amrok River area, as border regions have relatively easy access to the outside and a substantial number of North Korean defectors currently in South Korea are from these provinces and there are many cases that North Korean defectors bring their family in North Korea to South Korea, etc.

Observations of the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights, related material on Universal Periodic Review (hereinafter UPR) on North Korea by the UN HRC and the COI report.

Fourth, we utilized survey results and statistics from the World Health Organization (hereinafter WHO), the United Nation's Children's Fund (hereinafter UNICEF), World Food Programme (hereinafter WFP), United Nations High Commissioner for Refugees (hereinafter UNHCR), Statistics Korea (South Korea) and various other organizations.

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

Sixth, we compared and verified the information through reports and articles on North Korean human rights in Korea and abroad.

The *White Paper on Human Rights in North Korea 2017* is written in accordance with the following principles.

First, we focused on describing the contents of that 2016 survey. However, when it is assessed there is a need to mention a previous survey, including to present a tendency or trend in changes of reality, the results of the survey in 2016 or before were referred to. Moreover, when dealing with topics about which it is difficult to secure sufficient data, we utilized the results of surveys in 2016 or previous years.

Second, in order to take note of the relatively recent conditions of North Korean human rights, we used events that took place within five years from the year of the survey as the target for survey and analysis. In other words, the *White Paper on Human Rights in North Korea 2017*, which is based on the 2016 survey, deals with events that took place between 2012 and 2016. However, if assessed to be particularly meaningful, events that took place before 2012 were included as exceptions.

Third, we included testimonies on events that North Korean defectors experienced or witnessed to secure objectivity and credibility of the survey. However, as for the testimonies that are assessed to be credible, we included those that interviewees heard directly from the person who experienced or witnessed the event, but with a clear statement that it is second-hand information.

Fourth, as for North Korean laws, we utilized the latest laws among those collected by KINU. However, when it is necessary to mention previous laws, we did so, but with a clear statement that they are previous laws.



White Paper on Human Rights
in North Korea 2017



Chapter II

The Reality of Civil and Political Rights

- 1 Right to Life
 - 2 Right to Not Receive Torture or Inhumane Treatment
 - 3 Right to Not to be Forced into Labor
 - 4 Right to Liberty and Security of Person
 - 5 Right to Humane Treatment 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 Ideology, 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

Without effective guarantee of the right to life, all other human rights are meaningless. Therefore, the right to life is a supreme right and the foundation of all human rights. This is why all key international documents on human rights at the universal and regional levels have regulations on improvement and protection of the right to life without exception. Article 3 of the UDHR, which is the first among the provisions on substantive rights, indicates that everyone has the right to life. Likewise, the ICCPR also stipulates the right to life in Article 6, which is the 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.

We 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 stressed that protection against arbitrary deprivation of life is of paramount

importance, and has indicated that deprivation of life by the authorities of the state, in particular, is a matter of the utmost gravity and thus it should be strictly controlled and limited.⁵ While the meaning of “arbitrary” is somewhat ambiguous, it is a broader concept than “illegal.” In other words, even the deprivation of life regarded as “legal” under the domestic laws of the State Party could be regarded as “arbitrary” under Article 6 of the ICCPR. In the end, prohibition against the “arbitrary” deprivation of life means that life should not be deprived unreasonably. According to these provisions of Article 6 of the ICCPR, Article 14 of the ICCPR which stipulates the right to 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 been identified that extrajudicial, summary or arbitrary executions have often been carried out in detention facilities in particular. In past surveys, there were many testimonies from those who witnessed detainees shot to death without any trial procedures, for escaping detention facilities including prison camps (*kyohwaso*). Although in many cases such executions are carried out in public to incite fear among and control the other detainees, it is said that they are sometimes carried out in secret. In the 2015 survey, there were cases of prisoners who attempted

⁵- UN HRC, General Comment, no. 6 (1982), para. 3.

to escape from the prison camps (*kyohwaso*) and were shot to death after open trials. According to North Korean defector ○○ ○, a male prisoner who was imprisoned after being sentenced to twelve years at Jeongeori *Kyohwaso* was arrested while escaping around August 2012. An open trial occurred with all of the male and female convicted prisoners gathered together and he was sentenced to death.⁶ In this case, while the specific manner in which these trials proceeded is not clear, if the trials were only perfunctory, the existence of such trials may not be particularly meaningful.

Sometimes extrajudicial, summary or arbitrary executions are carried out in a general context, not in the context of escaping while imprisoned. In some cases, there are no trial procedures, while in other cases, minimum rights supposed to be granted to accused persons are not guaranteed despite perfunctory trial procedures being carried out. Since Kim Jong Un came to power, there have been continuous cases of purges of high-ranking figures confirmed, which are, in most cases, identified to constitute extrajudicial, summary or arbitrary executions. In the case of chief of the Administrative Department of the Korean Workers' Party (hereinafter KWP), Jang Sung-taek, who was purged in 2013, Jang was executed after being sentenced to death in a special military court for conspiracy to overturn the State.

⁶- NKHR2015000031 2015-02-10.

However, it is difficult to assume that the minimum rights supposed to be granted to suspects or accused persons were guaranteed as only four days passed from arrest to execution. Minister of the People's Armed Forces, Hyun Young-chul, who was purged in 2015, was reported to have been executed without trial only three days after his arrest. Chief of General Staff of the Korean People's Army Yong-ho Ri, Deputy Prime Minister Yong-gon Choe and Deputy Prime Minister Yong-jin Kim were also reportedly executed in this manner.

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, 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. Here “the law” is generally understood as law in a formal sense. There may be room for argument as to what constitutes a “most serious” crime due to the ambiguity of the notion, but the Human Rights Committee explained in its General Comment on the right to life that the expression “most serious crimes” must be read restrictively to mean that the death penalty should be a quite exceptional measure.⁷ In its Concluding Observations on multiple

⁷ UN HRC, General Comment, no. 6 (1982), para. 7.

national reports, the Committee pointed out that imposing 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 offences do not constitute the “most serious crimes.” This leaves nothing but 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. Crimes subject to capital punishment under the Criminal Law and their elements and related statutory penalties can be seen in <Table II-2>.

Table II-2 Crimes Subject to Capital Punishment under the Criminal Law and their Elements 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

In particular, one should note that the death penalty was added as the statutory penalty for crimes related to the cultivation of opium and manufacturing of narcotics from the Criminal Law of 2013. It seems that the punishment was reinforced due to the increasing number of cases of illegal cultivation of opium or manufacturing of narcotics.

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

Criminal Law of 2012	<p>Article 206 (Crime of illegal cultivation of opium, manufacturing of narcotics/toxic materials)</p> <p>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>
Criminal Law of 2013	<p>Article 206 (Crime of illegal cultivation of opium, manufacturing of narcotics/toxic materials)</p> <p>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.</p> <p>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.</p> <p>When the act in Paragraph 3 is particularly serious, they shall be subject to lifetime correctional labor punishment or the death penalty.</p>
Criminal Law of 2015	<p>Article 206 (Crime of illegal cultivation of opium, manufacturing of narcotics)</p> <p>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.</p> <p>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.</p> <p>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 added a unique supplementary provision called “Addendum to the Criminal Law (General Crimes)” in 2007. With the Addendum, it reinforced punishment for general crimes, and for some crimes, only the death penalty or the death penalty together with confiscation of property are stipulated as the statutory penalty. The Addendum to the Criminal Law stipulates that “cases in which multiple crimes committed by a single criminal are extremely serious or in which the criminal displays no remorse at all” are punishable by the death penalty. This is evidence of the serious problem that the range of crimes for which the death penalty is applicable can be expanded broadly. Crimes subject to capital punishment under the Addendum to the Criminal Law (General Crimes) and its elements and the related statutory penalties can be seen in <Table II-4>.

Table II-4 Crimes Subject to Capital Punishment under the Addendum to the Criminal Law (General Crimes) and its Elements and Statutory Penalties

Extremely serious willful destruction of combat equipment and military facilities (Article 1)	Extremely serious cases of willfully destroying combat equipment and/ or military facilities	Death penalty
Extremely serious plundering of state property (Article 2)	Extremely serious cases of plundering of state property	Death penalty, confiscation of property
Extremely serious theft of state property (Article 3)	Extremely serious cases of theft of state property	Death penalty, confiscation of property

Extremely serious willful destruction or damaging of state property (Article 4)	Extremely serious cases of wilfully destroying or damaging state property	Death penalty
Extremely serious counterfeiting of currency (Article 5)	Extremely serious cases of counterfeiting currency	Death penalty
Extremely serious smuggling/trafficking of precious or colored metals (Article 6)	Extremely serious cases of smuggling/trafficking of precious or colored metals	Death penalty, confiscation of property
Smuggling of state resources (Article 8)	Extremely serious cases of unlawfully selling state resources such as state-owned underground resources, forest resources, and fishery resources to another country	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Extremely serious smuggling/trafficking of narcotics (Article 11)	Extremely serious cases of smuggling/trafficking of narcotics	Death penalty, confiscation of property
Extremely serious escape by a prisoner (Article 14)	Cases in which a prisoner serving a heavy prison term flees before the term ends	Unlimited-term correctional labor punishment or death penalty
Extremely serious gangster-like behavior (Article 17)	Extremely serious cases of gangster-like behavior	Unlimited-term correctional labor punishment or death penalty
Operation of an unlawful business (Article 18)	Cases in which sexual services are organized at restaurants or boarding houses	Unlimited-term correctional labor punishment or death penalty
Extremely serious deliberate infliction of serious injury (Article 19)	Extremely serious cases of deliberately inflicting serious injury	Unlimited-term correctional labor punishment or death penalty
Extremely serious kidnapping (Article 20)	Extremely serious cases of kidnapping of a person or persons	Death penalty

Extremely serious rape (Article 21)	Extremely serious cases of rape	Unlimited-term correctional labor punishment or death penalty
Extremely serious theft of private property (Article 22)	Extremely serious cases of stealing another person's private property	Death penalty, confiscation of property
Other exceptional crimes subject to unlimited-term correctional labor punishment or death penalty (Article 23)	Cases in which multiple crimes committed by a single criminal are extremely serious or in which the criminal displays no remorse at all	Unlimited-term correctional labor punishment or death penalty

Testimonies from North Korean defectors who personally witnessed public executions show how laws and regulations on capital punishment are implemented in practice. In the surveys so far, there have been many testimonies of witnessing people put to death for transaction of narcotics, watching/distributing South Korean recordings, murder, plundering, stealing or destroying state property, human trafficking, and sexual violence.

What is noteworthy here is that the number of people executed for watching/distributing South Korean video recordings or transaction of narcotics has risen over the last few years. In the 2016 survey, related testimonies were collected. A North Korean defector testified that he or she witnessed that a man in his 40s~50s who was transporting narcotics and South Korean CDs was executed by shooting after an open trial in Cheongjin, North Hamgyeong Province, in October, 2013.⁸ Another North Korean

⁸. NKHR2016000091 2016-06-14.

defector testified that he or she heard from a cousin that a party senior official was executed by shooting after an open trial for charges of distributing South Korean recordings in Hyesan Yanggang province, in July, 2015.⁹ It is assessed that the North Korean authorities are reinforcing their crackdowns and punishments as narcotics have spread throughout all of North Korea and as there are increasing cases of North Koreans watching/distributing South Korean recordings.

Table II-5 Testimonies of the Death Penalty Given in Relation to Narcotics and South Korean Recordings

Testimonies	Testifier ID
In 2013, three men and one woman (including cousin and cousin-in-law) were shot to death on the banks of Susong Stream, Cheongjin, North Hamgyeong Province for trading drugs (<i>bingdu</i>).	NKHR2013000155 2013-08-20
In 2013, a man (in his mid-40s) and a woman (in her early 50s) were shot to death on the banks of Susong Stream, Cheongjin, North Hamgyeong Province for trading 9 and 12kg of narcotics, respectively.	NKHR2013000163 2013-09-03
In 2013, two university students were shot to death in Jedangryong, Hyesan, Yanggang Province for taking narcotics and watching South Korean adult videos.	NKHR2014000109 2014-07-29
In 2013, three people, including a student of Hyesan University of Agriculture and Forestry, were shot to death on charges related to narcotics and copying and distribution of Korean CDs.	NKHR2015000072 2015-04-07
In January 2013, two men were executed in Sunam District, Cheongjin, North Hamgyeong Province for a crime related to South Korean video recordings and drugs (<i>bingdu</i>).	NKHR2014000056 2014-05-20
In October 2013, three people (including one man and one woman) were shot to death in Pyeongseong, South Pyeongan Province for trading drugs (<i>bingdu</i>).	NKHR2014000158 2014-09-23

⁹-NKHR2016000158 2016-09-20.

In October 2013, two men were shot to death in Sinuiju, North Pyeongan Province for trading drugs (<i>bingdu</i>).	NKHR2015000034 2015-02-10
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 2014, a student of Hyesan University of Agriculture and Forestry and a man in his 50s were shot to death for watching illegal recordings and lewd acts in Hyesan, Yanggang Province (second-hand).	NKHR2016000087 2016-06-14
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 2015, at least around 10 people were shot to death for watching illegal recordings and lewd acts in Hyesan, Yanggang Province (second-hand).	NKHR2016000121 2016-07-26

Meanwhile, in the 2016 survey, there were testimonies that witnessed the carrying out of the death penalty for rape and embezzlement of the State’s property. According to North Korean defector ○○○, three men in their early 20s were shot to death after an open trial for raping and injuring a Chinese woman in the schoolyard of a high school in Daeheugri, Kimhyongjik County, Yanggang Province, in August, 2014.¹⁰ A man who resided in Hyesan, Yanggang Province, testified that he witnessed a general manager of a provincial bank being shot to death for embezzling the State’s property at Hyesan airfield in Yanggang Province in April 2013.¹¹ North Korean Criminal Law stipulates correctional labor punishment as the strongest statutory penalty for rape and

¹⁰- NKHR2016000128 2016-08-09.

¹¹- NKHR2016000192 2016-12-27.

embezzlement of the State's property. However, the newly established addendum to the Criminal Law in 2007 stipulates that those committing extremely serious crimes of rape shall be subject to unlimited-term correctional labor punishment or the death penalty, and those committing extremely serious acts of plundering the State's property shall be subject to the death penalty or confiscation of property. Therefore, it is presumed that the related provisions in the addendum to the Criminal Law were applied in the above cases.

C. Death Sentence for Crimes by Juveniles and the Death Penalty for Pregnant Women

Article 6, paragraph 5 of the ICCPR prohibits sentences of death for crimes committed by persons below eighteen years of age and execution of death penalties for pregnant women. What should be noted is that the ban on the imposition of sentences of death for crimes committed by juveniles is based on the age at the time of the commission of the crime, not at the time of sentencing.

North Korea added a provision on 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, "Those below the age of eighteen at the time of commission of a crime shall not be sentenced to death; sentences of death shall not be carried out on pregnant women." These provisions meet the

Article 6, paragraph 5 of the ICCPR. However, there were cases confirmed in the past survey where such provisions were not complied with. North Korean defector ○○○ testified that he or she witnessed five boys and girls, who seemed to be around fifteen years of age, being taken out of the Ministry of State Security (hereinafter MSS) detention center (*guryujang*) and executed on charges of economic crimes and social delinquencies in August 2007.¹² In addition, North Korean defector ○○○ testified that he or she witnessed that a 16 year-old boy who killed two people was shot to death, with the authorities waiting for one and a half years from the time of the crime until his status as a citizen was issued.¹³ As the death penalty was handed down and carried out on a person who was aged under 18 at the time of the commission of the crime, this constitutes a clear violation of relevant provisions even though the judgment and execution were carried out after he turned 18. Meanwhile, North Korean defector ○○○ testified that four men and women were executed in September 2009 after an open trial on charges of human trafficking at the MPS county branch detention center (*guryujang*) in Musan County, North Hamgyeong Province. One of them, who was pregnant, underwent a forced abortion at a local hospital and then was shot.¹⁴ Banning the execution of a death sentence on pregnant women, however, is

¹². NKHR2014000012 2014-03-04.

¹³. NKHR2012000066 2012-04-20.

¹⁴. NKHR2013000225 2013-12-10.

intended to protect unborn children, so forcing a pregnant woman to undergo a surgical abortion and subsequently executing her should be seen as going against the intention of the ICCPR. There were no cases of death sentences for crimes by juveniles or the execution of a sentence of death on pregnant women confirmed in the 2016 survey.

D. Other Infringements on the Right to Life

Article 6, paragraph 1 of the ICCPR stipulates that the inherent right to life should be protected by law. The UN Human Rights Committee mentioned in its General Comments on the tendencies of how the right to life is interpreted and stressed that the expression “inherent right to life” cannot be properly understood in a restrictive manner, and the protection of this right requires that States adopt positive measures.¹⁵ From such a perspective, there are many infringements related to the right to life in North Korea. As examined in detail later, in detention facilities there are continuous cases of death caused by violence and mistreatment, poor nutrition, sanitation and healthcare conditions. We will discuss this issue in detail in Chapter II, Section 5, “Right to Humane Treatment in Detention.”

¹⁵- UN HRC, General Comment, no. 6 (1982), para. 5.

E. Evaluation

According to the 2016 survey, it seems that the right to life of the North Korean people is still not guaranteed properly. The continued purges of high-ranking figures since Kim Jong Un came to power stand against Article 6, paragraph 1 of the ICCPR, which stipulates protection of the right to life and prohibits arbitrary deprivation of life. Moreover, North Korea's imposition of the death penalty for an extensive range of crimes based on a unique form of law in the Addendum to the Criminal Law (General Crimes), in addition to the Criminal Law, and frequent execution of the death penalty based on such laws breach Article 6, paragraph 2 of the ICCPR which states that, in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes. In particular, it was confirmed that North Korea added the death penalty as a statutory penalty for the illegal cultivation of opium and manufacturing of narcotics through its revision of the Criminal Law in 2013, expanding the list of crimes subject to the death penalty in North Korean Criminal Law. Moreover, in that narcotics-related crime does not meet the standards on "the most serious crimes" in Article 6, paragraph 2 of the ICCPR, it can be assessed as a regression in guaranteeing the right to life.

2

Right to Not Receive Torture or Inhumane Treatment

To protect dignity and physical and mental integrity, Article 5 of the UDHR stipulates “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” As in the UDHR, Article 7 of the ICCPR also prohibits torture and inhumane treatment, and, taking one step further, it states that medical and scientific experimentations shall be prohibited. Article 7 of the ICCPR is complemented by Article 10, paragraph 1 of the ICCPR which stipulates “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.

We will now examine the implementation by North Korea related to the right to not be tortured or receive inhumane treatment by major issue.

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

Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, torture is defined as the act of intentionally inflicting severe physical or mental pain on individuals by public officials for specific purposes, including to obtain information or a confession and to punish. Other types of acts inflicting harsh pain that cannot be recognized as torture due to the lack of key elements such as specific purposes, intentional nature and severe pain fall under cruel, inhumane or degrading treatment or punishment. While the conceptual distinction between “torture” and “cruel, inhuman or degrading treatment or punishment” may not be clear, both are clearly a violation of Article 7 of the ICCPR.

North Korea has set forth regulations on torture and inhumane treatment in its Criminal Law and Criminal Procedure Law. Article 242 of the North Korean Criminal Law stipulates that “law enforcement workers conducting any illegal interrogation or exaggerating and fabricating cases shall be subject to one year or less of labor training punishment,” and that those who cause

serious injury or loss of life, or falsely hold someone criminally liable, shall be subject to five years or less of correctional labor punishment 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 stipulates that “the testimony of those undergoing preliminary examination or accused of a crime obtained through force and inducement cannot be used as evidence.” Article 167 stipulates that “preliminary examination officers shall not forcibly require those undergoing preliminary examination to admit their guilt or induce statements.” Moreover, Article 225 stipulates that witnesses are protected from threats or compulsory measures in interrogation.

However, in North Korea, despite these regulations in the Criminal Law and Criminal Procedure Law, torture and inhumane treatment frequently occur in the actual process of handling criminal cases, and torture is prevalent to the extent that it is established as one of the investigation methods to get confessions from suspects during the interrogation period.¹⁶ According to a report published by KINU in 2016, in the investigation process of those forcibly repatriated after defecting from North Korea, physical torture including beating, forcing suspects to remain in a

¹⁶ Dong-ho Han *et al.*, *Torture and Inhumane Treatment in North Korea* (Seoul: KINU, 2016), p. 9.

fixed position, “pumps” (repeating standing up and squatting with hands folded behind the back hundreds of times), pouring cold water on the body, beating with a water club in cold winter, confinement in a small box, pigeon torture and water torture. to identify details of their life in China or their purpose of crossing the river.¹⁷ North Korean defector ○○○ testified that he or she experienced severe violence and mistreatment in the investigation process that took place during his or her 16-day detention at the MSS county branch of Musan County, North Hamgyeong Province after being deported from China in July 2012.¹⁸

“I was ordered to remain in a fixed position throughout the day while in the detention room. I sat on the floor without any mat although it was a wooden floor. I put my hands on my knees and kept my eyes downcast as I was not allowed to look at the officer. If I made any movements or began to doze off, then they made me do one hundred “pumps” (repeatedly sitting and standing up) from a squatting position with my hands folded behind my back. If I fell while doing the “pumps” I was forced to repeat them, and sometimes I fainted. Other prisoners around me would wake me by rubbing me, and sometimes I was forced to keep doing “pumps”... If I dozed off, then the agent would tell me to hold out my hands and strike them with a metal cable. If I flinched, I would be struck more. So, I just kept holding out my hands until the agent was finished. The backs of my hands would get swollen like this. Or they made me sit on my knees with my back straight and then I fell as I got cramps... they asked me to come out and beat me again.. How they beat me is like this.. Once

¹⁷- *Ibid.*, pp. 12~30.

¹⁸- NKHR2015000123 2015-09-08.

I went out to be interrogated. And if I do not reflect on myself properly, then the interrogator told the guard to punish me because I am not properly responding to the interrogation. Then, they beat me because I did not respond properly to the interrogation. They punched me, kicked me, struck me and you have all this blood spray. And they struck me with a belt and threw whatever was in front of them at me.”

According to this testifier, a man in his mid-50s who was interrogated with him or her was beaten up to the point of death for not saying his area of residence properly and left behind, ultimately died from pressure sores. Another North Korean defector ○○○ testified that he or she heard from an acquaintance that the acquaintance’s sister was beaten to death in the preliminary examination process by preliminary examination officers in August 2014.¹⁹ As treatment in criminal case procedures is related to Article 10 of the ICCPR, which stipulates humane treatment for detainees, we will further examine this issue later (See, Chapter II, Section 5, “Right to Humane Treatment in Detention”).

B. Public Execution of the Death Penalty

Even countries that allow the death penalty can breach Article 7 of the ICCPR depending on the method of execution adopted. The UN Human Rights Committee has stipulated in its General Comments on prohibition of torture and inhumane treatment that

¹⁹. NKHR2015000027 2015-02-10.

states must carry out the death penalty in such a way as to cause the least possible physical and mental suffering.²⁰ Regarding this, one should note that execution of the death penalty in public may constitute cruel, inhumane or degrading punishment, which violates Article 7.²¹ Here, “execution of the death penalty in public” refers to cases where the death penalty, although carried out according to certain procedures for crimes stipulated in the Criminal Law, are carried out in public. If it is an extrajudicial, summary or arbitrary execution and carried out in public, it would breach both Article 6 and 7 of the ICCPR. Meanwhile, whether it is execution of the death penalty or extrajudicial, summary or arbitrary execution, it is bound to be seen by the general population if it is carried out in public. And from the perspective of those who witness the execution, the act may constitute cruel, inhumane or degrading treatment, which violates Article 7.²²

²⁰. UN HRC, General Comment, no. 20 (1992), para. 6.

²¹. 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, August 27, 2001, UN Doc. CCPR/CO/72/PRK (2001); 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, Inhumane or Degrading Treatment or Punishment, UN Doc. A/67/279 (2012).

²². The COI also stated 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.

Although North Korea has provisions on procedures and methods of carrying out the death penalty in its Criminal Procedure Law and Sentence and Decisions Enforcement Law,²³ it does not have explicit stipulations on making the execution of the death penalty public. According to testimonies of North Korean defectors, it is identified that public execution of the death penalty has continued in North Korea. Also in the 2016 survey, cases of public execution were collected. There were also testimonies collected that general people are forced to watch public executions. A North Korean defector ○○○ testified that a direction was given to watch an open trial and public execution when the interviewee was residing in Yanggang Province in August 2014, and so around 300 residents of the village gathered in a schoolyard to watch the trial/execution.²⁴

²³ Article 421 of the North Korean Criminal Procedure Law stipulates that the death penalty ruling shall be carried out by the punishment enforcement institution that received the death penalty document on direction of enforcement and a certified copy of 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 “carried out in the same way as death by shooting.”

²⁴ NKHR2016000128 2016-08-09.

Table II-7 Public Execution by Shooting

Testimonies	Testifier ID
In January 2012, three people, including at least one man and at least one woman, were publicly executed by shooting on a hill (field) to the airfield in Hyesan, Yanggang Province.	NKHR2015000072 2015-04-07
In October 2013, two men were publicly executed by shooting at Hyesan Airfield in Yeonbong 2-dong, Hyesan, Yanggang Province.	NKHR2015000014 2015-01-27
In October 2013, two men were publicly executed by shooting in Sinuiju, North Pyeongan Province.	NKHR2015000034 2015-02-10
In October 2013, a man was publicly executed by shooting in Cheongjin, North Hamgyeong Province.	NKHR2016000091 2016-06-14
In May 2014, two men were publicly executed by shooting in 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 early 20s were publicly executed in a high school schoolyard in Daeheungri, Kimhyongjik County, Yanggang Province.	NKHR2016000123 2016-08-09
In fall of 2014, two men were publicly executed by shooting on the plain of the airfield in Hyesan, Yanggang Province.	NKHR2015000027 2015-02-10
In summer 2015, a city party senior official was publicly executed by shooting in Hyesan, Yanggang Province.	NKHR2016000158 2016-09-20

Due to limited information, it is difficult to clearly divide the collected cases into those where public execution of the death penalty was carried out and those where extrajudicial, summary or arbitrary executions were carried out in public. However, aside from whether the minimum legal rights including the trial procedures that should be given to defendants were guaranteed, as making execution by shooting “public” reveals issues of inhumanity under Article 7 of the ICCPR, the above cases at least constitute

violations of Article 7 of the ICCPR. However, in the 2016 survey, there were also testimonies that public executions have decreased recently. A man in his 30s who defected from North Korea in 2016 testified that he heard that these days people are “killed in silence” as the outside world has focused more on human rights issues in North Korea.²⁵ A woman in her 40s who defected from North Korea in 2015 testified that when she was residing in Hyesan, Yanggang Province, she was an Neighborhood Watch (*inminban*) chief, and an MSS agent and MPS officer called together the *inminban* chiefs and warned them that those who misspeak, engage in spy activities related to South Korea and criticize *Suryong* are executed in secret in many cases.²⁶ It is hard to identify with these testimonies alone whether this means that there are more cases of non-public execution or more cases of summary execution. It seems that focused observation on this area is required going forward.

By region, executions witnessed in Hyesan, Yanggang Province account for many of the cases, while there are some cases in Cheongjin, North Hamgyeong Province and Sinuiju, North Pyeongan Province. It seems that public execution of the death penalty is more concentrated in the border areas than in the inland areas, and more in city areas than in rural areas. This is analyzed

²⁵. NKHR2016000103 2016-06-28.

²⁶. NKHR2016000026 2016-03-08.

to be a reflection of the fact that there are relatively more illegal activities in border regions and cities, and the North Korean authorities intend to warn and incite fear among residents there through public executions. Moreover, it may also be related to the fact that many of the interviewees resided in North Hamgyeong Province and Yanggang Province.

C. Enforced Disappearances

The UN Human Rights Committee views that enforced disappearances may constitute torture and/or inhumane treatment on the person in the enforced disappearance and his/her family.²⁷ Its view is that as people in enforced disappearances would be under detention, separated from their families for a long time, the families have no choice but to live in worry and concern without knowing the whereabouts of the person, or whether he/she is alive or dead, all of them are victims of torture and/or inhumane treatment.

As we will examine later in detail, political criminals in North Korea are detained in political prison camps called *kwanliso* and in most cases, their families cannot know anything about their whereabouts or whether they are dead or alive.

²⁷. For example, the 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.

D. Evaluation

In the 2016 survey, it was also confirmed that torture and inhumane treatment are prevalent in the processing of cases and that public executions and the forced witnessing of public executions are still in place, unlike as stipulated in the Criminal Law and Criminal Procedure Law. This constitutes cruel, inhumane or degrading punishment from the perspective of the executed person and also cruel, inhumane and degrading treatment to those who witness the execution. Meanwhile, in the 2016 survey, there were testimonies that public executions have decreased recently, but it is unclear whether this is related to non-public execution or secret summary execution. It seems that focused observation on this area is required going forward. In the second UPR on North Korea, many countries recommended that North Korea take steps to prohibit torture and inhumane treatment, ratify the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment and refrain from public executions. North Korea expressed its stance that it will continue to review the possibility of implementing such recommendations going forward. North Korea should be reminded of its duties in relation to the ICCPR, which it voluntarily accessed, and take effective measures to prevent torture and inhumane treatment.

3

Right to Not be Forced into Labor

Article 4 of the UDHR stipulates that no one shall be held in slavery or servitude, and 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 and the slave trade, and servitude, there are exceptions recognized to the prohibition against forced labor.

Table II-8 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	<p>(a) No one shall be required to perform forced or compulsory labour.</p> <p>(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.</p> <p>(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:</p> <p>(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</p>

- 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

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

A. Labor Training Discipline, Unpaid Labor Discipline and Reeducational Labor Discipline

Article 8, paragraph 3 (a) of the ICCPR stipulates that forced labor is prohibited. However, Article 8, paragraph 3 (b) explicitly states that in countries where imprisonment with hard labor may be imposed as punishment for a crime, the performance of hard labor in pursuance of a sentence to such punishment by a competent court is not prohibited.

The North Korean Criminal Law stipulates that punishments depriving liberty and engaging in prescribed labor include correctional labor punishment (unlimited-term correctional labor punishment, limited-term correctional labor punishment) and labor training punishment (Article 27). Unlimited-term correctional labor punishment and limited-term correctional labor punishment aim to detain criminals in prison camps (*kyohwaso*) and force them to work, with the term of limited-term correctional labor

punishment from one year to fifteen years (Article 30). Labor training punishment infers sending criminals to a certain place and forcing them to work, with the term from six months to one year (Article 31). According to the above Article 8, paragraph 3 (b) of the ICCPR, detaining those who are sentenced by courts to correctional labor punishment or labor training punishment at prison camps (*kyohwaso*) or other specified places and using them for labor does not constitute “forced labor.” However, imposing excessive labor on convicted prisoners may not comply with Article 10, paragraph 3 of the ICCPR, which stipulates appropriate treatment of convicted prisoners (See, Chapter II, Section 5 “Right to Humane Treatment in Detention”).

However, the North Korean Prosecution and Surveillance Law shows that it grants prosecutors authority to impose labor training discipline on those who violate laws separately from the provisions in the above Criminal Law (Article 40). In other words, in the North Korean laws, besides the “labor training punishment” sentenced through trials, “labor training discipline” can be imposed by prosecutors on those who violate laws. According to testimonies of North Korean defectors, those who are sentenced to labor training discipline are detained in labor training camps (*rodongdanryundae*) at city, county and district under the labor mobilization division of the People’s Committee for up to six months. In such cases, forced labor is an issue because the exceptions to the prohibition against forced labor in the ICCPR do not apply. Following 2015,

relevant cases of this were also collected in the 2016 survey.

Table II-9 Realities of Labor Training Discipline

Testimonies	Testifier ID
In 2012, youths who were caught having South Korean CD-Rs received one month to six months of labor training discipline in Hyesan, Yanggang Province.	NKHR2015000134 2015-09-22
In 2012, the testifier was detained in a labor training camp (<i>rodongdanryundae</i>) and did intense labor including mining work, road construction, etc., for 18 hours per day for a month in Hoeryeong, North Hamgyeong Province.	NKHR2015000085 2015-04-21
In 2013, the testifier was detained in a labor training camp (<i>rodongdanryundae</i>) in Geomdoek mine in Dancheon, South Hamgyeong Province and was mobilized for mining work for five months.	NKHR2015000079 2015-04-21
From November 2013 to January 2014, the testifier worked from 5 am to 8 pm in a labor training camp (<i>rodongdanryundae</i>) in Bocheon County, Yanggang Province, and 70-80 percent of work was logging.	NKHR2016000044 2016-04-19
In July 2015, the testifier was detained in labor training camps (<i>rodongdanryundae</i>) in Samjiyeon County, Yanggang Province, and did farm work for 12 hours per day.	NKHR2016000015 2016-01-26

In addition, the North Korean Administrative Penalty Law stipulates unpaid labor discipline and reeducational labor discipline as administrative punishments (Article 14), and in these cases, the issue of forced labor can be raised. The North Korea Administrative Penalty Law stipulates that unpaid labor is an administrative punishment imposed on those who commit serious violations of law regarding performance of duties, with the term from one month to six months (Article 16). Reeducational labor discipline is an administrative penalty imposed on those who violate laws

that are not so serious as to impose labor training punishment, with the term from five days to six months (Article 17). Institutions which are authorized to impose unpaid labor discipline and/or reeducational labor discipline can be seen in <Table II-10>.

Table II-10 Institutions Authorized to Impose Unpaid Labor Discipline and/or Reeducational Labor Discipline under the Administrative Penalty Law

Socialist Law-Abiding Life Guidance Committee (Article 230)	For violation of laws by members of state institutions, enterprises and organizations	Unpaid labor discipline/ reeducational labor discipline
Cabinet (Article 231)	For violation of laws regarding performance of one's duties by members of institutions, enterprises and organizations under the Cabinet	Unpaid labor discipline
Institutions of the Prosecutor's Office (Article 232)	For violation of laws exposed in the surveillance process by the Prosecutor's Office	Reeducational labor discipline
Trial institutions (Article 233)	For violation of laws confirmed in trials	Reeducational labor discipline
Arbitral institutions (Article 234)	For violation of laws confirmed in arbitration hearings	Unpaid labor discipline
People's security institutions (Article 235)	For unlawful behaviors discovered in the People's security enforcement process	Reeducational labor discipline

B. Labor Exploitation of Prisoners at Holding Centers (*Jipkyulso*)

Holding centers (*jipkyulso*) are where travelers who went

outside of their designated region or overstayed their authorized duration, homeless children, those whose cases are pending, and deported defectors are investigated and detained. When a holding center (*jipkyulso*) sends notification to the MPS city/county branch in charge of the residence area of the prisoner, MPS officers of that area come to the holding center (*jipkyulso*) and transfer the prisoner to the residence area. However, according to testimonies by North Korean defectors collected by KINU since it began investigation, some holding centers (*jipkyulso*) force prisoners into labor. North Korean defector ○○○ testified that prisoners stay in holding centers (*jipkyulso*) for three to six months, based on the time of notification from holding centers (*jipkyulso*) to the MPS city/county branch in charge of the residence area, and holding centers (*jipkyulso*) intentionally send notification to the MPS city/county branch belatedly to force prisoners to work.²⁸ A North Korean defector who said he or she was detained in a holding center (*jipkyulso*) in Cheongjin, North Hamgyeong Province, for five months from March 2011 testified that work that was supposed to be done by ox carts. Also, people wore yokes and the intensity of the work was beyond imagination.²⁹ According to this testifier, even pregnant women were mobilized for work without exception. The testifier said that a pregnant woman who was

²⁸- NKHR2015000123 2015-09-08.

²⁹- NKHR2016000046 2016-04-19.

together with him or her at the holding center (*jipkyulso*) was sent to the county detention center (*guryujang*) only when she could not work any more as her swelling became serious as she worked to gather firewood. A North Korean defector who said that she was in a holding center (*jipkyulso*) in Cheongjin, North Hamgyeong Province, for around five months from July 2010 after she was forcibly repatriated when she was pregnant testified that she was kept mobilized for high intensity logging work and had a miscarriage.³⁰

Table II-11 Forced Labor in Holding Centers (*Jipkyulso*)

Testimonies	Testifier ID
In March 2013, the testifier was mobilized for apartment construction work when he or she was detained in the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province.	NKHR2015000159 2015-12-01
From June to August of 2013, the testifier engaged in construction work from 5 am to 7 pm when he or she was detained in the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province.	NKHR2015000153 2015-11-17
In July and August 2014, the testifier was mobilized for cement construction work when detained in the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province.	NKHR2016000025 2016-03-08

C. Evaluation

In the 2016 survey there were many cases of mobilization of labor after being imposed with labor training discipline or forced

³⁰. NKHR2016000149 2016-09-06.

into hard work while detained at holding centers (*jipkyulso*). It was confirmed that there was a case where a pregnant woman was mobilized for work in a holding center (*jipkyulso*) in Cheongjin, North Hamgyeong Province. Article 8, paragraph 3 of the ICCPR prohibits forced labor. However, it recognizes certain exceptions in countries where imprisonment with hard labor may be imposed as punishments for a crime, if the performance of hard labor is in pursuance of a sentence to such punishment by a competent court. According to such regulations, forcing labor on people sentenced to labor training discipline without any trial procedures or on those detained in holding centers (*jipkyulso*) is assessed to constitute the forced labor prohibited by Article 8, paragraph 3 of the ICCPR.

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 the 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 stipulates the right to liberty and security of person in paragraphs 1 to 5. Paragraph 1 stipulates that arrest or detention should not be arbitrary or illegal. Paragraphs 2 to 5 stipulate procedural guarantees to secure liberty and security, and part of paragraph 2 and paragraph 3 apply only to criminal procedures while the rest of the paragraphs apply to everyone who is deprived of liberty.

Table II-12 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.

We will examine the situation of the right to liberty and security in North Korea by major issue.

A. Arbitrary or Unlawful Arrest, Detention

Article 9, paragraph 1 of the ICCPR prohibits arbitrary or unlawful arrest or detention. Unlawful arrest or detention refers to arrest or detention that is not imposed on such grounds and in accordance with such procedures as are established by law.³¹

³¹- UN HRC, General Comment, no. 35 (2014), para. 11.

Arbitrariness has a broader sense than “unlawfulness” and includes elements of inappropriateness, injustice, lack of predictability, due process of law, reasonableness, necessity and proportionality.³² Therefore, the prohibition against arbitrary arrest/detention and the prohibition against unlawful arrest or detention can overlap. According to the General Comments of the UN Human Rights Committee, although conditions of detention are addressed primarily by Articles 7 and 10, the question of whether detention is arbitrary or not can be raised if the manner in which the prisoners are treated does not relate to the purpose for which they are ostensibly being detained.³³ Moreover, arrest or detention as punishment for legitimate exercise of freedom of opinion and expression, freedom of assembly and association, freedom of religion and right to privacy guaranteed by the ICCPR, arrest or detention on discriminatory grounds, detention in violation of the principle of non-retroactivity of punishment are regarded as arbitrary, and enforced disappearances, in particular, constitute a serious form of arbitrary detention that violates numerous substantive and procedural provisions of the ICCPR.³⁴

The North Korean Constitution stipulates that the inviolability of the person of its citizens is guaranteed and that citizens shall

³² *Ibid.*, para. 12.

³³ *Ibid.*, para. 14.

³⁴ *Ibid.*, para. 17.

not be detained or arrested without legal grounds (Article 79). The North Korean Criminal Procedure Law distinguishes between the investigation procedure to expose the criminals and facts of a crime and the preliminary examination procedure to confirm the criminals and facts of a crime. It stipulates that compulsory measures including arrest and imprisonment, etc., shall be taken during the stage of preliminary examination in principle, and the arrest of criminal suspects or criminals during the investigation stage is recognized as an exception only in certain cases (Article 142). When arrested as an exception during the investigation stage, if approval of a prosecutor is not gained within 48 hours or if it is not confirmed that the suspect is a criminal in ten days, the suspect should be immediately released (Article 143). The North Korean Criminal Procedure Law stipulates that, regarding arrest and detention during the stage of preliminary examination, 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). It also stipulates that “citizens shall not be arrested or detained for reasons not prescribed in the laws or without following the procedures prescribed in laws” (Article 176). Moreover, it stipulates the time of arrest and detention, reasons for arrest and detention, and period of arrest and detention, etc. (from Article 177 to 190). Meanwhile, the North Korean Criminal Law stipulates that law enforcement agents who unlawfully arrest, detain or

apprehend people shall receive one year or less of labor training punishment and those who commit such an act several times or cause serious results shall be subject to five years or less of correctional labor punishment (Article 241).

In spite of such provisions, it seems that arbitrary or unlawful arrest and detention are still prevalent in North Korea. As we will examine in detail later, the detention of those who criticize the regime, insult *Suryong*, attempt to go to South Korea or engage in religious activities in political prison camps (*kwanliso*) without any legal procedures constitutes both arbitrary and unlawful arrest and detention. Arrest and detention of people who “unlawfully entered/exited borders” while not recognizing the freedom to leave a country, requiring people to hold travel permits when leaving the city or county in which they reside and arresting them when they leave the travel district or travel beyond the permitted duration of travel and detaining them in holding centers (*jipkyulso*) (See, Chapter II, Section 6, “Right to Freedom of Movement and Residence”), and detaining people for watching/ distributing South Korean recordings (See, Chapter II, Section 10, “Freedom of Expression”) constitute arbitrary arrest and detention. This is because although there are ground provisions for control and punishment in the North Korean laws, these arrests and detention were punishment for legitimate exercise of rights guaranteed in the ICCPR. Meanwhile, if the above provisions on arrest and imprisonment in the North Korean Criminal Procedure Law are

not properly complied with, according to the Korean Bar Association's investigation, then most criminal suspects in North Korea are investigated under arrest or imprisonment, and there are many cases where the detention period exceeds the stipulated period.³⁵

B. Insufficient Procedural Guarantee of Liberty and Security of Person

Article 9, paragraph 2 of the ICCPR stipulates that the reasons for arrest should be informed upon arrest and any charges should be informed to criminal suspects. While the North Korean Criminal Procedure Law stipulates that the arrested person shall be informed of the reasons for the arrest and detention in the preliminary examination stage (Article 182), it does not stipulate such information in the investigation stage. Therefore, it is assessed that the arrested person's right to be informed of the reasons for his or her arrest, based on Article 9, paragraph 2 of the ICCPR, is not properly protected. In the 2016 survey, a North Korean defector testified that he or she was arrested by three MSS agents without receiving any explanations about the reasons for the arrest at his or her house in Hyesan, Yanggang Province in December 2014.³⁶

³⁵- Korean Bar Association, *2016 White Paper on Human Rights in North Korea* (Seoul: Korean Bar Association, 2016), pp. 196-208.

³⁶- NKHR2016000078 2016-05-31.

At the same time, Article 9, paragraph 3 of the ICCPR stipulates that anyone arrested or detained on a criminal charge shall be brought promptly before a judge and has the right to receive a trial or be released within a reasonable time frame. In addition, the North Korean Criminal Procedure Law stipulates the period for the investigation, preliminary examination, prosecution stage, and the period that suspects can be imprisoned in each stage. However, the periods are stipulated to be long, including a preliminary period of up to five months. Moreover, according to the investigation so far, it was identified that there have been many cases where even the period regulated in laws was not complied with. Relevant testimonies were also collected in the 2016 survey.³⁷ Excessive prolongation of the stages before prosecution may constitute violations of Article 9, paragraph 3 of the ICCPR.

³⁷- NKHR2016000078 2016-05-31; NKHR2016000095 2016-06-14.

Table II-13 Period of Investigation, Preliminary Examination, 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. (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. (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. (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

	<p>Prosecutors Office of province (municipality directly under central authority) and by central preliminary examination officer through gaining approval from Supreme Public Prosecutors Office.</p> <p>As for complicated crime cases that require extension of detention period, the detention period of those undergoing preliminary examination can be extended by two months through approval of the head of 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 claims for review of the legality of arrest or detention to the court, and paragraph 5 stipulates the right to compensation for unlawful

arrest or detention. The right to claim review of the legality of arrest or detention and the right to claim compensation for unlawful detention are identified to not be recognized in North Korea. It is hard to find relevant regulations on claims for criminal compensation in publicly disclosed laws. However, North Korea mentioned 「Regulation on Criminal Compensation」 in its implementation report for the ICCPR submitted to the UNHRC in 2000.³⁸ In the same report, North Korea stated that in Article 2 of the same regulation, it is stipulated that “The state shall compensate for the mental and physical suffering and the property loss of the person who has been arrested and detained or punished innocently by investigation, preliminary examination or judicatory organs.” North Korea also mentioned a compensation system for those whose rights are infringed upon in the common core documents submitted to the UN in 2016.³⁹

C. Evaluation

It is identified that arbitrary or unlawful arrest and detention prohibited by Article 9, paragraph 1 of the ICCPR continues in North Korea. Detention of political criminals is a representative

³⁸ 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 (May 4, 2000), para. 17 (d).

³⁹ Common Core Document Forming Part of the Reports of State Parties: Democratic People’s Republic of Korea, UN Doc. HRI/CORE/PRK/2016 (June 2, 2016), para. 52.

case of both arbitrary and unlawful arrest and detention. As we will examine specifically in the sections on individual rights, arrests and detention are frequently used in North Korea as punishment for the legitimate exercise of the rights guaranteed in the ICCPR, which clearly constitutes arbitrary arrest and detention. It is also identified that the procedural guarantee of liberty and security person is insufficient. Legislative measures to implement the overall regulations stipulated in Article 9 of the ICCPR and efforts to improve the compliance to laws are required.

5

Right to Humane Treatment in Detention

Article 10 of the ICCPR stipulates humane treatment to persons deprived of liberty, treatment of unconvicted prisoners and treatment of convicted prisoners.

Table II-14 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.

We will now examine the situation on the right to humane treatment in detention in North Korea by major issue.

A. Inhumane Treatment to 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 anyone deprived of liberty under the laws and authority of the State Party who is held in prisons, hospitals (particularly psychiatric hospitals), detention camps or correctional institutions or elsewhere.⁴⁰ Article 10, paragraph 1 of the ICCPR supplements the ban on torture or other cruel, inhumane or degrading treatment or punishment contained in Article 7 of the ICCPR, by imposing on State Parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty.⁴¹ Thus, persons deprived of their liberty may not be subjected to treatment contrary to Article 7 of the ICCPR nor may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty. Respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Persons deprived of their liberty enjoy all the rights set forth in the ICCPR, subject to the restrictions that are unavoidable in a closed environment.⁴²

⁴⁰- UN HRC, General Comment, no. 21 (1992), para. 2.

⁴¹- *Ibid.*, para. 3.

⁴²- *Ibid.*

(1) Situation in Detention Facilities

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

(A) Prison Camps (*Kyohwaso*)

Prison camps (*kyohwaso*) are correctional facilities of the MPS Correctional Education Bureau, which in turn is directly under the State Affairs Commission (hereinafter SAC) and facilities that detain those sentenced to correctional labor punishment by the court.⁴³ Based on testimonies of North Korean defectors and analysis of satellite images, it has been found that there are a total of 19 prison camps (*kyohwaso*) operated in North Korea as can be seen in <Figure II-1>.⁴⁴

⁴³The North Korean Criminal Law stipulates that correctional labor punishment involves putting criminals in prison camps (*kyohwaso*) and having them engage in labor. It is divided into unlimited-term correctional labor punishment and limited-term correctional labor punishment (Article 30). The current North Korean Criminal Law stipulates imposing of 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, premeditated murder) (Article 60, 61, 63, 65, 68, 206, 208 and 266). Additionally, it is stipulated that most general crimes also carry the penalty of limited-term correctional labor punishment. 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 as citizens are partially suspended (Article 30).

Figure II -1 Location of Prison Camps (*Kyohwaso*)



As North Koreans who were forcibly repatriated after defecting North Korea are detained mostly in Jeongeori *Kyohwaso* and Gaechon *Kyohwaso* after being sentenced to correctional labor punishment for illegal border-crossing⁴⁵ based on the North Korean Criminal Law, many of the testimonies collected are related to the two prison camps (*kyohwaso*).

- Jeongeori *Kyohwaso*

Jeongeori *Kyohwaso* is a prison camp (*kyohwaso*) under North

⁴⁴-Dong-ho Han *et al.*, *Prison Camps in North Korea* (Seoul: KINU, 2016), p. 16.

⁴⁵-Article 221 of the North Korean Criminal Law stipulates that people convicted of illegal entry of borders shall be imposed with one year or less of labor training punishment, while those convicted of serious charges shall be imposed with five years or less of correctional labor punishment.

Hamgyeong Province MPS provincial bureau and located in Musan-ri, Hoeryeong, North Hamgyeong Province (42.2103 degrees north latitude and 129.7536 degrees east longitude).

Figure II-2 Satellite View of Jeongeori *Kyohwaso*



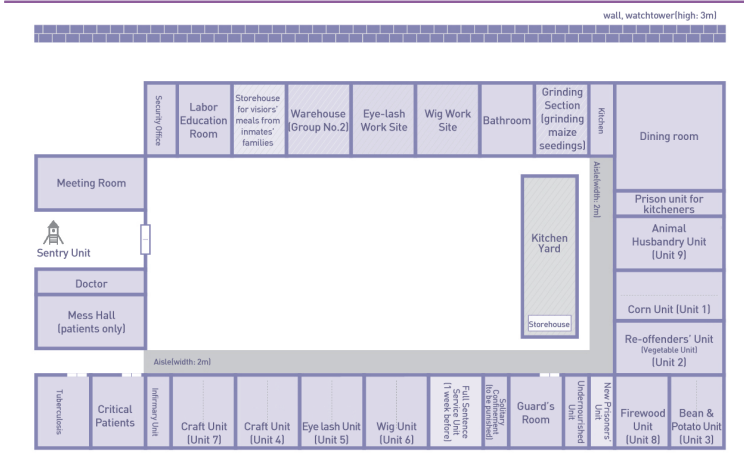
Jeongeori *Kyohwaso* is identified as managing convicted prisoners by dividing them into sections numbered 1 to 5. Convicted male prisoners are placed in Sections No. 1, 2, 4, and 5, while convicted female prisoners are assigned to Section No. 3.⁴⁶ Each Section is classified again into units. It is said that Section No. 1 has around 12 units, Section No. 2 and 3 around 10 units, Section No. 4 around 4 units and Section No. 5 around 3 units.⁴⁷ As many North

⁴⁶ NKHR2012000185 2012-09-11; NKHR2013000040 2013-03-05; NKHR2013000046 2013-03-05 and many other testimonies.

⁴⁷ NKHR2012000185 2012-09-11.

Korean defectors with experience in detention at Jeongeori *Kyohwaso* are female, based on their testimonies, it was possible to identify Section No. 3 in more detail, as it is the female detention facility. It was testified that prison staff for Section No. 3 comprise the head of section, secretary, doctor, and three female guards.⁴⁸ 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 the undernourished unit.⁴⁹ The inside of the physical structure of Section No. 3 at Jeongeori *Kyohwaso* has been reconstructed based on testimonies, and can be seen in <Figure II-3>.⁵⁰

Figure II-3 Inside of Jeongeori *Kyohwaso* Section No. 3



48. NKHR2014000048 2014-05-13.

49. NKHR2011000248 2011-12-20; NKHR2014000048 2014-05-13.

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

- Gaecheon *Kyohwaso*

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

Figure II-4 Satellite View of Gaecheon *Kyohwaso*



Gaecheon *Kyohwaso* is divided into male and female zones, with the latter being split again into unlimited-term and limited-term zones where convicted prisoners sentenced accordingly reside.⁵¹ The female unlimited-term and limited-term zones are said to be in separate buildings.⁵² Given that convicted female prisoners

⁵¹- NKHR2014000175 2013-10-21; NKHR2015000186 2015-12-15.

⁵²- Above testimonies.

sentenced to unlimited-term correctional labor punishment are detained here, it seems that Gaecheon *Kyohwaso* is a detention facility for criminals charged with serious crimes. According to testimonies, convicted female prisoners at Gaecheon *Kyohwaso* are said to be divided into a farming unit, an animal husbandry unit, a knitting unit, a vegetable unit, a fruit unit, and a plowing unit.⁵³ North Korean defector ○○○ testified that the farming, animal husbandry and fruit units lived in single-story houses, while the knitting unit lived in a two-story building near the guards' buildings. The knitting unit was comprised of convicted prisoners sentenced to unlimited-term correctional labor punishment and those with flight risk, including those convicted of illegal border-crossing and human trafficking.⁵⁴ It is 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.⁵⁵

(B) Labor Training Camps (*Rodongdanryundae*)

Labor training camps (*rodongdanryundae*) are where those sentenced to labor training punishment (from six months or more to one year or less) by the court or those imposed with labor training

⁵³. NKHR2013000156 2013-08-20.

⁵⁴. NKHR2013000121 2013-06-25; NKHR2016000014 2016-01-26.

⁵⁵. NKHR2013000115 2013-06-11; NKHR2013000195 2013-10-29.

discipline by a prosecutor (up to six months) are detained. It is identified that those sentenced to labor training punishment are detained at labor training camps (*rodongdanryundae*) under the jurisdiction of the MPS and those sentenced to labor training discipline are detained at labor training camps (*rodongdanryundae*) at the city, county and district levels under the Labor Mobilization Division of the People's Committee. There are testimonies that labor training camps (*rodongdanryundae*) in Wonsan, Gangwon Province and Jeungsan County, South Pyeongan Province are under the jurisdiction of the MPS.⁵⁶ In the 2016 survey, one testimony stated that a brother of the testifier was sentenced to seven months of labor training punishment for illegal border-crossing and detained in labor training camps (*rodongdanryundae*) in Gaecheon *Kyohwaso* in 2014.⁵⁷ It is also said that the military also operates its own internal labor training camps (*rodongdanryundae*).⁵⁸

(C) Holding Centers (*Jipkyulso*)

Holding centers (*jipkyulso*) are where travelers who went outside of their designated regions or overstayed their authorized duration, homeless children, those whose cases are pending, and

⁵⁶_ NKHR2014000065 2014-06-03; NKHR2015000121 2015-09-08.

⁵⁷_ NKHR2016000026 2016-03-08.

⁵⁸_ NKHR2015000119 2015-09-08.

deported defectors are investigated and detained. When holding centers (*jipkyulso*) send notifications to the MPS city/county branch in charge of the residence area of the prisoners, MPS officers in charge of the residence area come to the holding centers (*jipkyulso*) and transport the prisoners to their residence areas. It is identified that there are holding centers (*jipkyulso*) in Hyesan, Yanggang Province, Cheongjin, North Hamgyeong Province, Sinuiju, North Pyeongan Province and Manpo, Jagang Province, among others. Holding centers (*jipkyulso*) are under the MPS provincial bureau, with some holding centers (*jipkyulso*) operated by the MSS. According to North Korean defector testimonies, the holding center (*jipkyulso*) in Yanggang Province for those convicted of illegal border-crossing is in Hyetan-dong, and the one for travellers is in Seonghu-dong.⁵⁹

(D) Detention Center (*Guryujang*)

Detention centers (*guryujang*) are where suspects are detained while under investigation before trials. According to the North Korean Criminal Procedure Law, MSS institution investigators and preliminary examination officers are in charge of investigation and preliminary examination of cases related to crimes against the State or the people. Whereas MPS institution investigators and preliminary examination officers are in charge of investigation

⁵⁹. NKHR2015000093 2015-05-12.

and preliminary examination of cases related to general crimes (Article 46 and 48). Hence, detention centers (*guryujang*) are divided into MSS detention centers (*guryujang*) and MPS detention centers (*guryujang*). The MSS organizations are divided into those at the central, province and city/county levels, and it is said that there are detention centers (*guryujang*) at each level. The MPS organizations are divided into those at the central, province, city/county and dong/li levels, and it is also said that there are detention centers (*guryujang*) at each level.

(E) Political Prison Camps (*Kwanliso*)

Political prison camps (*kwanliso*) are where political criminals are detained. Although North Korea officially denies their existence, it has been confirmed that there are a total of five political prison camps (*kwanliso*). As political prison camps (*kwanliso*) are fundamentally different in nature from the detention facilities mentioned above, we will examine them separately later.

(2) Treatment in Detention Facilities

According to the testimonies of North Korean defectors, it has been found that there are continuous cases of violence and mistreatment at prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*), and detention centers (*guryujang*) in North Korea, and many prisoners suffer

from poor nutrition, sanitation and healthcare. It is confirmed that many prisoners die from this inhumane treatment.

(A) Prison Camps (*Kyohwaso*)⁶⁰

Cases of violence and mistreatment were also collected in the 2016 survey. A woman who said that she was detained in Jeongeori *Kyohwaso* from November 2011 to February 2013 testified that there were frequent instances of violence and mistreatment by guards and MPS officers in prison camps (*kyohwaso*).⁶¹ The testifier herself was also kicked and beaten by cane and gun stock three to four times for stealing and eating food as she was hungry.⁶² According to another woman who was detained in Jeongeori *Kyohwaso* from April 2014 to March 2015, MPS officers used violence frequently when prisoners were not working well or did not study life rules.⁶³ Sometimes, people's ribs or spines were injured, and she testified that she herself was injured on her spine due to a beating by an MPS officer and was still suffering from the injury.⁶⁴ A man who said he was detained in Gaecheon *Kyohwaso* from August 2014 to July 2015 testified that when

⁶⁰. See, Dong-ho Han *et al.*, *Prison Camps in North Korea*, pp. 17-37, about the reality at Jeongeori *Kyohwaso* and Gaecheon *Kyohwaso* in North Korea.

⁶¹. NKHR2016000046 2016-04-19.

⁶². Above testimony.

⁶³. NKHR2016000184 2016-12-13.

⁶⁴. Above testimony.

there was someone who failed to fill his or her work quota, other prisoners would beat that person together when the officer in charge said “educate that person.”⁶⁵ It was also said that there was a so-called “visitors’ food punishment” of not allowing prisoners to eat the food brought by family visitors in Gaecheon *Kyohwaso*.⁶⁶

Table II-15 Violence and Mistreatment in Prison Camps (*Kyohwaso*)

Testimonies	Testifier ID
From November 2009 to July 2012, when the testifier was detained at Seonggan <i>Kyohwaso</i> , an average of 5~6 people died every day due to malnutrition, beating and suicide, etc.	NKHR2016000124 2016-07-26
From October 2010 to March 2013, the testifier was detained at Jeongeori <i>Kyohwaso</i> and prisoners were frequently punched, kicked and beaten by clubs for not understanding the words of MPS officers.	NKHR2016000055 2016-05-03
From January 2011 to September 2013, the testifier was detained at Hamheung <i>Kyohwaso</i> and prisoners were frequently beaten with gun stocks.	NKHR2016000183 2016-12-13
In 2012, while the testifier was detained at the Jeongeori <i>Kyohwaso</i> , there were frequent incidents of violence against certain prisoners by the guard responsible for those prisoners or by a group of prisoners under the direction of the guard. Sometimes convicted prisoners carried rocks while they ran in the rain for 200 to 300 meters and when the testifier, who was infirm, fell down, some stepped on him or her as they ran.	NKHR2014000132 2014-08-26
In 2012, convicted prisoners who did not fill their daily quota of work were bitterly cursed and beaten at the Jeongeori <i>Kyohwaso</i> .	NKHR2015000073 2015-04-07

65. NKHR2016000114 2016-07-12.

66. Above testimony.

<p>In March 2012, at Gaecheon <i>Kyohwaso</i>, a fellow convicted prisoner in his or her 40s was beaten with a hand hoe by the MSS captain ○○○ in charge for saying, "Let's slow down," during composting work and had severe bleeding. He or She later died as he was also infirm.</p>	<p>NKHR2013000156 2013-08-20</p>
<p>In December 2012 at the Jeongeori <i>Kyohwaso</i>, a woman in the farming unit was severely beaten after she was caught while escaping. She died in February or March of the next year after falling ill and not receiving proper treatment.</p>	<p>NKHR2014000095 2014-07-15</p>
<p>From February 2013 to January 2015, the testifier was detained at Jeongeori <i>Kyohwaso</i> and there were frequent instances of violence and mistreatment. A starved woman in her 60s was beaten severely to the extent that she could not use her back for picking and eating what was dropped in the field.</p>	<p>NKHR2015000123 2015-09-08</p>

Testimonies on the poor nutrition, sanitation and healthcare situation in prison camps (*kyohwaso*) are also continuously collected. A North Korean defector ○○○ who was imprisoned in Gaecheon *Kyohwaso* from August 2014 to July 2015 testified that the prison camp (*kyohwaso*) provided 450g of corn, a pot of rice and 30g of beans per day, and around 80 percent of prisoners were infirm weak (malnutrition).⁶⁷ Moreover, the testifier said that only those close to death with pneumonia, Grade 3 of infirmity, hepatitis could stay in hospitals.⁶⁸ However, it is said that the number of people dying has decreased as there was a direction to better manage prisoners so that they would not die in prison camps (*kyohwaso*), including through allowing more visits to prisoners.⁶⁹

⁶⁷ NKHR2016000114 2016-07-12.

⁶⁸ Above testimony.

⁶⁹ Above testimony.

Table II-16 Poor Nutrition, Sanitation and Healthcare at Prison Camps (*Kyohwaso*)

Testimonies	Testifier ID
From 2003 to 2012, the testifier was detained at the Jeongeori <i>Kyohwaso</i> , and there were epidemics for two to three months every year due to the lack of sanitation. Each time, 30-50 people died.	NKHR2014000081 2014-07-01
From 2008 to 2012, the testifier was detained at Gaecheon <i>Kyohwaso</i> and an average of two to three people died each day due to tuberculosis and weak physical conditions. In 2010, the food crisis was particularly severe, and the number of deaths temporarily increased after people ate corn smelling like gasoline that the prison camp brought in. The testifier reported a death to the guards, but nothing was done and the body was left in the room until the next day.	NKHR2015000005 2015-01-13
From 2010 to 2012, the testifier was detained at Jeongeori <i>Kyohwaso</i> and green corn was provided like steamed rice.	NKHR2015000163 2015-12-01
In 2011 and 2012, many convicted prisoners died from disease at Jeongeori <i>Kyohwaso</i> .	NKHR2015000031 2015-02-10
From January 2011 to September 2013, when the testifier was detained at Hamheung <i>Kyohwaso</i> , steamed rice with corn and salted soup were provided as meals. Around 7-8 prisoners died as they were infirm. The bodies were put in old sacks with their arms and legs folded and buried in the mountains behind the prison camp (<i>kyohwaso</i>) and their families were not informed of their death.	NKHR2016000183 2016-12-13
In 2012, the testifier visited and brought food for her husband. Because the nutritional situation of prisoners who did not have family visitors was bad, she had to give 30 percent of the food to the prison camp (<i>kyohwaso</i>). Her husband suffered a severe injury to his head due to an accident during auto repair work and died in four days after being left without receiving proper treatment.	NKHR2015000151 2015-11-17
From May 2012 to December 2013, the testifier was detained in a hospital at Gaecheon <i>Kyohwaso</i> . At the hospital there was shortage of medicine and no anesthesia was given during operations. When a person in the same room died, the body was folded into one-third and put in a plastic sack and taken out.	NKHR2016000160 2016-05-31
From September 2012 to December 2013, when the testifier was detained at Gaecheon <i>Kyohwaso</i> , whole corn flour, salted soup and soup boiled with rotten cabbage ("crow wing soup") were provided as meals.	NKHR2016000189 2016-12-27
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 was provided and the testifier picked grass and ate it to relieve his or her hunger.	NKHR2015000123 2015-09-08

(B) Labor Training Camps (*Rodongdanryundae*)

According to the 2016 survey, it seems that there is continuous violence and mistreatment in labor training camps (*rodongdanryundae*). North Korean defector ○○○, who was detained in labor training camps (*rodongdanryundae*) in Hyesan, Yanggang Province, in March 2014, testified that his or her eardrum was injured by being slapped strongly for not monitoring work well.⁷⁰

Table II-17 Violence and Mistreatment in Labor Training Camps (*Rodongdanryundae*)

Testimonies	Testifier ID
In around 2012, the testifier was residing close to the labor training camps (<i>rodongdanryundae</i>) in Samjiyeon County, Yanggang Province, and witnessed several instances of prisoners being beaten and cursed harshly for failing to meet their daily labor quota (2 cubic meters of logging) being beaten with harsh curses. Officers treated them like animals, by kicking and whipping them.	NKHR2015000073 2015-04-07
In June 2012, the testifier was beaten frequently when detained at the labor training camp (<i>rodongdanryundae</i>) in Hoeryeong, North Hamgyeong Province. There were people who had physical disabilities after beatings.	NKHR2015000085 2015-04-21
In 2013 while the testifier was detained at a labor training camp (<i>rodongdanryundae</i>) in Daehongdan County, Yanggang Province, he or she was beaten with a one meter-long, three to four centimeter-thick club by a quota officer for failing to meet the labor quota.	NKHR2014000041 2014-04-29
In February 2013, the testifier was beaten for speaking in Chinese when detained at the labor training camp (<i>rodongdanryundae</i>) in Geomdeok Mine, Dancheon, South Hamgyeong Province.	NKHR2015000079 2015-04-21
In March 2014, the testifier was detained at the labor training camp (<i>rodongdanryundae</i>) 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

⁷⁰ NKHR2016000108 2016-07-12.

There were also testimonies of the poor nutrition, sanitation and healthcare situation at labor training camps (*rodongdanryundae*). North Korean defector ○○○, who was detained in a labor training camp (*rodongdanryundae*) in Hoeryeong, North Hamgyeong Province, from December 2013 to June 2014, testified that the meals were inadequate and a colleague prisoner who was suffering from a high fever died without receiving appropriate treatment.⁷¹

Table II-18 Poor Nutrition, Sanitation and Healthcare at Labor Training Camps (*Rodongdanryundae*)

Testimonies	Testifier ID
In August 2012, the testifier was detained at a labor training camp (<i>rodongdanryundae</i>) in Hoeryeong, North Hamgyeong Province. As the meals were poor, it was difficult to survive without visitors.	NKHR2015000139 2015-10-06
In March 2013, when the testifier was detained at a labor training camp (<i>rodongdanryundae</i>) in Samjiyeon County, Yanggang Province, more than half of the prisoners were infirm as the provided meals were less than the regular meal amount (150g of corn). It was hard to sleep due to too many bed bugs.	NKHR2016000114 2016-07-12
From November 2013 to March 2014, when the testifier was detained at a labor training camp (<i>rodongdanryundae</i>) in Hyesan, Yanggang Province, as only a small amount of potatoes and corn were provided, the meals were always insufficient. Because it was impossible to wash clothes, people had to wear the same clothes for months.	NKHR2016000108 2016-07-12

(C) Holding Centers (*Jipkyulso*)

The 2016 survey continued to collect cases of violence and mistreatment at holding centers (*jipkyulso*). A woman who said

⁷¹- NKHR 2016000042 2016-04-05.

she was forcibly repatriated from China in October 2014 testified that she was detained in a holding center (*jipkyulso*) in Hyesan, Yanggang Province, in February 2015 after staying in a holding center in Sinuiju in North Pyeongan Province in December 2014 and that she was forced to remain in a fixed position and was severely beaten with clubs.⁷² According to this testifier, a woman who was three months pregnant was forced to have an abortion because she was pregnant with a Chinese baby in the holding center (*jipkyulso*) in Sinuiju.⁷³

Table II-19 Violence and Mistreatment at Holding Centers (*Jipkyulso*)

Testimonies	Testifier ID
In September 2012, when the testifier was detained at the holding center (<i>jipkyulso</i>) in Cheongjin, North Hamgyeong Province, he or she was beaten when he or she stretched her back while weeding. Female prisoners who attempted to go to China received mistreatment such as being frequently burnt with cigarettes.	NKHR2015000123 2015-09-08
In December 2012, a guard sexually assaulted a 27 year-old female prisoner at the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province.	NKHR2015000079 2015-04-21
In 2014 at the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province, the testifier was kicked and punched. The testifier was also in a labor training camp (<i>rodongdanryundaë</i>) in Hyesan and the mistreatment was more serious there.	NKHR2016000025 2016-03-08
In November 2014, the testifier was at the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province, for 40 days and was forced to remain in a fixed position 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 found it hard to walk due to serious injuries to her head and legs due to continuous beating.	NKHR2016000094 2016-06-14

⁷² NKHR 2016000051 2016-04-19.

⁷³ Above testimony.

The nutrition, sanitation and healthcare situations in holding centers (*jipkyulso*) are also found to be poor. North Korean defector ○○○, who was detained at a holding center (*jipkyulso*) in Hyesan, Yanggang Province from October 2014 to March 2015, testified that corn kernels and cabbage soup were provided as meals and heating was possible only if the respective families of prisoners sent firewood.⁷⁴ Also according to this testifier, as there is a resident doctor and medical facilities at MSS provincial holding centers (*jipkyulso*) but not at MSS city holding centers (*jipkyulso*), when there is a patient, the centers ask an external doctor to visit and give treatment.⁷⁵

Table II -20 Poor Nutrition, Sanitation and Healthcare at Holding Centers (*Jipkyulso*)

Testimonies	Testifier ID
In September 2012, while the testifier was detained at a holding center (<i>jipkyulso</i>) in Cheongjin, North Hamgyeong Province, many were infirm due to poor nutrition.	NKHR2015000123 2015-09-08
From September to November 2012, the testifier was detained at the holding center (<i>jipkyulso</i>) in Sinuiju, North Pyeongan Province, and corn, cabbage soup, and sweet potatoes were provided as meals.	NKHR2016000177 2016-11-29
In 2013, while the testifier was detained at the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province, 100 kernels of corn and salted water were provided as meals.	NKHR2015000153 2015-11-17

74. NKHR2015000170 2015-12-01.

75. Above testimony.

(D) Detention Centers (*Guryujang*)

Also in the 2016 survey, there were many cases of violence and mistreatment at MPS city/county branch detention centers (*guryujang*) and MSS detention centers (*guryujang*). In particular, there were concentrated testimonies of violence and mistreatment at MSS detention centers (*guryujang*) in border areas. North Korean defector ○○○ was investigated under detention in an MSS detention center (*guryujang*) in Hyesan, Yanggang Province, from March to June 2015 after being forcibly repatriated from China in October 2014 and testified that he or she was forced to remain in a fixed position and was punished with 5,000 “pumps” if he or she moved even slightly.⁷⁶ The testifier said that there were many people who fainted during such punishment while being infirm.⁷⁷ Moreover, the testifier was frequently beaten so severely that pus came out of his or her ears.⁷⁸

Table II-21 Violence and Mistreatment at Detention Centers (*Guryujang*)

Testimonies	Testifier ID
In January 2012, when the testifier was living in Pyeongseong, South Pyeongan Province, his or her younger sister who was then 19 years old was caught in a crackdown for watching Korean dramas and detained at the MSS detention center and was sexually assaulted by an MSS agent in his 40s.	NKHR2016000169 2016-11-01

⁷⁶- NKHR2016000051 2016-04-19.

⁷⁷- Above testimony.

⁷⁸- Above testimony.

In February 2012, the testifier received various forms of mistreatment including being beaten with pieces of split firewood taken out of a fire and doing “pumps” while naked when the testifier was detained for 15 days at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province.	NKHR2014000189 2016-12-27
In May 2012, one of the testifier’s neighbors, who was taken to MSS headquarters from the MSS detention center (<i>guryujang</i>) in Sinuiju, North Pyeongan Province, was tortured for 40 days and came back unconscious and with a broken collarbone.	NKHR2014000073 2014-06-17
In July 2012, when the testifier was at the MSS detention center (<i>guryujang</i>) in Musan County, North Hamgyeong Province, the testifier received various forms of mistreatment including being forced to remain in a fixed position and experiencing sleep disturbances, etc., and being frequently beaten.	NKHR2015000123 2015-09-08
In October 2012, at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province, the testifier was mistreated including being forced to remain in a fixed position and being beaten.	NKHR2015000079 2015-04-21
In December 2012, the testifier was forced to remain in a fixed position for 16 hours or more and was beaten at the MSS detention center (<i>guryujang</i>) in Wonsan, Gangwon Province.	NKHR2016000113 2016-07-12
In March 2013, the testifier was beaten for an hour to an hour and a half every day in a solitary confinement room at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province.	NKHR2015000159 2015-12-01
In June 2013, the testifier was mistreated including being forced to remain in a fixed position and being beaten at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province.	NKHR2015000153 2015-11-17
In July 2013, the testifier was mistreated including being forced to remain in a fixed position at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province. When the testifier did not maintain the fixed position, he or she was punished by being forced to remain in a position at a “95 degree angle.”	NKHR2015000136 2015-09-22
From August to October 2013, the testifier was mistreated by being forced to remain in a fixed position, being suspended in the air and disturbed from sleep, and suffering beatings. There were frequent cases of people committing suicide because of mistreatment.	NKHR2014000121 2014-08-12

In November 2013, the testifier was forced to remain in a fixed position from 5 am to 10 pm at the MPS county detention center (<i>guryujang</i>) in Bocheon County, Yanggang Province.	NKHR2016000044 2016-04-19
In April 2014, the testifier was beaten severely to the extent where his or her teeth were broken at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province.	NKHR2016000103 2016-06-28
In December 2015, the testifier was forced to remain in a fixed position at the MSS detention center (<i>guryujang</i>) 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 or her head or hands and frequently beat him or her with oak clubs. The testifier sometimes fainted when beaten severely.	NKHR2016000078 2016-05-31

Testimonies on the poor nutrition, sanitation and healthcare situation in detention centers (*guryujang*) have been continuously collected. A man who said he was investigated under detention for around 15 days in an MSS detention center (*guryujang*) in Hyesan, Yanggang Province, in December 2015 testified that rotten whole kernels of corn and soup with dried radish leaves were provided as meals and that he starved for five days but later had to eat little by little.⁷⁹ According to the testifier, it was very cold because no heating was provided even in the middle of winter.⁸⁰ And as there were at least ten and up to fifteen people detained in the same small room, it was even impossible to fully stretch one's body.⁸¹

⁷⁹ NKHR2016000078 2016-05-31.

⁸⁰ Above testimony.

⁸¹ Above testimony.

Table II -22 Poor Nutrition, Sanitation and Healthcare at Detention Centers (*Guryujang*)

Testimonies	Testifier ID
In February 2012, the testifier received a ration of whole corn kernels mixed with rat droppings and dried radish leaves as meals at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province.	NKHR2016000189 2016-12-27
In July 2012, the defector received rice with corn and scorched-rice water for breakfast and supper and noodles for lunch at the MSS detention center (<i>guryujang</i>) in Musan County, North Hamgyeong Province.	NHR2015000123 2015-09-08
In October 2012, the defector received rotten corn as meals at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province.	NHR2015000079 2015-04-21
In October 2013, very poor meals of rice with corn and radish pickled in salt were received at the MSS detention center (<i>guryujang</i>) in Cheongjin, North Hamgyeong Province.	NKHR2014000121 2014-08-12
From January 9 to 21, 2014, the defector was at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province and from January 21 to March 8, 2014, at the MSS detention center (<i>guryujang</i>) in Kimjongsuk County, Yanggang Province. The meals at the detention center (<i>guryujang</i>) in Hyesan were very poor as only 120 kernels of corn were provided. The meals at the detention center (<i>guryujang</i>) in Kimjongsuk County were relatively better.	NKHR2014000203 2014-12-02
From March to June 2015, the testifier was subjected to investigation under detention at the MSS detention center (<i>guryujang</i>) in Hyesan, Yanggang Province, and boiled whole corns kernels, salted soup and cabbage were provided as meals.	NKHR2016000051 2016-04-19

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.⁸²

The North Korean Constitution and Criminal Procedure Law do not stipulate that criminal defendants shall be presumed innocent until guilt is confirmed. There are neither separate provisions on separate confinement of unconvicted prisoners and convicted prisoners, or treatment of unconvicted prisoners.⁸³ As examined above, it seems that a basic separation of detention for unconvicted and convicted prisoners is taking place. Also, the detention facilities are separated for those sentenced to correctional labor punishment, labor training punishment and labor training discipline as well as for criminal suspects or criminal defendants. While a more specific survey seems to be required to identify whether unconvicted prisoners are receiving appropriate treatment distinguished from those for convicted prisoners, the guarantee of treatment of unconvicted prisoners is insufficient given that some holding centers (*jipkyulso*) are forcing prisoners to work (See, Chapter II, Section 3 “Right to Not be Forced into Labor”). In addition, access

⁸². UN HRC, General Comment, no. 21 (1992), para. 9.

⁸³. For example, in South Korea, 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 in treatment of unconvicted prisoners, prohibition against visits, wearing of plain clothes, haircuts, interviews with defence counsel and receiving of correspondence, special rules in investigation, work and edification, etc.

to a defense counsel is not practically guaranteed (See, Chapter II, Section 7 “Right to a Fair Trial”).

C. Issues Related to Treatment of Convicted Prisoners

According to the overall Article 10, paragraph 3 of the ICCPR, correctional systems should include treatment that basically aims at correction and rehabilitation of prisoners. Therefore, convicted prisoners should be treated in a way to promote correction and edification through correction/edification programs, work and vocational training in order to develop their ability to re-adapt to life in general society.

First of all, it is confirmed that there are no provisions on treatment of convicted prisoners in North Korean laws.⁸⁴ Provisions related to punishment in the North Korean Criminal Law seem to officially pursue ideological education of convicted prisoners through labor at prison camps (*kyohwaso*). However, the inhumane labor environment and imposition of excessive labor as has been testified by many North Korean defectors is difficult to be regarded as in accordance with the correction and rehabilitation of convicted prisoners. Also in the 2016 survey, there were testimonies collected

⁸⁴- For example, in South Korea, the Administration and Treatment of Correctional Institution Inmates Act has specific provisions on the principles of treatment of convicted prisoners, examination of classification, education and edification programs, work and vocational training and leave, etc.

on the inhumane working environment and excessive labor at prison camps (*kyohwaso*). North Korean defector ○○○ testified that he or she had to work from 9:30 am to 11:30 pm and those who were slow were severely beaten with guns or kicked, when the testifier was detained at Gaecheon *Kyohwaso* from September 2012 to December 2013.⁸⁵ Another North Korean defector who said that he or she was detained at Gaecheon *Kyohwaso* for 11 months from August 2014 to July 2015 gave a similar testimony. According to the testifier, while the regular daily working hours were 12 hours, the testifier had to work 14 hours a day due to the excessive labor quota.⁸⁶ When the work was not done properly, the testifier was mercilessly beaten and was not allowed to sleep.⁸⁷

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 stipulates that juvenile offenders shall be segregated from adults and be accorded appropriately to their age and legal status. While Article 10 does

⁸⁵ NKHR2016000189 2016-12-27.

⁸⁶ NKHR2016000114 2016-07-12.

⁸⁷ Above testimony.

not stipulate the age of juveniles, the UN Human Rights Committee has suggested 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.⁸⁸

In the current North Korean Law, it is difficult to find provisions on unconvicted or convicted juvenile prisoners. As there has been nothing specifically identified regarding the realities related to such issues, it is assessed that investigation of such issues is required going forward.

E. Evaluation

According to the 2016 survey, the human rights violations at various detention facilities in prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*) and detention centers (*guryujang*), are still serious. While violence and mistreatment are daily practices at a range of detention facilities, it seems that the level of violence and mistreatment at MSS detention centers (*guryujang*) near border regions is serious. Nutrition, sanitation and healthcare in detention centers (*guryujang*) is very poor, resulting in continuous loss of prisoner lives. This constitutes a violation of Article 10, paragraph 1 of the ICCPR,

⁸⁸- UN HRC, General Comment, no. 21 (1992), para. 13.

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. In addition, the deaths at detention facilities may constitute violations of Article 6 of the ICCPR, which stipulates protection of the right to life. It seems that the guarantee of treatment of unconvicted prisoners is extremely insufficient other than that unconvicted and convicted prisoners are confined separately. Also, in terms of treatment of convicted prisoners, it has been found that measures are taken that do not accord with the original goal of the correctional system including imposition of excessive labor. It is assessed that the fact that there is a general failure to comply with Article 10 of the ICCPR in North Korea is also related to the prevalent tendency to deny human dignity to criminals or deviant people. In the second UPR, many countries recommended that North Korea improve its treatment of detainees and cease its human rights violations at detention facilities, to which North Korea responded that it would continuously review the possibility of implementation going forward. North Korea, as a State Party to the ICCPR, should prepare specific provisions, to which it also complies, on the right and treatment of people detained in detention facilities.

6

Right to Freedom of Movement and Residence

The right to freedom of movement and residence is one of the fundamental rights of people to freely move and settle where they wish. It is no exaggeration to say that by securing the right to freedom of movement, including the choice of and movement to an area of residence, the foundation for more firmly guaranteeing overall human rights as the basic rights of people can be laid. Under such a context, major international human rights standards mention the right to 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 stipulates the right to freedom of residence and movement, as detailed in the following table.

Table II-23 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.

We will now examine the situation in North Korea with regard to the right to freedom of residence and movement.

A. Control of People and Restriction on Movement through Travel Permit

Article 12, paragraph 1 of the ICCPR stipulates that “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.” North Korea imposes limits on free movement by the general population within the country’s territory through its travel permit system. Those lawfully within the territory of a state that the ICCPR refers to may be citizens of the country or foreigners who temporarily reside in the country. The North Korean authorities limit the right to freedom of movement and residence, through diverse legal institutions, not only of North Koreans but also of

foreigners.

With regard to the right to freedom of movement and residence, North Korea added “citizens shall have the right to freedom of residence and travel” to Article 75 through revision of the Constitution in September 1998. However, regardless of such legal institutional changes, the policy of limiting people’s movement has continued and as seen in the travel permit system.

Article 30 of the People’s Security Enforcement Law, the representative law that regulates the daily lives of the North Korean people, stipulates “the People’s Security Agency shall exercise control over violations of travel regulations and disorderly wandering on the streets,” mentioning travel regulations of the general population as one of the targets for security control. 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 through warnings, fines or unpaid labor. Under-aged persons for whom a People’s registration card is not issued cannot receive travel permits separately and must be accompanied by an adult who has received a travel permit. Those travelling for official business can obtain a business travel permit and travel in North Korea. Soldiers, government employees, or workers of enterprises can travel for business trips or dispatching across the nation if carrying a business travel permit issued by the organization to which they belong. If a patient has a diagnostic document, he or she can obtain a travel

permit to move to the capital city of the province of residence or to the residence area of direct family members who can take care of the patient.

While travel permits are free and are issued in around five to seven days, most North Koreans pay 10,000 or 20,000 North Korean won per permit to obtain them immediately.⁸⁹ Regarding the period for issuance and cost, it is assessed that there is little deviation in the actual process at the regional level based on the level of the organization and region. Moreover, it is reported that the color of the lines in the permit differs by region, and the authorities change these colors frequently to prevent counterfeiting. In particular, Pyongyang and the border regions are categorized with approval number areas and require the issuance of an approval number from the county level and the document itself is different from other regions.⁹⁰ It is said that it is relatively easy to receive travel permits aside from special districts including the border regions, Pyongyang, Najin-Sonbong and Gaeseong, etc.⁹¹ Travelers who obtain a travel permit must report to the *inminban* chief of the region after arriving at the travel destination and register on the travel roster, and then obtain a travel pass stamped

⁸⁹. NKHR2015000113 2015-06-02 and many other testimonies.

⁹⁰. NKHR2016000016 2016-01-26.

⁹¹. NKHR2016000001 2016-01-12; NKHR2016000029 2016-03-08. Of course, being easy is based on relative perception. Some testifiers viewed the issuance of the travel permit itself as a very complicated and demanding procedure as it takes quite a long time to legally receive it. Therefore, this testimony may assume the use of bribery.

by the MPS. If a traveler is caught without a permit, the *inminban* chief is required to report it to the local MPS officer after which the traveler must register at the local MPS city/county branch. All of this makes it possible to control the movement of people.

At the same time, there are also some cases where freedom of movement was expanded due to adaptations by North Korean people instead of due to institutional improvements of the North Korean authority. There is an increasing number of cases where people travel only with their People's Registration Card without a travel permit and can avoid punishment through bribery when caught.⁹² The spread of social corruption based on bribery and the resulting increase in the mobility of the people can be carefully interpreted as the spread of freedom of movement for the general population. However, senior officials of KWP, not the general population, can travel with priority by receiving verification letters with a party stamp separately from this travel permit system.⁹³ Therefore, the North Korean authority is still limiting the freedom of movement of general people through the discriminatory application of the travel permit system.

⁹² NKHR2016000017 2016-01-26; NKHR2016000033 2016-03-22; NKHR2016000049 2016-04-19; NKHR2016000137 2016-08-23.

⁹³ NKHR2016000013 2016-01-26.

Table II-24 Testimony Related to Travel Permits

Testimonies	Testifier ID
Travel permits for Jagang Province have red lines, while those for Pyongyang and border areas have blue lines. Other areas had no lines.	NKHR2013000077 2013-04-16
Army discharge cards have the same effect as travel permits. Travel was allowed with them to anywhere except Pyongyang. They are good for six months after discharge.	NKHR2013000154 2013-08-20
People's registration cards were good for travel within North Hamgyeong Province. People from other cities or counties must have travel permits to travel within North Hamgyeong Province.	NKHR2013000202 2013-11-12
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 travelling to Najin. When people residing in other provinces, including Cheongjin, wished to enter border areas, including Hoeryeong, a travel permit was required.	NKHR2015000101 2015-05-19
In the fall of 2012, the testifier obtained a travel permit to go for vending and peddling to Pyeongseong from Hyesan, Yanggang Province. As one of the acquaintances of his mother's friend was working for MPS city/county branch No. 2, the defector obtained the travel permit the next morning by handing over one pack of cigarettes.	NKHR2015000134 2015-09-22
In 2015, travel permits were issued in Kimjongsuk County, Yanggang Province. Although travel permits for the border areas of Pyongyang/Naseon 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
In March 2015, the testifier obtained a travel permit to Cheongjin, North Hamgyeong Province, after stating the purpose as visiting his or her brother in Hyesan, Yanggang Province. The testifier applied for it at the MPS city/county No. 2, and there was no commission fee when it was obtained through legal procedures after taking one month.	NKHR2016000171 2016-11-01
In October 2015, the testifier obtained certification documents (unit, business travel order, verification letters) through his or her company to visit relatives in Onsung, North Hamgyeong Province, from Cheongjin, North Hamgyeong Province.	NKHR2016000155 2016-09-20

B. Restriction of Access to Certain Areas and Forced Deportation

Article 12, paragraph 3 of the ICCPR stipulates regarding restrictions of the right to freedom of movement and residence 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 gave interpretation in General Comments that domestic law has to establish 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 or she is the holder of state secrets, or if an individual were prevented from travelling internally without a specific permit.⁹⁴ Article 12, paragraph 3 of the ICCPR means that the right to freedom of movement and residence can be restricted within the boundary of feasible and reasonable reasons in terms of national policies.

In North Korea, however, such provisions are problematically interpreted arbitrarily and at the discretion of the authorities. North

⁹⁴- UN HRC, General Comment, no. 27 (1999). paras. 12, 16.

Korea has designated its capital, Pyongyang, border towns and free trade zones, including Najin and Sonbong, as approval number areas where entry by the general population is restricted, and prohibits access without approval numbers on the travel permits. Such broad restrictions on access to many special districts violates the right to freedom of movement and residence stipulated in Article 12, paragraph 1 of the ICCPR. Although the North Korean authorities offer reasons of national security for the control of these districts, this is inadequate in terms of reasonable common sense. One clear example is that there is no other country on earth that controls and regulates its own citizens' visits to the capital city.

North Korea implements a policy of limiting access to certain districts by the general population. For example, those without Pyongyang residence cards⁹⁵ and permits for temporary stays in Pyongyang⁹⁶ can enter the city only with travel permits with Pyongyang approval numbers. For the general population to travel to cities and counties in the administrative district of Duman River, Amrok River, and the Demilitarized Zone, they need to carry

⁹⁵. People's registration cards for the general population and Pyongyang residence cards issued only for Pyongyang citizens are differentiated (Article 7, Citizen Registration Law).

⁹⁶. Permits for temporary stays in Pyongyang are provided to students from the provinces, those attending Pyongyang universities or the Pyongyang No. 1 Middle School, soldiers deployed in Pyongyang, and civil servants or business workers assigned to Pyongyang. The length of stay is allotted according to the period of study, work or service.

travel permits issued by their province of residence and with an approval number of the Section 2 Office of the provincial People's Committee of North Pyeongan Province, Jagang Province, Yanggang Province and North Hamgyeong Province. As such, the North Korean authorities operate a system that restricts travel to special areas, as well as a general travel permit system. Those who wish to go to Pyongyang, military regions or border region must obtain an approval number from an MSS agent.⁹⁷ It appears to be more difficult to obtain travel permits from inland areas to border regions than from border regions to inland areas.⁹⁸

While restriction of access to certain areas through regulations in the travel permit system and the demanding process constitute passive infringement of the right to freedom of movement and residence, forced deportations conducted by the North Korean authorities can be defined as active infringement. The UN Human Rights Committee interprets the right to freedom of residence in its General Comments as it 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.”⁹⁹ The forced deportation by the North Korean authorities constitutes a representative case of forced displacement by the State.

⁹⁷- NKHR2014000119 2014-08-12 and many other testimonies.

⁹⁸- NKHR2014000127 2014-08-26.

⁹⁹- UN HRC, General Comment, no. 27 (1999), para. 7.

The North Korean authorities have been utilizing forced deportation as a policy tool against political reactionaries, anti-government individuals, and their families. In particular, the North Korean authorities have expelled people with disreputable backgrounds (*songbun*) from Pyongyang to remote provinces. Since Kim Jong Un came to power, there have been reports on the forced deportation of border town residents with the reinforced control on defection from North Korea. Among the border regions, it was relatively easier to cross the river in Samjiyeon County, Yanggang Province, due to the thick woods growing behind the houses in that area than in Hyesan or Bocheon County. However, to control defection from North Korea, around 200 households in the border regions close to Samjiyeon County were forced to move and the existing houses were demolished in 2015.¹⁰⁰ While the forced movement policy used as political retaliation was in the form of traditional forced deportation, the forced movement to control border regions can be seen as a new dimension of forced deportation. As such, North Korean defectors give consistent testimonies of diverse forms of forced deportation by the North Korean authorities. As indicated in the cases, North Korea continues to carry out forced deportation as part of national policy.

¹⁰⁰-NKHR2016000025 2016-03-08.

Table II -25 Cases Related to Forced Deportation

Testimonies	Testifier ID
Thirty percent of the residents in Sinmyong-ri, Poongseo County, Yanggang Province are families of those detained due to misspeaking. Many others are those deported from Pyongyang and Hyesan.	NKHR2014000055 2014-05-20
In Gyowon-ri, Chongam District, Cheongjin, North Hamgyeong Province, more than 40% of the residents are deported families.	NKHR2014000078 2014-07-01
In 2012, children of a high-ranking senior official were caught for illegal activities related to South Korean recordings in Hyesan, Yanggang Province, and as a result, their father was fired and the entire family was forcibly deported to rural areas and mining areas, etc.	NKHR2016000038 2016-04-05
Most banished people return home, but lead a life as drifters or “ <i>kotjebi</i> (homeless child beggars).” In February and March of 2013, many banished people could be seen.	NKHR2013000147 2013-08-06
From late 2013 to early 2014, around 7 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 Sung-taek Jang.	NKHR2016000188 2016-12-27
In April 2014, the nephew of Jang Sung-taek and his family were deported from Seoheung-dong, Cheongjin, North Hamgyeong Province to Hwadae County, North Hamgyeong Province.	NKHR2014000077 2014-07-01
In spring 2015, around 10 households were deported as they were caught smuggling from China in Rimyongsugu, Samjiyeon County, Yanggang Province. They were mostly deported to the Poongseo and Baekam regions.	NKHR2016000063 2016-05-03
In September 2015, the testifier was deported from Bocheon County, Yanggang Province, to Sinchangri, Poongseo County, Yanggang Province. The enforcement agency was the MPS county branch of MPS, and MPS officers suddenly came in the early morning and packed up all the furniture and moved them.	NKHR2016000194 2016-12-27

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, “own country” can be interpreted more broadly including one’s own country and “free to leave” means that procedural legitimacy and freedom to leave the country should be secured. The UN Human Rights Committee interprets Article 12, paragraph 2 of the ICCPR as including the duty of a country to properly provide required documentation, including a passport, for an individual who seeks to leave the country.¹⁰¹

The North Korean authorities have provisions on entry to border areas by foreigners, including those residing in North Korea, in its Immigration Law. The DPRK Immigration Law, revised and updated in 2013, stipulates that “As for application for passports and visas of citizens who seek to enter and exit the country for official business, the organization that dispatches him or her shall apply for them to the Ministry of Foreign Affairs. As for application for passports and visas of citizens who seek to enter and exit the country for private business, the citizen shall apply for them at the immigration office of the area of residence (Article 11),” allowing for immigration for both public and private business, in procedural

¹⁰¹-UN HRC, General Comment, no. 27 (1999). para. 9.

terms. As for foreigners, Article 19 of the Immigration Law mentions that “foreigners shall enter or exit the country after obtaining a visa through our country’s Ministry of Foreign Affairs, an immigration institution or representative institution of our country’s Ministry of Foreign Affairs and consuls residing in other countries.” However, according to numerous testimonies by North Korean defectors, passports in North Korea are issued only for people with special privileges or are otherwise very difficult to obtain.¹⁰² In order for North Korean people to travel overseas, they need permits for entry/exit of the country including passports and visas (Article 10 and 11). If they are found to be in violation of any of these provisions, a fine is imposed or exit is barred (Article 55). In addition, for unlawful border entry/exit, Article 221 of the North Korean Criminal Law (Charges of Illegal Border-Crossing) stipulates, “Those who engage in unlawful border entry/exit shall be subject to one year or less of labor training punishment. Those with serious charges of such behaviors shall be subject to five years or less of correctional labor punishment.” However, unlike as stated in several provisions in the Immigration Law, North Korean people cannot freely leave their home country. This is why there are continuous defections from North Korea where

¹⁰² According to North Korean defector testimonies, it is identified that there are rare cases of passports being issued for private business, contrary to the impression given in the provisions. Among the North Korean defectors who participated in the interviews, those who received passports were mostly for entering/exiting the country on official business. NKHR2015000001 2015-01-13; NKHR2015000070 2015-04-07; NKHR2015000158 2015-11-17.

people leave their home country through avoiding social and border controls. Such defections from North Korea show that there is no procedural legitimacy and autonomy to normally leave and return to the country. North Korea under the Kim Jong Un regime is reinforcing control over defecting from North Korea, and there are testimonies that the crime of illegal border exit/entry was excluded from general pardons from August 2015 and that security was reinforced around border guards' posts and high-tension wire construction started from the second half of 2015.¹⁰³ It is identified that the North Korean authorities aim to block defections from North Korea completely by continuing and reinforcing control along the borders.

North Koreans are only allowed to visit their relatives in China, and personal information of their relatives are recorded in the traveler's personal file (official file), including the relatives' names, address and other relevant information. Currently, anyone over the age of 45 who has a People's registration card and no criminal record can apply for a passport for the purpose of visiting his or her relatives in China. Those with connection to China can

¹⁰³As for the crime of illegal border exit/entry, a general pardon was applied before August 2015, but it was categorized as crime without a general pardon from August 2015. Crimes without general pardons include human trafficking, possessing illegal recordings and manufacturing narcotics, etc. North Korean defector OOO, August 6, 2016, interviewed in Seoul. With regard to the reinforced border security, it was said that electric barbed wire construction was carried out from August 2015 around Amrok River. North Korean defector OOO, August 11, 2016, interviewed in Seoul.

visit them once every three years; only those aged 70 or under can make the trip.¹⁰⁴ There are three types of passports in North Korea: diplomatic, official and travellers' passports. Diplomatic passports are carried by diplomats or special agency personnel. When operatives from the Party or spy agencies are sent abroad, they are given diplomatic passports.

One must obtain a letter of invitation from China in order to actually receive a passport. In addition, confirmation must be made by the manager of one's institution or enterprise as well as by the local MPS officer and the local MSS agent, and a final review is made by the Foreign Affairs agent at the MSS. Passports are issued by the Vice Minister of the MSS after his final approval, and it is said that a written oath promising that he/she will not defame the honor of North Korea and will return home at the appointed date is required. As economic hardships have deepened and the shortage of foreign currency has exacerbated, most North Koreans have tried to obtain passports with cash instead of going through the normal procedures. However, even paying cash sometimes does not prevent the process from taking a long time.

If a North Korean resident in a border region wants to visit China for a short trip, a "river-crossing pass" may be issued.¹⁰⁵

¹⁰⁴- NKHR2014000023 2014-04-01.

¹⁰⁵- Private business is mostly limited to cases where there are relatives in China, and in this case, border crossing cards (river-crossing permits), instead of passports, are mostly obtained. One of the testifiers submitted an invitation letter to the Foreign Affairs division of the MSS and obtained a river-crossing permit after con-

For anyone engaged in cross-border trade, a 24-hour or 48-hour pass is issued. A letter of invitation from China is not required for these types of river-crossing permits, and these are said to be issued immediately upon application. Since 2005, those with connection to China are required to register their names and it has been found that if the Chinese relatives are not registered on North Korea's electronic list, they cannot meet their North Korean relatives, and likewise their North Korean relatives cannot travel to China. As the actual amount of money they need to pay for border-crossing documents has increased, North Koreans visiting China try to recover the money they spent. However, if it was difficult to recover this money with help from relatives or by other means, he/she often choose illegally remain in China.

D. Evaluation

According to the 2016 survey, the right to freedom of residence and movement of the North Korean people is identified to be 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 on/prohibition against access to certain areas for the rebellious

firmation that he/she had a People's registration document. NKHR2015000043
2015-02-24.

people as defined by the authorities are also identified to constitute continuous infringement. In particular, it is of concern that there is an increasing number of organized forced deportations, especially around border towns, to control defections from North Korea, which have been on the rise since Kim Jong Un came to power.

Forced deportation as a policy used by the North Korean authorities to maintain the regime and social order seem to still be in place along with the increasing anti-socialist irregularities of the sex trade, narcotics trade and use, illegal use of mobile phones, and defection of family members, etc. North Korea under the Kim Jong Un regime regards the numerous attempts by its people to leave the country as unlawful and punishes them. Such infringement of the right to freedom of residence and movement is a clear violation of Article 12 of the ICCPR. In addition to the North Korean authorities, the international community should also make efforts to improve the protection of the right to freedom of movement and residence in North Korea.

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 his rights and obligations and of any criminal charge against him.” Article 14 of the ICCPR also stipulates that State Parties shall guarantee the right to 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.¹⁰⁶ Article 14, paragraph 1 guarantees the right to equality in trials, the right to fair trial in all kinds of lawsuits, and the right to public trials. Article 14, paragraphs 2 to 7 stipulate the minimum rights that should be granted to suspects and defendants in the procedure of criminal trials. According to Article 14 of the ICCPR, denial of independent trials, unfair trials, and operation of quasi-judicial systems amount to a failure to guarantee the right to appeal and perfunctory operation of an appeal system, and infringement on the right to defense.

¹⁰⁶- UN HRC, General Comment, no. 32 (2007), para. 2.

Moreover, as cases of criminal trials involving foreigners accumulate, the reality and problems related to this situation are exposed.

Table II-26 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: <ul style="list-style-type: none"> (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing (The rest is omitted); (e) 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; (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court; (g) 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.

We will examine the situation in North Korea related to the right to a fair trial by major issue.

A. Denial of Independence of the Judiciary

Article 14, paragraph 1 of the ICCPR stipulates that all persons have the right to be tried at an “independent and impartial tribunal.” While North Korea nominally stipulates independence of its judiciary and judges, it actually denies independence to the judiciary in reality. Such problems stand out more in criminal trials.

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 Court and municipality directly under central authority, city/district and county People’s courts, and Special Courts (Article 159 of the Constitution). Among the special criminal courts are military courts, railroad courts and military logistics courts (Article 3 of the Law on Constitution of Court, Article 52 of the Criminal Procedure Law). 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), and other Central Court judges by the Presidium of the SPA, and judges for courts of the province and municipality directly under central authority and People’s court by the People’s Assembly of the province and

municipality directly under the central authority 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, in accordance with the principle that the Party holds the dominant position and the principle of centralism, the KWP controls all institutions and organizations in practicality, including the SPA which, nominally, is the highest sovereign organization. Thus, judicial agencies in North Korea have a limited function, and are supervised and regulated by their higher authorities, the SPA and the KWP.¹⁰⁷ In North Korea, while there are provisions 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), they only declare the independence of individual courts as an organizational system, rather than guaranteeing the independence of individual judges. Therefore, it cannot be regarded as independence of the judiciary in its true sense.¹⁰⁸

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, with the opportunity to fully participate in a trial as decent members of the court,

¹⁰⁷-Kyu-chang Lee and Gwang-jin Chung, *The North Korean Criminal Trial System: Characteristics and Actual Practice* (Seoul: KINU, 2011), p. 49. (In Korean)

¹⁰⁸- *Ibid.*, pp. 49-53.

exercise equal rights to a judge, and decide a case through majority vote. North Korea introduced the People's Jury System on November 23, 1945 with Decree No. 4, 「Case Regarding Court Organization」, issued by the Department of Justice, and has been using it ever since. 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 courts of the province and municipality directly under central authority and people's courts are elected by the relevant People's Assembly (Article 4 of the Law on Constitution of Courts). Practically, only those who are loyal to the KWP can be elected as People's jurors, and the elected People's jurors are naturally directed by the KWP. Under this reality in North Korea, the People's Jury System is a means for the KWP to systematically control the courts.¹⁰⁹ The fact that the People's Jury System is used as the KWP's *de facto* legal control system over the courts is also confirmed by the article by a North Korean scholar, who explained that the system was in place to guarantee and deliver the revolutionary characteristics of a trial and such functions and roles were seamlessly fulfilled by the system.¹¹⁰

¹⁰⁹- *Ibid.*, p. 54.

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 during the trial process also serves as one of the major factors that undermine the fairness of trials. We will examine corruption in Chapter V, Section 2, and will examine relevant provisions and reality regarding perfunctory trials only immediately below.

(1) Perfunctory Trials

In North Korea, there is a unique system of preliminary examination between investigation and prosecution. The aim of preliminary examination is to determine the defendant and reveal the criminal case completely and accurately (Article 147 of the Criminal Procedure Law). However, contrary to this legal provision, there are testimonies that sentences are decided by preliminary examination officers with exclusion of a judge and the people's jurors, before trials. North Korean defector ○○○, who went

¹¹⁰ "The People's Jury System is a legal framework that guarantees the revolutionary characteristics of the Republic's trials. ... The Republic's trials legally guarantee the realization of our people's democracy dictatorship. The role and function of the Republic's trials in realizing the people's democracy dictatorship is seamlessly fulfilled by the People's Jury System," Dok-il Kim, "The Nature of the People's Jury System," *Political and Legal Study*, no. 2 (2012), p. 34. (In Korean)

through 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 officer decided most of the sentences, and when the preliminary examination was almost finished, a prosecutor came in and asked if he or she experienced violence, a sanitary environment was provided, there was anything the testifier felt unfair or any issue that the testifier wanted to raise. However, as the guards intimidated the testifier before the prosecutor came from the court, the testifier could not raise any objections.¹¹¹

The first instance trial proceeds in five phases of court trial, factual inquiry, prosecution and defense, the defendant's final testimony, and pronouncement of judgement (Article 300 of the Criminal Procedure Law). Criminal trials are proceeded with as formalities in general in North Korea. 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.¹¹² 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 that the trial took 15 minutes and the testifier was sentenced to five years of fixed-term

¹¹¹-NKHR2016000102 2016-06-28.

¹¹²-NKHR2012000036 2012-03-13.

correctional labor punishment, and although the testifier tried to protest, the guards interrupted him or her.¹¹³ Most North Korean defectors who experienced trials replied that judges, prosecutors, defense counsels and People's jurors attended the trials and their roles were very passive in the actual trials.¹¹⁴ However, there were different testimonies collected in the 2016 survey. North Korean defector ○○○, who experienced trials once or more for an economic offense in Kimjongsuk County, Yanggang Province, in December 2011, replied that the roles of judges were the most active, those of defense counsels and People's jurors were active and those of prosecutors were average. In the end, the testifier was sentenced to five years of correctional labor punishment in the preliminary examination and was sentenced to one year of labor training punishment through the trials.¹¹⁵ North Korean defector ○○○, who received trials once or more for illegal border-crossing in Hyesan, Yanggang Province, in August 2012, replied that the roles of judges was average but those of the prosecutor, defense counsel and People's jurors were very active. The testifier explained that witnesses attended and testified, and in the end, the testifier was sentenced to one-and-a-half years of correctional labor punishment.¹¹⁶ Given that most are sentenced to five years

¹¹³_NKHR2016000102 2016-06-28.

¹¹⁴_NKHR2016000104 2016-06-28.

¹¹⁵_NKHR2016000113 2016-07-12.

¹¹⁶_NKHR2016000189 2016-12-27.

for illegal border-crossing, one can presume that the level of discussion during the trial process affects the trial results.

(2) Contradictory Punishment for the Same Crime

It was testified that on-site open trials were conducted with many people charged for the same things, and some were publicly executed while others were acquitted and released allegedly in accordance with Kim Jong Un's generosity or policy. These cases were found to have taken place in many regions in the second half of 2013. North Korean defector ○○○ testified that such was the case during that time in all provinces to win the hearts of the people.¹¹⁷ Another North Korean defector ○○○ testified, "Kim Jong Un is killing only a few as examples as he cannot kill everyone. With the aim of solidifying his regime, he is orchestrating all this so [the pardoned] people will not commit any more crimes."¹¹⁸ The fact that some accused criminals were found guilty and executed immediately while others were acquitted under the same charges is a clear violation of Article 14, paragraph 1 of the ICCPR, which stipulates the right to a fair trial.

¹¹⁷- NKHR2014000050 2014-05-13.

¹¹⁸- NKHR2014000112 2014-08-12.

Table II -27 Cases of Release of Persons after On-site Open Trials in Accordance with Kim Jong Un's Policy

Testimonies	Testifier ID
In October 2013, an open trial of about 300 people was conducted in Sinuiju, North Pyeongan Province for viewing "impure" video recordings. After a round of executions by firing squad was completed, the remaining persons were "declared innocent because Kim Jong Un, leader of the KWP, ordered that they be absolved of their crimes." In response, the people who avoided execution by firing squad chanted in tears, "Hurray for General Kim Jong Un."	NKHR2014000112 2014-08-12
Two men were shot to death following an open trial at an airfield in Hyesan, Yanggang Province in October 2013 on grounds that they showed people South Korean videos at home and provided space for promiscuous sexual relations. About ten men and women who watched the videos and engaged in sexual promiscuity in the house were also subject to an open trial. All of them were released after Kim Jong Un's policy was read aloud. They reportedly said, "Hurray for General Kim Jong Un."	NKHR2014000119 2014-08-12
An open trial of fifteen persons, including the head of an MPS city/county branch in Cheongjin, North Hamgyeong Province who was bribed to free a criminal, was held in December 2013. After he was shot to death by firing squad, an order to stop further executions was issued. The KWP said that those subject to the sentence were exempted from the death penalty and given a second chance for new life thanks to special consideration by Comrade Kim Jong Un.	NKHR2014000050 2014-05-13

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, North Korea is operating alternative trial systems which are not official trial systems in courts. Comrade Trials and MSS political criminal trials fall into this category, and many institutions other than trial institutions impose administrative penalties. The operation

of alternative trial systems by North Korea constitutes a violation of the ICCPR.

(1) Comrade Trial System

North Korea has a Comrade Trial System, an independent and unique form of trial system, designed to control its population through a social institution without going through regular trial organizations and proceedings. It is said that North Korea abolished the Crowd Trial System, which was temporarily enforced during the Korean War, and has operated the Comrade Trial System by region since around 1972. The legal grounds for the System is 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 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.

Targets 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 administrative fines (where a fine equal to ten to twenty times the undue gain is

deducted from their salaries), suspension of exercise of administrative rights, demotion, self-criticism, stern warnings, admonitions, and so forth. However, there seem to be no appellate procedures in place.¹¹⁹ In the 2016 survey, there were testimonies by North Korean defectors that Comrade Trials were held on every regular market day (10th) in Yonsa County, North Hamgyeong Province, and as a result, most went to labor training camps (*rodongdanryundae*) (90%) and some went to prison camps (*kyohwaso*) (10%).¹²⁰

The Comrade Trial System is primarily carried out in the military. North Korean defector ○○○ replied regarding Comrade Trials that their purpose is “criticizing those who did not do military service well.” Most end with education, but those accused who incurred social criticism were discharged and sent to prison camps (*kyohwaso*).¹²¹ North Korean defector ○○○, who served in the military from 2002 to 2012, testified that he or she had experience attending Comrade Trials and that being in the affluent class and failing to adapt to organization life were the main reasons for Comrade Trials.¹²² Comrade Trials of men in uniform are conducted from the battalion level and always in the presence of an immediate superior under any circumstances. The results are

119_Court Administration Agency, *An Overview of North Korea's Juridical System* (Seoul: Court Administration Agency, 1996), pp. 630-637. (In Korean)

120_NKHR2016000188 2016-12-27.

121_NKHR2016000001 2016-01-12.

122_NHHR2016000103 2016-06-28.

predetermined by a higher department and a Comrade Trial is enforced to set an example. The worst possible penalty is a dishonorable discharge.¹²³ In the event of a dishonorable discharge, the discharged person and his or her family members are relocated to mines or farming villages.¹²⁴ There is no on-site imposition of punishment at Comrade Trials. Preliminary examination procedures take place after Comrade Trials, and then, punishment based on the Criminal Law is imposed.¹²⁵

Table II-28 Testimonies on Comrade Trials

Testimonies	Testifier ID
In 2010, a colleague of the testifier at a border guard unit underwent a Comrade Trial for aiding the river-crossing of his or her mother-in-law and received correctional labor punishment in Hyesan, Yanggang Province.	NKHR2016000093 2016-06-14
In May 2012, several soldiers who crossed the Military Demarcation Line and took pictures underwent a Comrade Trial at the Corps Headquarters for violating the Korean Armistice Agreement.	NKHR2012000247 2012-11-20
In September 2014, ○○○ (27 years old), who was working for a neighboring unit in the same corp, underwent a Comrade Trial for violence against the people.	NKHR2015000119 2015-09-08
In October 2014, two soldiers underwent a Comrade Trial for the transfer of South Korean money in the military in Kimjongsuk County, Yanggang Province.	NKHR2016000029 2016-03-08

123- NKHR2013000154 2013-08-20.

124- NKHR2015000069 2015-04-07.

125- NKHR2015000119 2015-09-08; NKHR2015000131 2015-09-22; NKHR2015000172 2015-12-01.

(2) Political Criminal Trials by MSS

With regard to crime, North Korea has maintained a policy of clearly distinguishing political crimes from general crimes in terms of punishment. The North Korean Criminal Procedure Law provides that cases related to crimes against the State or the people shall be subject to investigation and preliminary examination by MSS institutions and that a court of a province or municipality directly under central authority shall serve as the court of first instance. As such it differentiates cases related to crimes against the State or the people from cases of general crime (Article 46, 48 and 51).

However, there are testimonies that even trials are conducted by the MSS contrary to the applicable provisions of the Criminal Procedure Law. According to North Korean defector ○○○, a former MSS agent, if a criminal fact is assessed to be accurate based on a preliminary examination including interrogation of suspects by an MSS provincial bureau, it is reported to the MSS prosecutor's office. If the prosecutor's office determines that the suspect has committed the criminal act, he or she is tried in the place where the preliminary examination organization is located. In the capacity of a judge, 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 decided pursuant to the Criminal Law. The MSS also determines whether it would be appropriate to detain all members of the family, and whether the

criminal will be imprisoned for life, and there reportedly exists no literature which provides a basis for such determination. Relevant officers hold a meeting of the Case Council to decide how to handle a case and then determine the scope and duration of imprisonment.¹²⁶ Similarly, North Korean defector ○○○, who performed related work for the MSS, said that at the end of a preliminary examination, a prosecutor from the MSS prosecutor's office renders a final decision. He or she also testified that in Nampo, South Pyeongan Province, a prosecutor from the MSS prosecutor's office came to the MSS city branch in Nampo to adjudicate. Other cities and counties also transfer the control of these affairs to the MSS, with a prosecutor from the MSS prosecutor's office making a decision at the MSS provincial bureau. In sum, political prisoners allegedly do not undergo formal legal proceedings.¹²⁷ North Korean defector ○○○, who experienced forced repatriation in 2010, explained that after repatriation from China to North Korea, the Sinuiju MSS distinguishes political offenders and general offenders through investigation. There, those who attempted to go to South Korea, the US and Japan and those who received education in Christianity were categorized as political offenders and sent to political prison camps (*kwanliso*) without going through a trial process like that for general offenders.¹²⁸

¹²⁶- North Korean defector ○○○, April 19, 2005, interviewed in Seoul.

¹²⁷- North Korean defector ○○○, October 10, 2005, interviewed in Seoul.

¹²⁸- NKHR2016000102 2016-06-28.

Trials of political prisoners in North Korea violate human rights. First, trials are held by a non-court entity. The ICCPR stipulates that everyone shall be entitled to a fair and public hearing by a tribunal established by law in the determination of any criminal charge against him (Article 14, paragraph 1). Second, North Korean political prisoners are deprived of an opportunity for appeal. The ICCPR stipulates that everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law (Article 14, paragraph 5). Third, the North Korean authorities arbitrarily stretch the definition of political prisoner. North Korea often labels ordinary criminals as political prisoners even though they can hardly be regarded as such.¹²⁹

(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 apply punishment based on the Criminal Law (Article 13 of the Administrative Penalty Law). Diverse administrative penalties include admonitions, stern warnings, unpaid labor, reeducational labor, demotion, removal from jobs, loss of jobs, fines, suspension, demand for compensation,

¹²⁹-Keum-soon Lee *et al.*, *Political Prison Camps in North Korea* (Seoul: KINU, 2013), pp. 1~2. (In Korean)

confiscation, suspension of qualifications, degradation, or deprivation of qualifications (Article 14 of Administrative Penalty Law). Of these, reeducational labor was added when the Administrative Penalty Law was revised on October 16, 2011. This means that administrative penalties have been reinforced in North Korea. However, it is stipulated that besides trial institutions, 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 can impose administrative penalties. Other institutions, 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 reeducational labor, suspension of qualifications, degradation, deprivation of qualifications, suspensions, and confiscations for violation of legal orders (Article 57 of the People's Security Enforcement Law). Prosecutors can impose labor training (Article 40, paragraph 3 of the Prosecution and Surveillance 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 strong means of social control over the North Korean people. Among these administrative penalties, unpaid labor and reeducational

labor and labor training, in particular, are difficult to be regarded simply as administrative discipline and should be understood as having the characteristics of punishment.

D. Infringement on the Right to Defense

Article 14, paragraph 3 of the ICCPR stipulates that everyone shall be entitled to contact and have the legal assistance of a legal defense counsel of his own choosing in the determination of any criminal charge against him. However, North Korean people cannot personally choose their defense counsel. Those undergoing preliminary examination, accused persons, their families, relatives or representatives of the organization to which he or she belongs can apply for defense counsel and the preliminary examination officer or judge who receives the application shall choose the defense counsel (Article 65 of the Criminal Procedure Law). This is in violation of the ICCPR and improvements are needed to the relevant institutions. Moreover, the right to contact and receive legal assistance from defense counsel is also exercised perfunctorily. We will now examine 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.” 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 aid from a defense counsel (Article 50).

North Korean defectors mostly testified that defense counsels were present in trials. Some North Korean defectors said that defense counsels made statements in their favor.¹³⁰ However, even when defense counsels attended the trial process, in general, they neither aided nor defended the accused substantively.¹³¹ In the 2016 survey, 12 of 21 people who experienced trials replied regarding the role of defense counsels, with five labelling them “very passive” and five describing them as “passive.” North Korean defector ○○○, who underwent a trial in Onsung County, North Hamgyeong Province, from March to July 2010, testified that in the preliminary examination process when the actual sentences

¹³⁰- NKHR2012000032 2012-03-13; NKHR2013000186 2013-10-17.

¹³¹- NKHR2011000148 2011-06-28.

are decided, the testifier did not meet any defense counsels, and also at the trials, a defense counsel only attended and criticized the defendant.¹³² North Korean defector ○○○, who received trials in Samjiyeon County, Yanggang Province, in May 2012, also testified that the defense counsel was only perfunctory and did not play any roles for the defendant.¹³³ This has to do with the duties of defense counsel in North Korea, which is “ensuring accurate handling of a criminal case and guaranteeing the rights of a person undergoing preliminary examination or accused person 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 or 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 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 is more of persuading or inducing a suspect to admit his or her guilt than defending him or her.

¹³²_NKHR2016000102 2016-06-28.

¹³³_NKHR2016000014 2016-01-26.

(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). In addition, the North Korean Lawyer’s Law provides that a defense counsel is entitled to converse or correspond with a person undergoing preliminary examination or accused person of a crime (Article 9, paragraph 1). As such, some access to a defense counsel is carried out, but only perfunctorily.

Table II-29 Cases Where Access to Defense Counsel was Given before a Trial

Testomonies	Testifier ID
In December 1 2011, the testifier was tried in a court in Daehongdan County, Yanggang Province, on charges of illegal river crossing. During his preliminary examination period, he contacted a lawyer.	NKHR2013000027 2013-02-05
During his or her preliminary examination period, a lawyer visited the testifier and asked him or her whether his or her “(crime-related) records are true and correct” and whether he or she “sustained any injury during the preliminary examination period.”	NKHR2012000095 2012-05-29
Although a lawyer visited the testifier once and asked him or her whether he or she was beaten, he or she could not tell the lawyer the truth because guards were next to him or her, listening to the conversation.	NKHR2012000184 2012-09-11

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

Article 14, paragraph 5 of the ICCPR stipulates that everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. In North Korea, it is possible to appeal criminal judgments. The North Korean Criminal Procedure Law stipulates that any accused person, lawyer, or claimant for compensation who has objection to a judgment or decision by a court of first instance may file an appeal with a higher tribunal (Article 356). However, there is a provision that it is not permitted to appeal or challenge a sentence or decision adopted by the Central Court as the court of first instance (Article 358), but this is in clear violation of the ICCPR, and relevant laws should be improved.

Even when appeal is possible, it is only perfunctory.¹³⁴ Although there are cases where appeals are accepted, such cases are exceptional. In North Korea, the appeal system places disadvantages on the appellant. North Korean defector ○○○, who underwent trials in Onsung County, North Hamgyeong Province, from March to July 2010, testified that he or she had one week of an appeal period but gave up because people around him or her persuaded him or her not to appeal because such an appeal may

¹³⁴- NKHR2015000165 2015-12-01.

result in the extension of the sentence by ten years.¹³⁵ North Korean defector ○○○, who underwent trials in Samjiyeon County, Yanggang Province, in May 2012, testified that he or she knew there was an appeal procedure but gave up because there were many cases where appeals resulted in disadvantages.¹³⁶

There are also testimonies that the testifier gave up an appeal based on the thought that he or she would not be able to stand life in the detention center (*guryujang*) throughout the appeal process. North Korean defector ○○○, who underwent trials in Samjiyeon County, Yanggang Province, in August 2014, testified that he or she gave up an appeal based on the thought that one cannot know for sure if the appeal process would take up to one or two years. Moreover, it would be difficult as he or she may suffer from malnutrition if he or she stays in the detention center (*guryujang*) where meals are not properly provided at regular intervals.¹³⁷ North Korean defector ○○○, who underwent trials in Kimjongsuk County, Yanggang Province, in April 2014, testified that he or she gave up the appeal because an appeal would require three to four months of detention and he or she was not sure he or she would be able to stand it.¹³⁸ As a result, it is identified that appeals are uncommon, because North Koreans perceive that

¹³⁵- NKHR2016000102 2016-06-28.

¹³⁶- NKHR2016000014 2016-01-26.

¹³⁷- NKHR2016000114 2016-07-12.

¹³⁸- NKHR2016000104 2016-06-28.

appeals are meaningless.¹³⁹

It is identified that generally no appeals are lodged regarding defection from North Korea. However, it is unclear whether this is because an appeal itself is impossible or because an appeal produces no practical benefit. Some testify that those who illegally cross the border are not allowed to file appeals,¹⁴⁰ while other testifiers say that unlawful border crossers do not enter an appeal in order to serve their prison term as quickly as possible because there are no ambiguous or disputable matters regarding their admission of charges.¹⁴¹ There were testimonies that it is impossible to appeal a decision made during an on-site open trial as well. North Korean defector ○○○ testified that a judge said in an open trial of a felony that “the criminal was sentenced to execution by firing squad according to certain legal provisions and that no appeal might be filed against the decision.”¹⁴² Another North Korean defector also testified that it is impossible to lodge an appeal of an on-site open trial decision because implementation of such a trial itself indicates that there exists substantial evidence.¹⁴³

¹³⁹- NKHR2015000031 2015-02-10; NKHR2016000055 2016-05-03.

¹⁴⁰- NKHR2012000184 2012-09-11.

¹⁴¹- NKHR2014000151 2014-09-23.

¹⁴²- NKHR2011000131 2011-06-07.

¹⁴³- North Korean defector Hyun-wook Song’s consultation with the director of human rights investigation at the Committee for the Democratization of North Korea (November 8, 2011).

F. Infringement on Foreigners' Right to a Trial

As of the end of 2016, 11 foreigners involved in 9 cases who experienced criminal trial proceedings in North Korea have been US citizens including Euna Lee, Laura Ling, Aijalon Mali Gomes, Kenneth Bae (Korean name: Jun-ho Bae), Matthew Todd Miller, Otto Frederick Warmbier and Dong-chul Kim; South Korean citizens including Jeong-uk Kim, Guk-gi Kim and Chun-gil Choi who are missionaries; and a Canadian citizen, Pastor Hyun-soo Lim.

Table II-30 Trials on Foreigners in North Korea (As of December 31, 2016)

	Nationality	Time of Arrest	Time of Trial	Charges	Punishment
Euna Lee, Laura Ling	American	March 17, 2009	June 4, 2009	Hostile acts against the North Korean people, Illegal border-crossing	twelve years of correctional
Aijalon Mahli Gomes	American	January 25, 2010	April 6, 2010	Hostile acts against the North Korean people, Illegal border-crossing	eight years of correctional labor punishment fine 70 million won
Kenneth Bae	American	November 3, 2012	April 30, 2013	Conspiracy to overturn the State	fifteen years of correctional labor punishment
Jeong-uk Kim	South Korean	November 7, 2013	May 30, 2014	Conspiracy to overturn the State, Crime of espionage, Instigation of anti-state propaganda, Illegal border-crossing	Unlimited-term correctional labor punishment
Matthew Todd Miller	American	April 2014	September 14, 2014	Hostile act against North Korea	Six years of correctional labor punishment
Guk-gi Kim, Chun-gil Choi	South Korean	March 2015	June 23, 2015	Conspiracy to overturn the State, Crime of espionage, Crime of clandestine destruction, Illegal border-crossing	Unlimited-term correctional labor punishment

Hyun-soo Lim	Canadian	February 2, 2015	December 16, 2015	Conspiracy to overturn the State	Unlimited-term correctional labor punishment
Otto Frederick Warmbier	American	January 22, 2016	March 16, 2016	Conspiracy to overturn the State	fifteen years of correctional labor punishment
Dong-chul Kim	American	October 2, 2015	April 29, 2016	Conspiracy to overturn the State	ten years of correctional labor punishment

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 an 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 defend her properly.¹⁴⁴ Kenneth Bae also declined legal assistance.¹⁴⁵ As to what occurred for the others, it is impossible to determine with certainty as the related information has not been announced. As such, North Korea only appoints a North Korean defense counsel in a perfunctory manner, and the counsel would clearly not assist the defendant. North Korea is identified as not allowing the individual appointment of defense

¹⁴⁴- Euna Lee, *The World is Bigger Now* (New York: Broadway Books, 2010), p. 187.

¹⁴⁵- Korea Central News Agency, May 9, 2013.

counsels by foreigners and their assistance in court. This infringes upon the right to freely appoint a defense counsel stated in Article 14, paragraph 3 (b) in the ICCPR and ultimately infringes upon the overall right to a fair trial.

The second characteristic is the arbitrary limitation of the right to consultation with the relevant consul during the detention period of foreigners. Article 36, paragraph 1 of the Vienna Convention on Consular Relations stipulates that when a national of a sending country 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 said authorities.

Table II-31 The Right to Consultation with a Consul in the Consular Convention

Article 36, paragraph 1	<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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The right to consultation with a consul by a person in the process of being investigated and tried is very important in terms of individual human rights. This right is a right of individuals and also of a State, recognized by customary international law.¹⁴⁶ The International Court of Justice (ICJ) has ruled that the Consular Convention has codified existing customary international laws on consular relations.¹⁴⁷

With regard to criminal trials, North Korea recognizes the right to receive assistance from a consul. North Korea announced that it was fulfilling the laws in relevant countries regarding access to the consul and treatment in the investigation process of US tourists Matthew Todd Miller and Jeffrey Edward Fowle who were detained in North Korea in 2014.¹⁴⁸ Although there are no consular relations between North Korea and the United States, the U.S. government sought the assistance of Sweden in exercising the right to consultation with a consul for its nationals and asked to represent their interests in North Korea. The North Korean government granted meetings between the Swedish ambassador and the two female American reporters on March 30th, May 15th, June 1st, and June 23rd, 2009. The Swedish embassy staff was also present at the trial for Aijalon Mahli Gomes.¹⁴⁹ Pastor Hyun-

¹⁴⁶- Kyu-chang Lee, "Criminal Trials against Foreigners in North Korea and Right to Consultation with a Consul," p. 49. (In Korean)

¹⁴⁷- Case Concerning United States Diplomatic and Consular Staff in Tehran (USA v. Iran), Judgment of May 24, 1980, *ICJ Reports 1980*, p. 24. (para. 45)

¹⁴⁸- Korean Central News Agency, June 30, 2014.

soo Lim, a Canadian citizen, also was allowed to have a consular meeting with a Canadian diplomat on November 18, 2015.¹⁵⁰ In the case of Kenneth Bae, a US citizen, it is said that his detention was communicated to the Swedish embassy, which represents US interests in North Korea, and he could have met with the consul.¹⁵¹ However, it was testified that during the period of repatriation negotiations in a foreigner prison camp (*kyohwaso*) near Pyongyang, there was a time when exchanges of letters with the embassy was restricted and a time when consultation was restricted without notification for a certain period of time.¹⁵² Such a limitation on the right to consultation with a consul may infringe upon the right to a fair trial stated in Article 14 of the ICCPR that should be ultimately guaranteed not only to a nation's own nationals but also to foreigners.

Third, trials of foreigners are finished with the first trial at the Central Court in North Korea. 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, finishing a case with the first trial violates the right to trial for foreigners because the right to appeal is recognized for all individuals (Article 14, paragraph 5 of the ICCPR).

¹⁴⁹- Korean Central News Agency, April 7, 2010.

¹⁵⁰- Voice of America, December 22, 2015.

¹⁵¹- Voice of America, June 1, 2013.

¹⁵²- Kenneth Bae, November 7, 2016, interviewed in Seoul.

At the same time, regarding citizens of the Republic of Korea detained in North Korea, it seems that there is infringement on the overall right to a fair trial including the right to receive assistance from defense counsel. On May 12, 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, exchanges of letters, and guarantee the right to receive assistance of defense counsel appointed by the South Korean government.¹⁵³ To date, the North Korean authority has not taken any measures on this issue. On October 9, 2015, the 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 South Koreans detained in North Korea confessing anti-state crimes including spy activities and conspiracy to overturn the State constitutes the infringement of the right to a fair trial.¹⁵⁴

G. Evaluation

Also in the 2016 survey, it was found that the guarantee of the right to a fair trial was insufficient in North Korea. While North

¹⁵³- 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," May 12, 2015.

¹⁵⁴- Voice of America, October 9, 2015.

Korea stipulates the independence of trials in its provisions, it denies the independence of trials in practicality. This in violation of Article 14, paragraph 1 of the ICCPR, which stipulates the right to be tried at an “independent” tribunal. Moreover, operation of quasi-judicial systems i.e., the Comrade Trial system, the MSS political criminal system and the Socialist Law-Abiding Life Guidance Committee collides with Article 14, paragraph 1 of the ICCPR, which stipulates the right to be tried at a “tribunal.” Moreover the lack of choice in 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 prohibition against appeal of judgments or decisions adopted at the first trial of the Supreme Court conflicts with Article 14, paragraph 5 of the ICCPR, which guarantees the right to appeal. North Korea’s Criminal Trial System is assessed to be in violation of the human rights of North Koreans as it is basically controlled by the KWP. In practicality, the denial of independence of trials, unfair trials, operation of quasi-judicial systems, perfunctory operation of the appeal system and perfunctory operation of the right to defense is continuing. Meanwhile, with regard to the right to a fair trial, North Korea is only appointing defense counsel in a perfunctory manner and is infringing upon the individuals’ right to receive assistance from a freely appointed defense counsel stated in Article 14, paragraph 3, and is infringing upon the right to a fair trial stated in Article 14 through the arbitrary limitation of the

right to consultation with consul during the detention period. Moreover, by finishing a case with the first trial for foreigners, it also infringes upon the individuals' right to appeal stated in Article 14, paragraph 5. With regard to South Koreans, there is infringement on the right to receive assistance from defense counsel and the overall right to a fair trial.

8

Right to Privacy

Humans have the right to privacy. Article 12 of the UDHR stipulates the right to privacy as “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-32 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 other people from intruding on one’s own space, the right to not be forced to disclose facts that one does not want to disclose and the right to prevent one’s information from being leaked and circulating without permission. These rights are

commonly called the right to privacy. The concept of the right to privacy can be understood passively as a legal guarantee to demand to be left in peace and have one's privacy protected without being arbitrarily forced to reveal one's private affairs, and actively as the legal ability to manage and control one's personal information.

We will examine the situation on the right to privacy in North Korea by major issue.

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 most important factor in guaranteeing the overall right to privacy is whether a system of surveillance of people through a state organization exists or not. Infringement on privacy through a state organization and system can be regarded as a more serious infringement on human rights than physical violence by a state. Organizational and institutional surveillance by a state on privacy, which is the most basic part of human life, constitutes a serious threat to independence, autonomy, and the natural personality of individuals and imposes the psychological violence of self-censorship to those aware of the surveillance.

North Korea guarantees prevention of infringement on privacy

by law in Article 79 of its Constitution, where 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.” However, contrary to what is stipulated in such provisions, there has been extensive surveillance and control over the daily lives of people in an organizational and systematic manner by the State in reality. In practical terms, the guarantee of secrecy and protection of privacy are seriously infringed upon.

The first and most representative surveillance system on people’s privacy is the “five-household-surveillance system.” The five-household-surveillance system is a system where five households are grouped into one unit and a loyal member of the Party, who is also the head of a household. A loyal member is designated as the propagandist in charge of the five households so that he or she can intervene in and control the overall family lives of the rest of the households, including even issues of affection between couples and issues between parents and their children. The five-household-surveillance system originated from July 1958 when Kim Il Sung said “Things will go well if one paid official takes charge of only five households and issues overall instructions including on educational programs and economic tasks and a local Party committee assigns them tasks and manages the performance,” during his visit to the Democratic Propaganda Office in Yaksu-li, Changseong County, North Pyeongan Province. This system was

implemented throughout North Korea under the name of “Red Family Creation Campaign” in the 1960s. From early 1974, it has been implemented as the “*inminban* sub-work group system” which expanded the number of households under joint responsibility in one unit from five to ten. The five-household-surveillance system serves as a path for interference by the State in private affairs as well as for exploitation of labor.

Second is the *inminban* 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 residential registrations automatically belong to *inminban* without exception. *Inminban* issues guidance for daily life, identifies ideological trends, and engages in surveillance of external visitors by grouping people into 20~40 households under the control of each region’s People’s Committee. Each *inminban* has an *inminban* chief, a chief of heads of households, a chief of sanitation, instigation agents, a confidential informant and a security agent, etc.¹⁵⁵ *Inminban* serves to handle diverse issues in residential

¹⁵⁵The *inminban* chief is nominated by city/county (district) People’s Committees upon recommendation of the people through appropriate procedures. In most cases, housewives who are loyal to the Party and do not work serve in this position. The *inminban* chief is responsible for the surveillance of movement of all residents of the *inminban*. Chiefs of heads of households are appointed directly by the Party and take responsibility for managing husbands separately. They sometimes hold meetings and lectures for husbands and mobilize them, as well as being in charge of managing the *inminban* and watching the husbands’ movements after work. The sanitation chief is in charge of the *inminban* environment, while instigation agents are responsible for ideology education and are also the responsible persons of the Party sub-work group composed of Party members of *inminban*. The separately-assigned secret informants (safety agents) are surveillance agents dis-

areas, including childcare, labor mobilization, cleaning, maintenance of public order, spreading news on events and accidents, and delivering instructions through Life Review Session (*saenghwalchonghwa*).¹⁵⁶

Article 30 of the Law on City Administration, which was revised in 2010, stipulates that “people should voluntarily participate in *inminban* to make family life sound and persons humble and suitable for the socialist lifestyle.” Although there is an expression of “voluntarily,” it can be said that in practical terms it legally regulates interference in the family life of people through the *inminban* system. The *inminban* chief usually carries out sanitary inspections, portrait inspections and inspection of books related to Kim Il Sung’s family in each household through unexpected visits. This technically constitutes unlawful house search. Moreover, the *inminban* system forces people to publicly criticize misdeeds of each household through diverse meetings and serves to carry out surveillance and control ideological trends and private situations in families. In addition this system imposes tasks such as road cleaning, mobilization of labor in farming villages, and military support. *Inminban* is a representative system of surveillance and control of the private affairs of the people.

Third is the system of Life Review Session (*saenghwalchonghwa*). “Life Review Session (*saenghwalchonghwa*)” refers to meetings

patched by the MSS or the MPS.

¹⁵⁶- NKHR2014000014 2015-01-27.

where North Korean people reflect on their jobs and public and private lives and criticize each other weekly, monthly, quarterly and annually in the organizations they belong to such as the Party or labor organizations.¹⁵⁷ The system of “new Party Life Review Session (*saenghwalchonghwa*)” re-established by Kim Jong Il in 1967, was devised to be a means of strictly dominating and controlling the private lives of the people. In the “Ten Principles for the Establishment of the One Ideology System,” declared in 1974, North Korea strengthened its control over the people by stipulating that they should participate actively in Life Review Session (*saenghwalchonghwa*). North Korean people in second grade of primary school or older were to unconditionally participate in Life Review Session (*saenghwalchonghwa*) regardless of age and gender.¹⁵⁸ Life Review Session (*saenghwalchonghwa*) are carried out in a way to criticize and reflect on one’s own mistakes through self-criticism and criticism of others. Life Review Session (*saenghwalchonghwa*) form a system where people self-inspect and self-criticize their organizational lives or *inminban* lives over the past week and point out other’s mistakes. It is a system that forces people to open and criticize their own lives. Right after these Life Review Session (*saenghwalchonghwa*), the people have to write what was criticized on that day in reflection of the

¹⁵⁷- Institute for Unification Education, Ministry of Unification, *Dictionary of Knowledge on North Korea* (Seoul: Institute for Unification Education, 2013), p. 385. (In Korean)

¹⁵⁸- *Ibid.*, p. 387.

“message of Kim Il Sung and Kim Jong Il” in a “Life Review Session (*saenghwalchonghwa*) notebook.”¹⁵⁹ If someone is absent, sometimes he or she has to have a one-on-one “individual session (*Gaebulchonghwa*)” with the Party cell secretary.¹⁶⁰ Although Life Review Session (*saenghwalchonghwa*) have become somewhat of a formality after the food crisis in the 1990s, they still work as a strong mechanism of control over people’s lives. The right to privacy of the North Korean people is seriously infringed upon in that they have to self-inspect, open up and receive criticism of their private lives, for life, through Life Review Session (*saenghwalchonghwa*).

Lastly is infringement on privacy through the means of “safety agents.” In North Korea, these “safety agents” operate in secret in all organizations and conduct surveillance on colleagues and people of the organization to which they belong. People mostly call them “spies” or “informers.”¹⁶¹ North Korean defector ○○○ called safety agents “MSS agents” and testified that from 2014, which is after Kim Jong Un came to power, the level of social control was reinforced strongly.¹⁶² Safety agents are secretly selected from among people belonging to state institutions,

¹⁵⁹- NKHR2015000102 2015-05-19.

¹⁶⁰- NKHR2015000053 2015-03-10.

¹⁶¹- Safety agents are said to be divided into informers who make written oaths and those who make verbal oaths. NKHR2015000040 2015-02-24.

¹⁶²- NKHR2016000006 2015-05-17.

factories and enterprises, farms and *inminban*, etc. In every organization, one of every twenty to thirty 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 every fifteen days, they submit policy and trend reports as short as a half page of A4 paper to their superiors through secret contact. For example, they secretly report all 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, embezzlement of a subsidy by the head of section or committee chairman, etc. It is estimated that approximately 500,000~600,000 people of the 24 million North Koreans are safety agents engaging in such activities.¹⁶³ These safety agents serve as a powerful, potent means of maintaining the regime. Through them, surveillance and control over every move and the overall private lives of the people are carried out.

¹⁶³ This estimation is based on interviews of North Korean defectors that, on average there is one safety agent for every 20 people. Based on this, if those aged 19 or younger and 60 or older, i.e., children, juveniles, and seniors, and around 1.2 million (based on the Defense White Paper) soldiers are excluded from the 24 million population, based on North Korea's census in 2008, there is estimated to be around 500,000~600,000 safety agents. Regarding this, refer to Min Hong, "Social Composition of Crime and Survival Ethics of the People," in *Awareness and Identity of North Korean People: Independence of Self, Shadow of the State, Rising Desire*, Jeong-ah Cho *et al.*, (Seoul: KINU, 2012), pp. 207~208. (In Korean)

B. Infringement on Inviolability of Personal Residential Space through Unlawful House Investigations

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

However, there is a wide gap between legal provisions and reality in North Korea, confirmed through diverse testimonies. Unlawful house investigations by judicial and civil police agents including from the MPS, the MSS, the prosecutor's office, and permanent/non-permanent investigation organizations (geuruppa), etc., have been common practice for a long time.

Testimonies by various North Korean defectors reveal that unlawful house searches are commonplace. In North Korea, house searches are supposed to be possible only when a search warrant

is issued by the Director of Prosecutors of the prosecutor's office and approved by the Safety Committee of the region. However, most of the testimonies showed that unlawful house searches are carried out without such procedures, simply by the agents making statements like "Just open the door, let's take a look at your house, open your dressing room."¹⁶⁴ In particular, in the border region known as the Yeonseon area, it is said that personnel from police boxes (*bunjuso*) and MPS city branches conduct random house searches on the pretext of cracking down on smuggling.¹⁶⁵ There are also cases of actual punishment though house searches including one where a defector was imprisoned for one month at a labor training camp (*rodongdanryundae*) because a Chinese phone he or she received from the mother of a friend was found during a random house search without warrant.¹⁶⁶ Testimony revealed that the pretext for house searches is to find so called "black money," money received for spy activities related to South Korea, and recently, in many cases, the reason for house searches is cases related to South Korean recordings.¹⁶⁷

In the 2016 survey, there were many testimonies collected on the social control that was reinforced after Kim Jong Un came to power. In particular, there were many testimonies that there were

¹⁶⁴- NKHR2014000004 2015-01-13.

¹⁶⁵- NKHR2015000018 2015-01-27; NKHR2015000082 2015-04-21.

¹⁶⁶- NKHR2015000085 2015-04-21.

¹⁶⁷- NKHR2016000026 2016-03-08.

frequent house searches to prevent defections from North Korean in border regions. For example, according to one testimony on the situation in Yanggang Province, in August 2015, there were house searches by the *inminban* chief and MPS officers every 5~7 days to search for fugitives in Rimyongsugu, Samjiyeon County, Yanggang Province.¹⁶⁸ According to another testimony, those residing in border regions are more directly affected by the reinforced surveillance system and are censored randomly almost every month.¹⁶⁹ There was also testimony that such reinforcement of the border surveillance system started to intensify from 2014, and in August 2015, barbed wire was reinforced and surveillance cameras were installed in Hyesan, Yanggang Province, to block smuggling, which is one of the major sources of income of the residents in this area.¹⁷⁰

C. Evaluation

While North Korea states what is stipulated as the right to privacy in the ICCPR in its Constitution, the privacy of the people is not being protected properly. According to the 2016 survey, it seems that surveillance in border regions and social control have been reinforced since Kim Jong Un came to power, and in relation

¹⁶⁸-NKHR2016000063 2016-05-03.

¹⁶⁹-NKHR2016000052 2016-04-19.

¹⁷⁰-NKHR2016000051 2016-04-19; NKHR2016000048 2016-04-19.

to this, house searches to reduce smuggling and crackdowns on fugitives are being conducted and punishment after forced repatriation is being reinforced. In particular, as the extensive and organized surveillance and control over the people's private lives by the State has been in place for a long time, the level of privacy infringement is serious. The privacy surveillance systems at the institutional level, i.e., the "five-household-surveillance system," the "*inminban system*," and the system of "Life Review Session (*saenghwalchonghwa*)" that have been operating for a long time are confirmed to still play important roles in the regime's control over North Korean society. Moreover, numerous testimonies regarding unlawful house searches of residential space shows that the inviolability of residential space is seriously infringed upon in the actual daily lives of the people. Especially noteworthy is that the pretexts for this surveillance of people's private lives and unlawful house searches are preventing communication and contact with family members who have defected from North Korea and random crackdowns on smuggling and theft. This means that the North Korean authority is conducting unexpected and unlawful surveillance and searches, technically presuming that all people are potential criminals.

9

Right to Freedom of Ideology, Conscience and Religion

The right to freedom of ideology, conscience and religion is one of the most basic rights to realize one's self-identity as a right related to one's personal, internal freedom. 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 ideology, conscience and religion. Major international human rights standards mention the right to freedom of ideology, 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 ideology, conscience, and religion.

Table II -33 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.

We will now examine the situation regarding the right to freedom of ideology, conscience, and religion by major issue.

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 mentioned 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.¹⁷¹ This guarantees the individuals’ inherent right to freedom of ideology, in the relationship between

a state and an individual, meaning that while the official belief is recognized, the presence of such official belief itself cannot become the grounds for infringement on the freedom of ideology and conscience of individuals. North Korea, although it is a State Party to the ICCPR, does not allow any ideology other than its official ideology. Besides, in this area, it also infringes upon individuals' freedom of ideology and conscience by not accepting any exception to the major belief of the State since it established the Ten Principles of the Unitary Ideology in 1974.

The reality of freedom of ideology and conscience in North Korea is related to its efforts to maintain the Unitary Ruling System based on the ideology that North Korea advocates.¹⁷² The North Korean Constitution makes no reference to freedom of conscience, and basic notions in this regard have not been established in its laws or institutions. The key reason North Korea does not guarantee freedom of conscience is because of its cultivation of a personality cult out of the Unitary *Suryong* Ruling System. Any ideology other than centered around *Suryong* is regarded as a serious threat to the Unitary *Suryong* Ruling System. The North Korean Constitution declares that the DPRK is a state that embodies the ideas and leadership of Kim Il Sung. Furthermore, ideology is the

¹⁷¹- UN HRC, General Comment, no. 22 (1993), para. 10.

¹⁷²- See, Kap-sik Kim *et al.*, *Political System of Kim Jong Un Regime: Suryong System, Relationship among Party/Government/Military and Continuity and Changes of Power Elites* (Seoul: KINU, 2015) (In Korean) as study on the Unitary *Suryong* System in Kim Jong Un era as the fundamental political system with Kim Jong Un at its pinnacle.

“basic guarantee” for operation of the government (Preamble), and that ideology is the guiding principle for all activities in the country (Article 3).

The reinforcement and idolization of the Unitary *Suryong* Ruling System is embodied through the Ten Principles for the Establishment of the Unitary Ideology System (hereinafter, 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 1974, when they were announced, the Ten Principles for Unitary Ideology have sought to deify “the Great Leader” Kim Il Sung, and have, for all practical purposes, commanded the daily behaviors of every North Korean more than any law or standard. In June 2013, North Korea revised the Ten Principles - the first revision in the thirty nine years since the principles were enacted on April 14, 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 function at a higher level than the Constitution or the statutes of the KWP, and governs the standards that systematically safeguard Kim Jong Un’s unitary dictatorship, while absolutely deifying and idolizing the authority of Kim Il Sung’s birthplace, removing and eliminating possible sources of political opposition or public complaint through comprehensive surveillance and oppression, and justifying the hereditary succession

of power within Kim Il Sung's family.¹⁷³

The revised Ten Principles of unitary leadership and demand 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. For this purpose, the Ten Principles update the methods used to sustain Kim Jong Un's political power base. A new section was added, stating that “unprincipled behaviors must be absolutely discarded, including illusions toward any individual's superiors, fawning and idolizing toward them, and blindly obeying them for their power” (Principle No. 6-4). Everyone must “firmly struggle against factionalism, parochialism, paternalism, and other anti-Party elements, as well as having different goals and hidden agendas while pretending to be obedient” (Principle No. 6-5), as well as eliminate all influence-peddling (Principle No. 7-7).¹⁷⁴ Kim Jong Un personally made a speech about safeguarding the leadership system at a gathering of high-ranking officials of the Party, Military, and the Cabinet on June 19, 2013 and the 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*.¹⁷⁵ The revised Ten Principles are particularly

¹⁷³- Gyeong-seob Oh, “Major Contents of the Revised Ten Principles and Their Political Significance,” *Current Issues and Policies* (Sejong Institute, 2013), p. 12. (In Korean)

¹⁷⁴- *Ibid.*, p. 13.

¹⁷⁵- 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

noteworthy because they seek to tighten ideological control over the population. These principles are summarized below.

Table II -34 The Ten Principles

Principle No. 1	All must struggle whole-heartedly 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 <i>Suryong</i> (leaders) of our Party and people, and as the suns 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 <i>Suryong</i> , and must repay the Party’s trust and consideration with enhanced political self-respect and productive output.
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.

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)

Since the Ten Principles are open to arbitrary interpretation, North Korean authorities frequently utilize them to penalize those against whom they hold political grudges to label them as political or ideological criminals. For example, it is the Ten Principles that make it possible that an entire family disappear because a second grade elementary student (9 years old) in the family scribbled on the faces of Kim Il Sung and Kim Jong Il in his or her textbook or because the elderly grandmother used sheets of the *Rodong Shinmun*, which contained pictures of Kim Il Sung and Kim Jong Il, as wallpaper. The North Korean authorities engage in ideological education, including using the Ten Principles to push people to sacrifice their lives to save portraits of Kim Il Sung and Kim Jong Il.

However, in spite of this emphasis on the Ten Principles by the North Korean authorities, it seems rare that ordinary people who are not Party members are taught the Ten Principles in North Korean society, according to a majority of North Korean defectors who testified. It is said that only Party members are taught the Ten Principles and it seems that to most North Korean defectors who were not Party members, the Ten Principles do not hold much significance.¹⁷⁶ Even those defectors who had learned about the Ten Principles as Party members testified that the dedication of individual members to Life Review Sessions (*saenghwalchonghwa*) and the Ten Principles was gradually weakening as their lives

¹⁷⁶- NKHR2014000136 2014-09-02 and many other testimonies.

became more difficult in the face of economic hardship. However, it seems that portraits are still viewed seriously among some North Koreans.¹⁷⁷

Table II -35 Testimony Related to the Ten Principles

Testimonies	Testifier ID
From 2013, its contents increased substantially as the “Ten Principles in Establishing the Party’s Unitary Ideological System.”	NKHR2016000180 2016-11-29
In the winter of 2013, the testifier was required to recite the Ten Principles of the Unitary Leadership System at a Democratic Women’s Union meeting, which was monitored by the cell secretary.	NKHR2015000047 2015-02-24
From 2014, education on the Ten Principles was reinforced. When caught in a crackdown, the testifier had to write a document of criticism during a <i>kyuchaldae</i> of the Democratic Women’s Union.	NKHR2015000129 2015-09-22
In a training session for organization workers in North Hamgyeong Province, around 1,000~1,500 people gathered, and in a training session for central organization workers, 3,000~4,000 people from across the country including party secretaries, organization secretaries, vice leaders of organization divisions and secretaries of the low-level party secretaries gathered to learn the Ten Principles. At every Life Review session (<i>saenghwalchonghwa</i>), it was required to have review sessions of all matters based on the Ten Principles	NKHR2016000013 2016-01-26
The testifier remembered Article 1, paragraph 1 of the Ten Principles of Unitary Ideology and recited the Ten Principles and performed self-criticism in Life Review Session (<i>saenghwalchonghwa</i>).	NKHR2016000038 2016-04-05
The testifier learned the Ten Principles of Unitary Ideology in the military or labor training camps (<i>rodongdanryundae</i>) instead of schools.	NKHR2016000167 2016-11-01
The testifier recited the Ten Principles of Unitary Ideology in the military before joining the party.	NKHR2016000178 2016-11-29

177- NKHR2014000121 2014-08-13 and many other testimonies.

B. Practical Restriction of Freedom of Religion

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.” As for 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 of the 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.”¹⁷⁸ “North Korea oppresses religion, particularly Christianity, because of the sense that the one-person dictatorship can be undermined by religious faith.”¹⁷⁹ As demonstrated by such testimonies, while North Korean authorities have taken positive legal/institutional measures including allowing freedom of religion, establishment of religious facilities and religious ceremonies, operation of religious educational

¹⁷⁸- NKHR2015000018 2015-01-27.

¹⁷⁹- NKHR2015000034 2015-02-10.

facilities and establishment of religious organizations in its Constitution, freedom of religion is still not granted in practical terms in North Korea.

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 restricted in practical terms. As for the family churches that North Korea has said exist, it is questionable how freely they are allowed to operate in the provincial towns. Not a single one of all the North Korean defectors who were interviewed was aware of a family church. While there were testimonies, albeit few, that they were taught about religion through their grandparents or parents,¹⁸⁰ those cases are irrelevant in denoting whether there has been a change in policies of the North Korean authorities, and difficult to be regarded as a general phenomenon.

Such restrictions on religious activities in North Korea are due to the fact that since its establishment, North Korea has constantly persecuted religion in the name of Kim Il Sung's teaching that "religion is the opiate of the people."¹⁸¹ The North Korean government views religion as an "imperialistic tool" for the ruling class to exploit the masses. The North Korean Dictionary on

¹⁸⁰- Above testimony.

¹⁸¹- "Religion is a reactionary and unscientific worldview. 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)

Philosophy states, “Religion was historically seized by the ruling class to deceive the masses and was used as a means to exploit and oppress, and it has recently been used by the imperialists as an ideological tool to invade underdeveloped countries.”¹⁸²

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

Second, while North Korea continues its persecution of religions in practical terms, it uses Protestant churches, Catholic churches and temples for political purposes and external propaganda by allowing foreign religious leaders and other occasional visitors to these religious facilities. Entry or access to the newly established facilities by local citizens is strictly prohibited, and ordinary citizens generally perceive these religious places as “sightseeing

¹⁸²- 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)

spots for foreigners” according to testimonies. In the case of the Bongsu Protestant Church in Pyongyang, built in September 1988, it is said that only the building guard and his or her family lives there, but when foreign guests come to visit, several hundred carefully selected 40 to 50 year-old citizens are gathered to engage in fake church services. Foreign Christians who visited North Korea testified that they witnessed that the door of the church was closed when they visited without prior consultation. Many foreign visitors said that the 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 the 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, when an increasing number of the population was roaming around in search of food during the famine in the 1990s, North Korea suppressed the promotion or propagation of Christianity in the belief that the religion was detrimental to maintenance of the North Korean regime.

It is also found in punishments of people involved in religion and defectors who are forcibly repatriated that freedom of religion is practically restricted in North Korea. On the other side of the reinforced control on defections from North Korea since Kim Jong Un came to power is the concern over the instability of the regime caused by the inflow of external influences, and it is said

that the punishment for those who had been in contact with Christianity or South Koreans in China is heavier.

This was also confirmed in the 2016 survey. While it was fifteen years ago, there was one testimony that the testifier was detained in Jeongeori *Kyohwaso* after being sentenced to fifteen years of correctional labor for contact with Christianity in China and human trafficking.¹⁸³ It seems that the North Korean authority is continuing its policy of controlling the freedom of religion of its people and is imposing heavier punishment and strict control over certain religions in particular.

Table II-36 Cases of Infringement on 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 bow and pray every night and sometimes he read people’s fortunes. The testifier also saw books on Buddhism and 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.	NKHR2016000056 2016-05-03
In 2015, computer files of the Bible were circulated in Kimhyongjik County, Yanggang Province, and the testifier understood religion as “an organization that follows God.”	NKHR2015000091 2015-05-12
The testifier, while detained at a local MSS detention center (<i>guryujang</i>) in Hoeryeong, saw a woman receive an unlimited term of correctional labor punishment for possessing a Bible.	NKHR2012000036 2012-03-13

¹⁸³-NKHR2016000126 2016-08-09.

The testifier received an education session with a Lecture Series print-out in Musan County, North Hamgyeong Province. It said “Let us totally root out religion and superstition.”	NKHR2012000051 2012-03-27
The general population of North Korea lacks a basic awareness of religion. The testifier had heard of Bongsu Protestant Church and Jangchoong Catholic Church but did not understand the difference and also did not know how pastors and Catholic priests are different.	NKHR2015000001 2015-01-13
Among the smuggled items, there were also Bibles. If this is detected, most are subject to correctional labor punishment.	NKHR2015000067 2015-04-07
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.”	NKHR2015000122 2015-09-08

C. Reinforced Punishment on Superstitious Behaviors

As freedom of religion is practically restricted in North Korea, superstitions are prevalent among ordinary people. As a result, it seems that the North Korean authority is also reinforcing control and punishment on superstitious behaviors. According to the North Korean Criminal Law revised in 2013, the maximum punishment on superstitious behavior increased from five years to seven years of correctional labor punishment, and “those who taught superstitious behaviors to many people or caused serious results due to superstitious behaviors shall be subject to up to three years of correctional labor punishment.” As can be seen from the strengthened punishment in provisions related to superstitions in Criminal Law, superstitious behaviors have spread broadly in North Korean society, and at the same time, it can be interpreted

that related control by the North Korean authority is also being reinforced.

Table II-37 Change of North Korean Criminal Law Related to Superstition

<p>Criminal Law of 2012</p>	<p>Article 256 (Crime of superstitious behavior) Those who performed superstitious behaviors for money or goods shall be subject to up to one year of labor training punishment. When the behaviors in the above paragraph are serious, the person shall be subject to up to three years of labor training punishment.</p>
<p>Criminal Law of 2013</p>	<p>Article 256 (Crime of superstitious behavior) Those who performed superstitious behaviors for money or goods shall be subject to up to one year of labor training punishment. Those who taught superstitious behaviors to many people or caused serious results through superstitious behaviors shall be subject to up to three years of labor training punishment. When the behaviors are serious, the person shall be subject to three years or more and seven years or less of labor training punishment.</p>

However, in spite of the changes in provisions of the Criminal Law, it does not seem that the North Korean authority is actually carrying out the punishment level on superstitious behaviors in the same manner as the punishment level on other religions including Christianity. 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, although they are punished due to concerns on social instability, the punishment is mostly at the level of labor training punishment.¹⁸⁴ Even such punishment seems to be avoidable through bribery.¹⁸⁵

D. Evaluation

The right to freedom of ideology, conscience and religion of the North Korean people is seriously infringed upon. More than anything else, the ideology that North Korea advocates and the Ten Principles of the Unitary Leadership System centered around *Suryong* have fundamental limitations in that it is impossible to guarantee the freedom of ideology, conscience, and religion. Furthermore, as can be seen from the legal reality of North Korea, where there is no reference to freedom of ideology and conscience in its Constitution, the awareness of freedom of ideology and conscience is completely lacking among the North Korean people. Although freedom of religion is stipulated as a legal right in the Constitution, there is lack of practical freedom of religion with most of the people having never heard the word “religion.”

¹⁸⁴_NKHR2016000042 2016-04-05; NKHR2016000052 2016-04-19; NKHR2016000074 2016-05-17; NKHR2016000113 2016-07-12; NKHR2016000114 2016-07-12; NKHR2016000115 2016-07-12; NKHR2016000129 2016-08-09.

¹⁸⁵_NKHR2016000065 2016-05-03; NKHR2016000088 2016-06-14; NKHR2016000138 2016-08-23; NKHR2016000192 2016-12-27.

10

Right to Freedom of Expression

Freedom of expression is an essential right to full development of a democratic and free society and the person, and one of the most basic rights.¹⁸⁶ 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.

¹⁸⁶- UN HRC, 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.

We will examine situations related to freedom of expression in North Korea by major issue.

A. Serious 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.¹⁸⁷ Usually, when a person is put under influence in forming opinions against his or her will or at least without implied consent, and if such influence is through coercion, threat or other similar means, it can

¹⁸⁷- UN HRC, General Comment, no. 34 (2011), paras. 9~10.

be said that the right to hold an opinion is infringed upon.¹⁸⁸

North Korea stipulates freedom of expression in Article 67 of its Constitution and 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 one of the important issues in terms of political rights, all citizens are exercising the right to freely express their opinions and intentions in various manners through diverse media.¹⁸⁹ However, as the North Korean Constitution emphasizes “the whole,” “unification of people in political ideology,” “revolutionary alert,” and “security of the State” in Article 10¹⁹⁰ and Article 63,¹⁹¹ 81,¹⁹² 85¹⁹³ where the basic rights and duties of citizens are stipulated, there is possibility for institutional infringement of the rights in Article 19, paragraph 1 of the ICCPR. The system of mutual surveillance and informing among people¹⁹⁴ is also deeply rooted

¹⁸⁸- Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary*, 2nd rev. ed., (Kehl am Rhein: N.P. Engel, 2005), p. 442.

¹⁸⁹- 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* (September 13, 2014), p. 49. (In Korean)

¹⁹⁰- “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.”

¹⁹¹- “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).”

¹⁹²- “Citizens shall devotedly advocate the political and ideological unification and solidarity of the people.”

¹⁹³- “Citizens shall at all times raise the revolutionary alertness and fight with personal devotion for the security of the State.”

in daily life, making it difficult, and even fearful, to express political opinions even to family members.¹⁹⁵

In reality, expression of political opinions 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. Such references 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,” according to testimonies of North Korea defectors.¹⁹⁶ In general, many North Korean people have the perception that criticizing the regime will result in them being sent to political prison camps (*kwanliso*). Given the power of control that political prison camps (*kwanliso*) 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 reforms¹⁹⁷ and the testifier realized that North Korean society was changing as he or she heard a friend criticizing and

¹⁹⁴- NKHR2014000011 2014-03-04.

¹⁹⁵- NKHR2015000123 2015-09-08.

¹⁹⁶- NKHR2014000047 2014-05-13; NKHR2015000007 2015-01-13 and many other testimonies.

¹⁹⁷- NKHR2014000062 2014-05-23.

cursing Ri Sol-ju right before defecting from North Korea.¹⁹⁸ Moreover, there are testimonies that since Kim Jong Un came to power, the reasons for detention at political prison camps (*kwanliso*) are shifting from critical comments and misspeaking to attempts to defect from North Korea and enter South Korea, and having connections with South Korea.¹⁹⁹

B. Arbitrary Censorship and Control of the Press and Publications

According to Article 19, paragraph 2 of the ICCPR, press publications and other media that are means of expression should not be subject to interference and disturbance.²⁰⁰ However, the press in North Korea is utilized to strengthen the ideology and to instigate the people to idolize Kim Il Sung, Kim Jong Il and Kim Jong Un.

All newspapers in North Korea are the organs and official media published by the Party and Cabinet, and by various organizations and propaganda organizations of culture and art. They are written and published under administrative guidance of the Newspaper Department of the Publication Division of the Cabinet while receiving surveillance supervision by the Newspaper

¹⁹⁸- NKHR2015000123 2015-09-08.

¹⁹⁹- NKHR2014000216 2014-12-30.

²⁰⁰- UN HRC, General Comment, no. 34 (2011), para. 13.

Department of the Propaganda and Agitation Division of the KWP at the same time.²⁰¹ 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 with separate 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. Of course, any information that increases the ability to know or enhance critical thought of the people is strictly prohibited.

Broadcasting in North Korea is also operated under the direction of the Korea Central Television Commission which is under the Cabinet, and is used for propaganda and reporting of Party policies and domestic and international situations just like newspapers are. The Korea Central Television Commission 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.²⁰²

North Korea enacted its Publication Law in 1975 and revised it in 1995 and 1999. This 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

²⁰¹- Institute for Unification Education, Ministry of Unification, *2017 Understanding North Korea* (Seoul: Institute for Unification Education, 2016), p. 221. (In Korean)

²⁰²- *Ibid.*, p. 226.

and promoting great Socialist projects based on a revolutionary tradition of publication” (Article 2). In order to 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

ensorship of the KWP's Propaganda and Agitation Division. If a North Korean citizen were to publish something in violation of censorship standards, the 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 five to ten years of correctional labor punishment in serious cases. In the end, it is impossible to publish any criticism of Kim Il Sung, Kim Jong Il or the KWP through press or publications in reality.

Only those with good family backgrounds can engage in any creative activity, which is under the control of the KWP anyway, and it is mostly the children of high-ranking officials that fit the bill.²⁰³ They also need to have qualifications such as graduating from a literature college or holding status as heroes.²⁰⁴ 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.²⁰⁵

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.²⁰⁶

203_ NKHR2012000007 2012-01-10.

204_ NKHR2015000018 2015-01-27; NKHR2015000052 2015-03-10.

205_ Above testimony.

206_ NKHR2015000141 2015-10-06.

Many people, however, borrow and secretly read foreign books from the U.S., China and Russia from book rental shops run by individuals,²⁰⁷ 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.²⁰⁸ It seems that the experience of having contact with external publications is mostly through acquaintances.²⁰⁹ 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, but it is also confirmed that many of them gain access to books from foreign nations, including South Korea, in a wide variety of ways.

Table II -39 Testimonies of Crackdowns on South Korean/Foreign Publications

Testimonies	Testifier ID
<p>In 2012, a 21 year-old man was interrogated for reading South Korean and foreign books in Hyesan, Yanggang Province. A computer teacher of a military school gave him a book and he stored it on a USB stick but was later caught by Group 109. He was excused from punishment after paying 4,000 Chinese yuan as a bribe.</p>	<p>NKHR2013000119 2013-06-25</p>

²⁰⁷_ NKHR2014000219 2014-12-30 and many other testimonies.

²⁰⁸_ NKHR2014000098 2014-07-15; NKHR2014000148 2014-09-23.

²⁰⁹_ NKHR2016000023 2016-01-26; NKHR2016000064 2016-05-03; NKHR2016000186 2016-12-13.

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 Cheongjin, 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 or 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 Ju-yung Chung 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. Blocking of Access to External Information and Control over the Right to Know of the People

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.” When applying this to North Korea, the people of North Korea, which is a State party to the ICCPR, should be able to seek, receive and impart diverse information and ideas utilizing diverse 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 allowed by the authority.

Under such circumstances, there is only very limited access for North Koreans to external information. The 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.²¹⁰ As the information that North Korean people can access through TV broadcasts and radio are mostly only 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 the 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,

²¹⁰- 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 the overall control by the North Korean authority on the introduction of external culture has been reinforced since 2013.

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	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. When the above paragraph's behavior is serious, the person shall be subject to up to five years of correctional labor punishment.
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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. At first, there were joint inspections by five geuruppa composed of the MPS, MSS, the prosecutor’s office, the KWP and each affiliated administrative organization, but as the illegal watching of recordings increased, a separate organization, “Group 109” was formed and conducted inspections while in the area.²¹¹ The basic goal of this organization was to recover circulating CDs and to punish those who watched them.²¹²

211- NKHR2012000126 2012-06-29.

212- NKHR2012000111 2012-06-11.

Table II -41 Punishment related to Watching Videos

Testimonies	Testifier ID
A joint team consisting of an MSS agent, an MPS officer, Group 109, and a Youth League guide engaged in inspections in Onsung, North Hamgyeong Province in 2013. Persons caught watching South Korean telecasts or American movies were punished with six months' labor training or correctional labor punishment without exception.	NKHR2013000100 2013-05-28
When the testifier was imprisoned at Gaecheon <i>Kyohwaso</i> in 2013, there were two convicted prisoners who were sentenced to correctional labor punishment of 9 years (for watching) and fifteen years (for selling) in relation to South Korean dramas, South Korean songs and South Korean films, etc.	NKHR2014000175 2014-10-21
In April 2013, Kim Jong Un's instructions were issued that those selling or watching videos would be sent off to labor training camps (<i>rodongdanryundae</i>) or correctional labor punishment in Hyesan, Yanggang Province.	NKHR2013000145 2013-08-06
A proclamation was announced in Samjiyeon County, Yanggang Province in September 2013, that those caught watching South Korean movies or listening to South Korean music would be sentenced to death. A shooting execution was conducted as an example.	NKHR2014000081 2014-07-01
In the spring of 2014, the testifier watched open trials on recordings and the accused persons were sentenced to correctional labor training punishment. Those who were punished were mostly children with politically weak family backgrounds. Those who distributed the recordings were sentenced to correctional labor training punishment, while those who first introduced the recordings were sentenced to imprisonment at political prison camps (<i>kwanliso</i>).	NKHR2015000031 2015-02-10
In the spring of 2014, a friend who lived in Hoeryeong, North Hamgyeong Province, was caught watching Korean movies, but avoided punishment by paying 3,000 Chinese yuan to Group 109.	NKHR2015000167 2015-12-02
At the end of 2014, the testifier was caught by Group 109 and sentenced to six months of labor training punishment but reduced the sentence through bribery.	NKHR2016000052 2016-04-19
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 punishment, the testifier prepared ways to respond (with bribery) in case he or she was caught.	NKHR2015000122 2015-09-08

The testifier had contact with South Korean broadcasts for the first time at the place 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 mother of a friend, and the mother reported this. The testifier avoided punishment by hiding for 4 months, but the mother was sent to labor training camps (<i>rodongdanryundae</i>) for three months.	NKHR2016000064 2016-05-03

Moreover, there were testimonies that, besides this Group 109, there existed a Group 1018 and a Group 1019 that cracked down on several irregularities,²¹³ and there were some testimonies that Group 109 was renamed to Group 627 in 2013.²¹⁴ 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.²¹⁵

Many defectors consistently testified that discreet viewing of South Korean CDs and videos is becoming widespread. North Koreans purchase inexpensive Chinese video recorders and secretly sell and share recordings with their neighbors. The most common response of the North Korean people who watched South Korean recordings was longing for South Korea and a more

²¹³- NKHR2013000057 2013-03-19.

²¹⁴- NKHR2014000124 2014-08-26; NKHR2014000193 2014-11-18.

²¹⁵- NKHR2016000069 2016-05-17.

negative perception towards North Korea,²¹⁶ and the envy of the economic affluence and freedom in the daily lives of South Koreans sometimes leads to defection from North Korea.²¹⁷ However, having much contact with South Korean recordings does not necessarily increase the probability of defecting from North Korea. Many potential North Korean defectors deal with such experiences with South Korean recordings and the decision to defect from North Korea separately.

Many North Korean defectors testified that those who watch or circulate South Korean recordings are subject to labor training punishment or correctional labor punishment.²¹⁸ The duration of punishment, according to the testimonies, varies from three years to fifteen years of correctional labor punishment.²¹⁹ Viewers were generally known to be deported or detained at labor training camps (*rodongdanryundae*), but following Kim Jong Un's instructions on "impure" video recordings in December 2013, the punishment for those watching South Korean videos, regarded similarly to attempting to defect to South Korea, has more often been correctional labor punishment.²²⁰ Moreover, in the 2015 survey,

216- NKHR2015000009 2015-01-13 and many other testimonies.

217- NKHR2015000090 2015-05-12.

218- NKHR2015000134 2015-09-22; NKHR2015000153 2015-11-17 and many other testimonies.

219- NKHR2014000009 2014-03-04; NKHR2014000132 2014-08-26; NKHR2014000158 2014-09-23; NKHR2014000175 2014-10-21.

220- NKHR2014000019 2014-03-18; NKHR2014000043 2014-04-29.

there were many testimonies that, following the instruction being announced that those caught watching South Korean movies or listening to South Korean music would be sentenced to death in September 2013,²²¹ many proclamations were also posted stating the same thing.²²² However, separately from the reinforced control by the authorities, it has been found that there is still widespread avoidance of punishment through bribery.²²³

(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”²²⁴ in April 2004, the North Korean authorities suspended mobile communication services. However, through a joint investment by Orascom, an Egyptian communication firm, and North Korea’s Ministry of Post and Telecommunications, Korea Link was established and 3G mobile communication service resumed. The number of service subscribers was 1,694 right after the service started, and is estimated to have been around 3.8 million by the end of 2015.²²⁵ While the number

²²¹- NKHR2014000081 2014-07-01.

²²²- NKHR2015000099 2015-05-19.

²²³- NKHR2015000134 2015-09-22 and many other testimonies.

²²⁴-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.

of mobile phones supplied in North Korea increased, most of the calls are limited to domestic calls while international calls and the inflow and circulation of external information through mobile phones are strictly controlled.

In North Korean society, mobile phones are regarded as a major medium that is directly/indirectly linked with smuggling or defecting from North Korea while also being a medium for the distribution of external information at the same time. In response, the North Korean authority has reinforced the crackdown on mobile phones by adding Article 222 (Unlawful international communication crime) when it revised the Criminal Law in 2015, which stipulates “those who engaged in unlawful international communications shall be subject to up to one year of labor training punishment and those in serious cases shall be subject to up to five years of labor training punishment.”

Since the beginning of the Kim Jong Un regime, the North Korean authorities have been reinforcing the prohibition against illegal use of mobile phones by the North Korean people by introducing a jamming wall and jamming machines in the border areas of North Korea and China, and introduced advanced radio detection equipment from Germany, further preventing illegal use of mobile phones by North Koreans. For example, North Korean defector ○○○, who is from Hyesan, Yanggang Province, testified

²²⁵-The Chosun Ilbo, January 4, 2016.

that in around November 2014, the North Korean authority introduced German equipment to crackdown on mobile phones and chiefs and agents are cracking down on mobile phones through location tracking and wiretapping by using the equipment.²²⁶ In addition to “Group 1118” or “Group 109” that crack down on illegal mobile phones using Chinese base stations, the authorities established a new, dedicated organization under the MSS for this crackdown.²²⁷ Moreover, the functions of storing and transmitting video, photos, books and music were blocked by changing the mobile phone operating systems.²²⁸

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.”²²⁹ When the 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.²³⁰

In contrast, there are many testimonies that when records of international calls and videos, books and songs from foreign

²²⁶- NKHR2015000070 2015-04-07.

²²⁷- Radio Free Asia, February 17, 2015.

²²⁸- NKHR2015000009 2015-01-13; NKHR2015000010 2015-01-13.

²²⁹- NKHR2014000154 2014-09-23.

²³⁰- NKHR2015000052 2015-03-10 and many other testimonies.

countries were found in internal data, one can avoid punishment through bribery and only lose the mobile phone. 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.²³¹ As for calls to China, punishment is avoided with bribes of 2,000~5,000 Chinese yuan, while for calls to South Korea, although the person will be interrogated intensively by the MSS, punishment can be relaxed or avoided with a bribe of 10,000~15,000 Chinese yuan.²³² However, there was one testimony that stated that, since 2015, for one phone call, people can be sent to prison camps (*kyohwaso*) and sentenced to at least one year to five years, and that anti-state crime status is applied to phone calls related to remittance for punishment from December of the same year.²³³

Regarding use of an illegal mobile phone in the border areas, most of these phones are smuggled in to make calls to China, and there are many people who make a living as brokers with such mobile phones.²³⁴ While the North Korean authorities are strongly cracking down on the inflow of external information through mobile phones, their use by North Koreans is expected to expand

231_ NKHR2015000143 2015-10-06; NKHR2014000160 2014-10-07.

232_ NKHR2012000164 2015-12-01 and many other testimonies.

233_ NKHR2016000126 2016-08-09.

234_ NKHR2014000071 2014-06-17.

further to maintain livelihoods and to fulfill curiosity about the outside world and the right to know.

Table II-42 The Reality of Mobile Phone Use and Related Punishments

Testimonies	Testifier ID
In 2013, because of jamming, it was impossible to use Chinese mobile phones in Sinuiju, North Pyeongan Province.	NKHR2013000052 2013-03-19
In 2014, a crackdown on illegal mobile phones was reinforced, making it possible to detect calls within 1~2 minutes in Cheongjin, North Hamgyeong Province.	NKHR2014000198 2014-12-02
In 2014, in Musan County, North Hamgyeong Province, the father of the testifier was caught with a record of a phone call to the defector's brother in South Korea, and was dragged to the MSS center and returned after 25 days. The testifier paid 3 million South Korean won and 10,00 Chinese yuan as a bribe.	NKHR2015000046 2015-02-24
In January-February 2014, a proclamation prohibiting use of mobile phones was released in Hyesan, Yanggang Province.	NKHR2014000138 2014-09-02
In the spring of 2014, a 45-year-old woman was caught for having a Chinese phone and sentenced to 6 months of labor training punishment in Rimyongsugu, Samjiyeon County, Yanggang Province.	NKHR2016000063 2016-05-03
In April 2014, there was an announcement that those with illegal mobile phones can avoid punishment if they turn themselves in, and many people did so in Hyesan, Yanggang Province.	NKHR2014000166 2014-10-07
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 September 2014, a friend was caught through a body search and was sent to a labor training camp (<i>rodongdanyundaeh</i>) next to Jeongeori <i>Kyohwaso</i> for six months. Those caught in the crackdown were handled in Hoeryeong MSS, and if there was not any political issue, were sent to the MPS city/county branch and received punishment.	NKHR2016000126 2016-08-09

In the fall of 2014, a broker who lived in Osandeok-dong, Hoeryeong, North Hamgyeong Province, was investigated (20 days) by the MSS for charges of connecting phone calls to people in South Korea, but was released after paying a bribe (15,000 Chinese yuan).	NKHR2015000167 2015-12-01
In 2015, in Hoeryeong, North Hamgyeong Province, the testifier's brother-in-law was arrested for having contact with South Korea and sentenced to three years of correctional labor training in the first trial but this was reduced to one year and 6 months after paying a bribe.	NKHR2015-164 2015-12-01
In March 2016, the testifier called his or her sister-in-law in China for twice by borrowing a mobile phone from a friend. But the friend who lent the phone was a MSS spy. In border regions, because that around 80 percent of those with mobile phones were MSS spies, the crackdown was intense.	NKHR2016000164 2016-11-01
As for the crackdown on the illegal use of mobile phones, punishment varied with 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 (<i>rodongdanryundae</i>).	NKHR2016000074 2016-05-17
It was mostly resolved through paying 10,000 yuan for calls to South Korea and 3,000 yuan for calls to China. Those who cannot pay the bribes must go to labor training camps (<i>rodongdanryundae</i>).	NKHR2016000081 2016-05-31

D. Evaluation

Freedom of expression includes the right to freely share one's opinion, to express and impart one's opinions through the press, publications and other media, and the right to access information using diverse media regardless of frontiers. While the North Korean authorities insist that freedom of the press and publications is guaranteed by law and the North Korean people are fully exercising their freedom of expression, such freedom is only perfunctorily recognized and not allowed in practical terms. It was

also identified in the 2016 survey that the North Korean people strongly suppress their political opinions on the North Korean regime and Party policies and are afraid to make negative comments about the supreme leader and his family.

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 instigate the people to idolize Kim Il Sung, Kim Jong Il, and Kim Jong Un, while the arbitrary censorship and control by the authorities of publications continues. Meanwhile, crackdowns on and punishment for recordings and mobile phones, which play an important role in introducing and circulating external information, constitute a serious infringement of the North Korean people's right to know. The North Korean authority and the international community shall spare no efforts for closer contact and cooperation to improve the right to know of the North Korean people.

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. The right to freedom of assembly and association should by all means be guaranteed for the exercise of sovereignty by citizens in a democratic political system. Major international human rights standards 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 Article 21 and 22 of the ICCPR refers to freedom of assembly and association in the following.

Table II -43 Article 21 and 22 of the ICCPR

<p>Article 21</p>	<p>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.</p>
<p>Paragraph 1</p>	<p>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.</p>
<p>Article 22</p>	<p>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.</p>
<p>Paragraph 3</p>	<p>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.</p>

The opportunity to participate in peaceful assembly and to belong to a labor union or interest groups guaranteed by the right to freedom of assembly and association should lead to guarantee of voluntary assembly and association by legal institutions and its practical protection. The situation of the right to freedom of assembly and association in North Korea will be examined below by major issue.

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 reeducational labor or three months or more of reeducational 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.²³⁵ This is because the recognition itself of the freedom of assembly can be regarded as denying the regime in North Korea which puts its stock in the Unitary *Suryong* Ruling System. Under these circumstances, it seems that the perception of the right to peaceful assembly and freedom of assembly is not established among the North Korean people. Although it is known that North Koreans sometimes express complaints or criticism against the authorities to people with whom they are close, this cannot be regarded as a general phenomenon considering the situation, but rather, it is hard to say that the right to assembly and to demonstrate is recognized.

B. Forceful Imposition of Organizational Life by the North Korean Authority

Article 22, paragraph 1 of the ICCPR stipulates regarding the freedom of association, that “everyone shall have the right to

²³⁵- NKHR2015000072 2015-04-07; NKHR2015000112 2015-06-02; NKHR2015000119 2015-09-08; NKHR2016000001 2016-01-12; NKHR2016000047 2016-04-19; NKHR2015000063 2016-05-03.

freedom of association with others, including the right to form and join trade unions for the protection of his interests.” While 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,” in reality only assemblies and associations needed by the KWP are allowed and assemblies or demonstrations set up by the free will of the general population are not. Moreover, North Korean people are forced to join only organizations that are allowed or imposed on them by the authorities and can neither form nor participate in any voluntary associations or interest groups that can protect their interests.

North Korea not only legally and systematically prohibits assembly and association that is not allowed by the authorities, but also forcefully imposes an organizational life on the North Korean people. Many organizations allowed by the North Korean authorities, such as the Chosun (North Korea) General Federation of Trade Unions, the Chosun Agricultural Workers’ Union, the Kim Il Sung Socialist Youth League, the Chosun Democratic Women’s Union, the Chosun (North Korea) Unions of Literature and Art, the Democratic Lawyers’ Association, the Association of Christians in North Korea, the Buddhist Federation, the Anti-Nuclear Peace Committee, and the Committee for Afro-Asian Solidarity, are also organizations that are operated and directed by the KWP. Social organizations in North Korea are regarded as

extra-Party organizations that are operated according to the directions of and controlled by the Party as “safety belts connecting the Party and the people” as stipulated in Chapter 9, Article 56 of the KWP Statutes. All North Korean people are required to join organizations that include 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 from the age of six until retirement.

With regard to such organizational life, North Korean defectors consistently testify that the activities and duties in these extra-Party organizations restricted and controlled by the North Korean authorities are far from the autonomy one can experience in associations voluntarily organized by individuals with common interest.²³⁶ It is hard to interpret the organizational life that North Korean authorities forcibly impose on the people as the freedom of association guaranteed under a free democratic political structure.

As one example, the Democratic Women’s Union, an organization that women aged 31 to 60 must join if they are not members of other organizations, is not a voluntary organization for empowerment and protection of women’s interests, and they cannot exercise critical/political influence as a social organization. The Democratic

²³⁶- NKHR2015000133 2015-09-22 and many other testimonies.

Women's Union is no more than an extra-Party organization responsible for mobilization of women to accomplish policy and establish the Socialist economy, and its major task is ideological education of women. The Democratic Women's Union is very disciplined and its functions and activities of ideological education and cracking down on anti-socialist behaviors of women are known to have strengthened after the economic crisis had begun.

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 <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 (<i>saenghwalchonghwa</i>) 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, it is also a reality that control over people through Life Review Session (*saenghwalchonghwa*) and political education is weakening as the economic crisis deepens and the institutional foundation of the North Korean regime crumbles in many sectors. Diverse changes are captured in the dynamics of the organizational life imposed by the authorities. As the perception that money can solve any problem becomes widespread among the people, the compulsory nature of the government-led meetings and Life Review Session (*saenghwalchonghwa*) is also reportedly gradually weakening. There are even people who avoid attending mobilized assemblies by paying others who can attend on their behalf. These individuals who attend meetings on behalf of someone else are known as “*hubangjo*,” and their livelihood is based on payment for their substitute role.²³⁷ It was testified that those failing to attend such gatherings and events must pay a certain amount of money, and that even for inspections, the amount of money offered influenced the severity of punishment.²³⁸ For not attending government-led meetings, there were reported cases where a testifier was criticized at Life Review Session (*saenghwalchonghwa*)²³⁹ and where a testifier received disciplinary action in his or her daily life.²⁴⁰ Moreover, government-led meetings required a certain

²³⁷- NKHR2012000167 2012-08-21.

²³⁸- NKHR2014000037 2014-04-15.

²³⁹- NKHR2016000081 2016-05-31.

²⁴⁰- NKHR2016000084 2016-05-31.

number of participants, and those who did not attend were forced to pay a fine.²⁴¹ As for the compulsory nature of government-led meetings, there were both testimonies that the meetings were seriously compulsory²⁴² and that they were only slightly compulsory.²⁴³

Through compiling various testimonies, it is clear that while control over organizational life continues, the severity of this control is being relaxed in North Korean society. However, in spite of this social relaxation, it seems that the North Korean authority still fundamentally denies its people's right to assembly and association and only emphasizes the people's duty of assembly and association within the scope allowed by the regime and only those led by the government.

C. Evaluation

According to the 2016 survey, the right to freedom of assembly and association for the North Korean people is still not guaranteed. Based on Article 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 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

²⁴¹_NKHR2016000059 2016-05-03.

²⁴²_NKHR2016000053 2016-04-19.

²⁴³_NKHR2016000113 2016-07-12.

organizations that are allowed 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. While such social relaxation leads to an easing of the attitude toward organizational life involving government-led meetings or Life Review Session (*saenghwalchonghwa*) forced upon people by the authorities, the chance that the people's freedom of assembly and association will expand in the short-term is slim as the North Korean authorities continue to reinforce their control. It is expected that such rights will improve in the mid- to long-term when fundamental improvement is sought at the policy level by the North Korean authorities in response to the interest in and concerns regarding the restrictions on freedom for the North Korean people.

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 mentions, regarding the right to political participation, 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.²⁴⁴

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."²⁴⁵ In addition, Article 11 stipulates that "all activities

²⁴⁴ 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).

²⁴⁵ 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 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

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 necessarily limited.

The status of the right to political participation in North Korea will be examined by major issue 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.²⁴⁶ This is basically attributable to the situation in which the freedom of expression and the freedom of assembly and association are not guaranteed. Based on this, free access to and dissemination of information about the candidates and the elections are limited. In other words, the free establishment

in North Korean politics, and are above the Constitution.

²⁴⁶ NKHR2015000092 2015-05-12 and many other testimonies.

of political opinions on candidates and policies which is essential in the election process is limited. Therefore, it is difficult to regard such elections as a 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 intentions. However, in North Korea, elections are perfunctory procedures to approve the personnel appointments that the KPW wants. The purpose of this is to drive support from the people for the Party's policies and goals. In particular, North Korea has utilized deputy elections as the 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. The North Korean authority 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."²⁴⁷ This perception of

elections is also vividly illustrated in the following headlines from the *Rodong Shinmun*: “Absolute support for and trust in the people’s regime expressed with ‘Yea’”; and “Voters rush to vote Yes.”

However, such election results show that elections are not procedures of voters freely selecting their political representatives but are utilized as a means to reinforce and justify the rule of the KWP. 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 of North Korean people 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

²⁴⁷- Korea Central News Agency, March 10, 2014.

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 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.²⁴⁸ 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.²⁴⁹ There were even testimonies that a ballot box or slot to submit negative votes was not available.²⁵⁰ There was also a testimony that the testifier had no experience of filling out a ballot.²⁵¹ Moreover, the Delegates Election Law for All Levels of the People’s Assembly specifies the freedom of “election campaigns,” but it is expressly prohibited to “instigate no votes, abstentions, or sabotage elections” (Article 53 of the Delegates Election Law for All Levels of the People’s Assembly).

²⁴⁸- NKHR2016000110 2016-07-12; NKHR2016000135 2016-08-23.

²⁴⁹- NKHR2013000120 2013-06-25.

²⁵⁰- NKHR2012000066 2012-04-20.

²⁵¹- NKHR2016000073 2016-05-17.

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.

In sum, in terms of its institutions, North Korea stipulates direct, universal, equal and secret ballots and most people participate in elections regularly. However, according to the testimonies of many North Korean defectors, it is practically impossible to oppose the authority as they should cast unconditional votes in favor of 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.²⁵² Moreover, before elections, *inminban* chiefs inform people of the election rules through *inminban* 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.²⁵³ As a result, in many cases, North Korean people do not have a clear perception of their right to select candidates in an election.²⁵⁴

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 the target of political skepticism and receive negative influences in their daily lives. Therefore, when

²⁵²_ NKHR2016000092 2016-06-14.

²⁵³_ NKHR2014000117 2014-08-12; NKHR2016000073 2016-05-17; NKHR2016000135 2016-08-23.

²⁵⁴_ NKHR2015000014 2015-01-27 and many other testimonies.

someone cannot participate in an election, the *inminban* chief or his or her family vote on his or her behalf.²⁵⁵ Based on these circumstances taken together, the principles of secret and free ballots in their true sense are not guaranteed in North Korea.

C. Limited Application of the Eligibility to Run for Election

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 regime, 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. North Korean defectors, and therefore North Koreans in general, have not even thought of exercising their right to run for election.

²⁵⁵- NKHR2016000023 2016-01-26; NKHR2016000024 2016-01-26.

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

Testimonies	Testifier ID
In Daehongdan County, Yanggang Province, <i>imminban</i> chiefs are involved in surveillance from everywhere on election day. Even inhabitants of remote villages are made to dress up and are brought to the polls to vote.	NKHR2013000033 2013-02-19
In Cheongjin, North Hamgyeong Province, they have placed a small box for negative ballots on one side of the large polling room. However, most voters believe that if they cast a negative vote, they will be sent to a political prison camp (<i>kwanliso</i>).	NKHR2013000055 2013-03-19
Sometimes there are voters' meetings and pro and con discussions on the candidates, but these are nothing but formalities.	NKHR2013000194 2013-10-29
Sometimes there were voters' meetings but only as formalities. There was no discussion on opposing the candidates and only in favor of them.	NKHR2015000014 2015-01-27
The general population is indifferent to the photos and names of candidates, and it was also impossible to know them. People take it as something not related to them, and the only thing that mattered was to finish the formal procedure of voting.	NKHR2015000092 2015-05-12
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>Imminban</i> chiefs went around to check whether people voted or not. When one cannot vote, he or she can just make a call to the polling place or the <i>imminban</i> chief to vote on his or 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 testifier voted publicly on the stage of a town hall.	NKHR2016000111 2016-07-12
While a secret ballot is guaranteed, there is only one candidate and one should unconditionally put a ballot in the box.	NKHR2016000135 2016-08-23

D. Evaluation

North Korean people are participating in elections based on the Constitution and the Delegates Election Law. However, the principles of direct, universal, equal and secret ballots, as mentioned in the Constitution and the Delegates Election Law are not abided by. North Korean people are forcefully mobilized by the North Korean authority 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, which is based on the agreement of the people, citizens have the right to vote and the right to run for election through free competition. However, in North Korea, elections are utilized as a means to reinforce and legitimize the regime instead of to elect the representative who will speak for the people in the political process.

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, constitute basic and general principles relating to the protection of human rights.²⁵⁶

²⁵⁶_UN HRC, General Comment, no. 18 (1989), para. 1.

Table II -47 International Human Rights Standards against Discrimination

<p>Article 7 of the UDHR</p>	<p>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.</p>
<p>Article 2, paragraph 2 of the ICESCR</p>	<p>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.</p>
<p>Article 2, paragraph 1 of the ICCPR</p>	<p>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.</p>
<p>Article 26 of the ICCPR</p>	<p>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.</p>

At the same time, the right to equality can be approached from many perspectives, including discrimination in terms of gender and discrimination between persons with disabilities and those without. In this section, we will cover only the issues based on 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 (Chapter 4, Section 1 Women and Section 3 Persons with Disabilities).

A. Discrimination by 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 any “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.

As Article 65 of the North Korean Constitution stipulates “Citizens enjoy equal rights in all spheres of State and public activity,” it can be said that the nation’s Constitution itself guarantees equal rights without discrimination on par with international standards on human rights. In reality, however, there are internal regulations on and class, and people are classified by state institutions - Party organizations, the MSS and the MPS - and discriminated against, which significantly affects people’s social lives. With a series of citizen registration programs carried out following 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.²⁵⁷ Regulations on background (*songbun*) and class aim at “isolating hostile elements and serving the majority of the people.” North Korea says that it defines one’s background (*songbun*) “accurately on the basis of extensive research on the economic conditions at the time of his/her birth, the class background of his/her family and its influence, his/her own social and political activities, the particularities of our nation’s historical development and class relations, and class policies that the Party has implemented at each phase of the Revolution.”²⁵⁸ Background (*songbun*) is divided into two types of background - personal and social - and one’s background (*songbun*) serves as basic data for determining his or her class.²⁵⁹ There are three

²⁵⁷ 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 (*songbun*) 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.

²⁵⁸ In-ae Hyun, *ibid.*, p. 25. (In Korean)

²⁵⁹ 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.

classes: the basic masses, the complex masses, and remnants of the hostile class. Finally, there are 56 categories under these three classes.

Table II -48 Classification of North Korea's Residents by Background (*songbun*) and Class

Classes and Background (<i>songbun</i>)	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>Jopgyonja</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	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 Kumgang 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
Complex masses	

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
Background (<i>songbun</i>) (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)

The North Korean authorities use this class and background (*songbun*) 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 from “remnants of the hostile class” or “the complex masses” to “the basic masses.” Those in these “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.²⁶⁰ The classification of people and discriminatory

²⁶⁰- Robert Collins, *Marked for Life: Songbun, North Korea's Social Classification*

treatment based on background (*songbun*) is a clear violation of the provisions on the right to equality in both the ICCPR and ICESCR.

B. Social Discrimination through Citizen Research (*Jumin Yohaе*) and Guilt-by-Association

Guilt-by-association refers to the punishment of family members of individuals accused of political or ideological crimes. This can lead to the punishment of immediate family members and to discrimination against descendents. The North Korean government strictly manages/maintains these family records and utilizes them as a tool to control the people.²⁶¹ Under the pretext of “citizen research (*jumin yohaе*),” the government carries out extensive investigations and requires documentation on the families and relatives of all citizens. In principle, this citizen research is conducted on all citizens without exception.

The scope of citizen research by person is as follows: ▲ Immediate family – grandfather, father, mother, son, daughter (son-in-law), grandson, elder brother, younger brother/sister, nephew, niece, elder sister, brother-in-law, uncle, aunt, cousin,

System (Washington, D.C.: The Committee for Human Rights in North Korea, 2012), p. 6.

²⁶¹– Special Rapporteur, Vitit Muntarbhorn, “Question of the Violation of Human Rights and Fundamental Freedom in Any Part of the World: Situation of Human Rights in the Democratic People’s Republic of Korea,” (January 10, 2005), p. 11.

and cousin's child or great-uncle's child; ▲ In-laws – wife's father and mother and brother; and ▲ aunt, and aunt's husband. Those classified as remnants of the hostile class are subject to more rigorous research. In this case, “regardless of relational distance, all family members and relatives” are subject to investigation. From this perspective, North Korea stipulates that “research should be conducted even on all family members and relatives that fall under the investigative scope but are effectively nonexistent, including those who are dead, those who have fled to another country, those whose whereabouts are unknown, and those who have been executed.”²⁶²

In North Korea, social discrimination 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, the separated families, a huge population accounting for 25~30% of the entire North Korean population are treated 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 from long ago, under Japanese colonial rule or during the Korean War. If one has a family member who served

²⁶² In-ae Hyun, “A Study of North Korea's Resident Registration System,” p. 25. (In Korean)

as a South Korean civil police agent during the Korean War²⁶³ 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 or she will be forced into hard physical labor. One of the testifiers said that his or her family was deported from Gangwon Province where they used to live to North Hamgyeong Province for the reason that his or her grandfather had been a landlord before liberation.²⁶⁴ 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 or her grandfather on his or her mother's side had served as a South Korean civil police agent and had been executed by firing squad in the identification process. South Korean POWs, in particular, reportedly suffer severe discrimination in terms of background (*songbun*). Not only the POWs themselves, but also their relatives and children are subject to surveillance and face numerous disadvantages in social life. Besides this surveillance, they also suffer great disadvantage in job assignments and social life, practically resulting in the passing down of discrimination based on background (*songbun*) and class.²⁶⁵ Moreover, families of returnees from Japan can join the military but cannot become special soldiers or officers. In addition, families of returnees from

²⁶³_ NKHR2015000053 2015-03-10.

²⁶⁴_ NKHR2014000015 2015-01-27.

²⁶⁵_ NKHR2015000095 2015-05-12.

Japan are constantly under surveillance and discriminated against, including being mobilized for national events where they can only participate in the preparations but not in the event itself.

C. Discrimination in Social Life by Background (*songbun*) and Class

According to recent testimonies, since Kim Jong Un came to power, it is assessed that discrimination based on background is declining.²⁶⁶ Instead, due to the rapidly widening disparities between the rich and the poor, there are cases where financial capabilities are treated more importantly than background. However, if one has a bad background, it is hard to overcome it even with financial capability. Recently, it seems that whether one has anyone who has defected to South Korea in the family is more related with discrimination than background (*songbun*).

However, discrimination based on background (*songbun*) or class still exists in the reality of North Korea. The most representative cases of discrimination in social life based on background (*songbun*) and class 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

²⁶⁶- NKHR2016000057 2016-05-03.

background (*songbun*) 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 issues in background still cannot join political institutions including Party organizations, law enforcement and judiciary institutions, although with the recent “reform” of citizen registration documents in 2012, the definition of background (*songbun*) is narrower than before.²⁶⁷ Most North Korean defectors testified that although it is possible to become a Party member through bribery up to a certain level, background (*songbun*) is still used as an important criterion when hiring senior political officials such as senior officials for the Party.²⁶⁸ However, background (*songbun*) plays a relatively small role when hiring junior officials and administrative workers.

Relevant examples include a North Korean defector who was deported from Gangwon Province where he or she used to live to Onsung, North Hamgyeong Province, because his or her grandfather had been a landlord before liberation. He or she could not enter professional school due to the bad background (*songbun*) and was assigned instead as a farm worker. Another testifier said although

²⁶⁷–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.

²⁶⁸– NKHR2014000015 2015-01-27.

his or her father was a soldier in the Korean Volunteer Army, six elder brothers were able to become Party members after serving in the military. However, although they worked hard after becoming members, they remained as administrative and not political workers.²⁶⁹

According to testimonies collected in 2016, those who have anyone who has defected from North Korea in their family cannot join the military in principle. One testifier was the target of continuous discrimination because there was a defector on his or her father's side of the family, but the testifier's older brother was able to join the military after paying bribes.²⁷⁰

All this suggests that the extent of discrimination based on background (*songbun*) and class varies by the characteristics, type of work, and responsibilities of organizations hiring senior staff. Especially in the case of political workers, who represent Party organizations and key political authorities, and general administrative workers, it seems that people face different levels of discrimination by background (*songbun*) and class in the selection of senior staff. It is said that the level of discrimination is less severe for general administrative workers than for political workers.

Second, there is discrimination in joining the Party. North Korean defectors testified that from the mid-2000s, people could

²⁶⁹- NKHR2015000023 2015-01-27.

²⁷⁰- NKHR2016000041 2016-04-05.

join the Party by discreetly providing bribes, even if they had unfavorable background (*songbun*) and class. There are many testimonies collected explaining that, as it is possible to join the Party through bribery with the spread and intensification of marketization and prevalent corruption, “money” comes before background (*songbun*).²⁷¹ Nevertheless, it is said that there is a barrier that cannot be broken with bribery in being hired as a senior staff member after becoming a Party member. In addition, as life as a Party member causes inconveniences in economic life where market activities are at the center, and as there are many requirements from the Party, there is also a reluctance to becoming Party members.

Third is the discrimination in college entrance and job assignments. For college admission and job allocation, the degree of discrimination by background (*songbun*) and class is relatively light compared to becoming a Party member and promotion, but it does have a significant impact on one’s career and social prospects. A North Korean defector testified that he or she passed the entrance exam to a teachers’ college but had to enter a different college because his or her grandfather was recorded as missing during the Korean War. It is said that teachers’ colleges, as the institutions producing teachers, take background (*songbun*) very seriously.²⁷² Therefore, structurally, it is unthinkable to enter

²⁷¹- NKHR2015000045 2015-02-24.

colleges or get promoted for those with bad backgrounds (*songbun*).²⁷³ The level of discrimination by background (*songbun*) 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 level. While it is possible to enter general colleges based on one's ability to a certain extent, it is impossible to enter central colleges if one is not qualified according to background (*songbun*) and class, regardless of one's abilities.²⁷⁴ Based on this, it seems that the barriers to entry based on background (*songbun*) and class are high for central colleges, whose graduates are likely to be employed mostly by Party organizations and key political organizations, while such barriers are low for entry to general colleges, whose graduates are likely to be hired at local administrative institutions or for more junior positions. While discrimination by background (*songbun*) and class in college entrance and job assignments still exists, with advancement of marketization and the prevalence of bribery and advantages of personal connections, these latter two are used as a means to circumvent this discrimination. In fact, one testifier explained that while he or she had even experienced failing to get married due to a family background issue as the testifier's

²⁷²- NKHR2015000043 2015-02-24.

²⁷³- NKHR2015000030 2015-02-10.

²⁷⁴- NKHR2014000015 2015-01-27.

grandfather participated in the Sinuiju Riot after Korea's liberation from Japan, he or she was able to enter a college through bribery.²⁷⁵

D. Discriminatory Assignment of Residence Area by Background (*songbun*) and Class

North Korea assigns a residence area to people based on their background (*songbun*) and class and forcibly relocates them as well. In North Korea, those with unfavorable background (*songbun*) and class are primarily those from South Korea or those who once belonged to the landlord or capitalist classes in the past, and the authorities have concerns that they may escape from North Korea because they admire 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 (*songbun*) are not allowed to live in Pyongyang, Nampo, near the coast, or “*jeonyeonjidae*” (*jeonyeonjidae* means areas bordered by the enemy).

The North Korean authorities discriminate against people according to background (*songbun*) and class more strictly in relation to residence in Pyongyang. The authorities have divided the city into central Pyongyang and surrounding districts, and divide the surrounding districts into protective zones, satellite cities and farming areas (Article 7 of the Law for the Management

²⁷⁵_NKHR2016000048 2016-04-19.

of the Capital City of Pyongyang). In order for a North Korean to live in Pyongyang, he or she must file for resident registration in accordance with the procedures and methods set by the Cabinet (Article 30). The authorities are strict in their examination of the background (*songbun*) and class of each individual before granting the permit to live in Pyongyang. Even those living in the city are divided into three categories by background (*songbun*) and class and face discriminatory treatment. Group 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 10~20% of the city's population. Because of the grouping based on background (*songbun*) 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 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 are discriminated against, 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.

Because of such severe discrimination, Group 3 citizens cannot really enjoy the benefits of being Pyongyang residents and constantly feel insecure and excluded. Many try very hard to join

the military or become a KWP member as a way of mitigating the discrimination, but to little avail. Anyone who wants to move from the surrounding district to the central district must obtain approval from the authorities (Article 31 of the Law for the Management of the Capital City of Pyongyang).

The discrimination between residents of Pyongyang and of other regions is also severe. First, there is discrimination with regards to freedom of residence and movement. People living in the provinces need to obtain official approval from the competent agencies to move to Pyongyang (Article 31 of the Law for the Management of the Capital City of Pyongyang). Second, only citizens of Pyongyang receive Pyongyang citizenship cards, which grant them special status that ensures better treatment than 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 practical terms, the 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 the food ration.

Meanwhile, the movement of people from cities and rural areas has been more strictly controlled since Kim Jong Un came to power. It used to be 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, it is said that when a man from a city marries a woman from a rural area, he needs to move to the rural area.²⁷⁶ Moreover, according to a testimony in 2016, for provincial people to become Pyongyang residents, they need go through a complicated processes involving five to six institutions due to background (*songbun*), and sometimes they get divorced as they encounter disadvantages in job assignment.²⁷⁷

E. Discrimination against Ethnic Chinese and Returnees from Japan

The issue of the treatment and perception of ethnic Chinese people or returnees from Japan living in North Korea has not gained much attention so far. In the past, there was a perception in North Korea that ethnic Chinese people and returnees from Japan have superior economic power than North Korean people and enjoy a relatively more affluent life due to their relatives in China and Japan. However, in particular, as the Kim Jong Un regime has reinforced surveillance on those who defected North Korea and returnees from Japan have lost their connections with Japan, it seems that discrimination against these groups is intensifying. The discrimination against ethnic Chinese people and returnees

²⁷⁶- NKHR2015000052 2015-03-10.

²⁷⁷-NKHR2016000054 2016-04-19.

from Japan originates from the social perception of them not being a part of society, but there were also testimonies that the North Korean authority is pursuing discrimination against these groups as policy under the efforts to reinforce surveillance on North Korean defectors.

There are both positive and negative aspects of the treatment of ethnic Chinese people found in the testimonies. While there are testimonies that ethnic Chinese people in general have economic power and the social perception of them is positive,²⁷⁸ there are also testimonies that the general perception of ethnic Chinese people is negative and their living standards are not high.²⁷⁹ More specifically, there are testimonies that since ethnic Chinese people can engage in vending in both China and Korea, people envy their economic power.²⁸⁰ A North Korean defector testified that there is no discrimination against ethnic Chinese people, and rather, there is a perception that North Korea is “a society for ethnic Chinese people.”²⁸¹ It is said that the negative perception of ethnic Chinese people originates from the ideas that there are many spies among ethnic Chinese people and they ruin the social atmosphere.²⁸² Both the positive and negative perceptions of ethnic Chinese

²⁷⁸_NKHR2016000051 2016-04-19.

²⁷⁹_NKHR2016000116 2016-07-12.

²⁸⁰_NKHR2016000111 2016-07-12.

²⁸¹_NKHR2014000168 2014-10-07.

²⁸²_NKHR2016000170 2016-11-01.

people view them as minorities.

Apart from the mixed social perception of ethnic Chinese, one specific testimony reveals that the testifier was socially discriminated against because he or she is an ethnic Chinese. A North Korean defector testified that the testifier's grandmother on his or her mother's side was Chinese and the grandfather on his or her mother's side was an ethnic Korean living in China, and the testifier's mother's cousins were living in China, and because of such connections to China, the testifier experienced severe discrimination after graduation and was slighted based on his or her background by others at work and in the military and in terms of MPS officers' surveillance.²⁸³ In particular, since Kim Jong Un came to power, discrimination against people with connections to China seems to be intensifying. According to testimonies, while those with cousin relatives 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. Specifically, according to the direction in April 2011, those with connections to China are not allowed to work in border areas and are dispatched away from the front lines.²⁸⁴ This case shows the discriminatory perception of the North Korean authority that views those with connections to China as potential criminals based on the perception

²⁸³-NKHR2015000101 2015-05-19.

²⁸⁴-NKHR2016000146 2016-09-06.

that they can easily engage in defecting from North Korea and smuggling.

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. According to 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, after the family returned to North Korea, and the father of the interviewee graduated from Huicheon Engineering University and 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.²⁸⁵ However, the treatment of such returnees from Japan is worsening recently and the major reason is said to be their weakening financial capability due to their loss of connections to Japan.²⁸⁶ According to a testimony, the father of the testifier, who was a returnee from Japan, experienced discrimination at work, the censoring of letters sent to Japan and hostile views by people around him as well as accusations.²⁸⁷ One testifier testified that his wife's family members were returnees from Japan, and while

²⁸⁵_NKHR2016000023 2016-01-26.

²⁸⁶_NKHR2016000061 2016-05-03; NKHR2016000111 2016-07-12.

²⁸⁷_NKHR2016000127 2016-08-09.

returnees from Japan cannot be promoted to high-ranking Party posts, others are available to them. However, the testifier himself experienced discrimination in job selection due to the background (*songbun*) of his in-laws.²⁸⁸ 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 because he was from a family of returnees from Japan, 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.²⁸⁹

F. Evaluation

According to the 2016 survey, it is identified that the right to equality for the North Korean people is not properly protected. Discrimination by background (*songbun*) and class was found to continue as the key system that creates inequality in diverse aspects of people's lives. It was confirmed that discrimination by background (*songbun*) and class continues with regard to advancement in society, job assignments, employment as and promotion to a senior staff position, college entrance, and assignment of residence area. Such discrimination is an important

²⁸⁸- NKHR2014000212 2014-12-30.

²⁸⁹- NKHR2014000085 2014-07-01.

mechanism in maintaining the North Korean regime and has been in place in a structured way for a long time. With the citizen registration document “reform (reorganization)” project in March 2012 after Kim Jong Un came to power, there were some measures taken to partially mitigate discrimination based on background (*songbun*). While a person’s background used to be decided based on an evaluation of up to great grandfathers and their siblings for both men and women, through the reform of citizen registration document, the scope of family background evaluation was changed to up to only cousins for men and male siblings for women. This can be seen as some relaxation of the discrimination system that has been carried out through the framework of “family background” which is based on background (*songbun*) and class.

However, according to testimonies by North Korean defectors, this relaxation is assessed to be more attributable to the advancement of marketization in North Korea than to the reform program. However, the widespread corruption and widening gap between the rich and the poor caused by marketization seem to be generating another form of discrimination. Moreover, since Kim Jong Un came to power, there are testimonies that movement between cities and rural areas is more strictly prohibited, and surveillance and discrimination of those with connections to China has been reinforced. Therefore, it cannot be said that the existing levels of discrimination and inequality have been dramatically improved. Moreover, it was newly found that with

reinforced surveillance and punishment of North Korean defectors and returnees from Japan losing their connections with Japan, the negative social perception of ethnic Chinese and returnees from Japan is spreading and related discriminatory policies by the North Korean authority are being reinforced.



White Paper on Human Rights
in North Korea 2017



Chapter 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

Adequate access to food is one of the most important rights by international standards on human rights. 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). ICESCR provides a more specific provision regarding the right to food.

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.

A. Lack of Availability

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 such a way as to achieve the most efficient development and utilization of natural resources.” The North Korean authorities

have also taken legal and policy measures to expand food production. First, North Korea has refined its relevant laws including the Agriculture Law, the Farm Law, the Livestock Law, the Fishery Law and the Fish Farming Law, etc., to increase availability of food. And, although on a limited basis, it has been found that North Korea has been pursuing reform in agricultural production since Kim Jong Un came to power. Since 2012, North Korea has been, based on its sub-work group management system, implementing a “paddy unit responsibility” system with one unit composed of an average 4~5 people. This paddy unit responsibility system was introduced nationwide in 2013 after pilot implementation at cooperative farms in Migok, North Hwanghae Province, the Samjigang River area, South Hwanghae Province, and Shinam and Unheung, North Pyeongan Province in 2012. Under the paddy unit responsibility system, paddies are assigned to farm workers who are responsible for the paddies they are assigned to. According to the North Korean authority, this system was established to distribute paddies based on the dynamics of the interests of farm workers.²⁹⁰ Through the *Rodong Shinmun* and *Chosun Shinbo*, the North Korean authorities engage in active propaganda that food production has increased through this paddy unit responsibility system.²⁹¹ According to the testimonies

²⁹⁰- Chosun Shinbo, June 7, 2013; Chosun Shinbo, May 7, 2014; Chosun Shinbo, February 18, 2015.

²⁹¹- “The effective paddy unit responsibility system,” Rodong Shinmun, February 6,

of North Korean defectors, it has been found that the paddy unit responsibility system is in place in actuality.²⁹² However, how it is implemented is described differently in each relevant testimony.²⁹³ Further specific identification is also needed as to whether distribution is as intended under this system. As food production in North Korea is showing a recovery trend in the 2010s, it is found that the overall availability of food has improved. According to the Rural Development Administration (RDA, South Korea), the gross production of grain increased in 2016. In spite of flood damage in some areas including North Hamgyeong Province, it is estimated that the total grain output in North Korea in 2016 was 4.82 million tons, which is around 310,000 tons, or 7%, more than the 4.51 million tons in 2015.²⁹⁴ The increase of grain production output in North Korea in 2016 is assessed to be attributable to the fact that the annual temperature was suitable for grain production and there was no drought or significant flood damage.²⁹⁵

2015; Chosun Shinbo, May 7, 2014.

²⁹²_ NKHR2014000002 2014-02-18; NKHR2015000178 2015-12-05; NKHR2015000175 2015-12-05.

²⁹³_ NKHR2015000027 2015-02-10; NKHR2015000052 2015-03-10; NKHR2015000111 2015-06-02; NKHR2015000113 2015-06-02.

²⁹⁴_ See, FAO, "Crop Prospects and Food Situation," no. 4 (2016) (<http://www.fao.org/3/a-i6558e.pdf>).

²⁹⁵_ *Ibid.*

Table III-2 Output of Food Crops in North Korea (Unit: 1,000 ton)

Year	2013	2014	2015	2016
Output	4,806	4,802	4,512	4,810

However, despite the slight increase in food production in 2016, North Korean people are still experiencing a shortage of food. According to the UN Food and Agriculture Organization (FAO), North Korean people received rations of 354g per day for the year 2016.²⁹⁶ This is around 5% more than the 335g in 2015, but is still far short of the 600g minimum recommended amount per person. Specifically, food rations in North Korea decreased in Q1 with 370g, Q2 with 360g and Q3 with 300g from the same period in 2015.²⁹⁷ However, the rations increased in Q4 to 380g in October and November and 400g in December.²⁹⁸ However, the 400g in December, which was the highest amount in 2016, still remains at two-thirds of the recommended daily amount. The FAO included North Korea among the 39 countries with food shortages and in need of external support in its report “Crop Prospects and Food Situation (Q report)” published on December 8, 2016.²⁹⁹ A testimony by a North Korean defector also supports the fact that the food ration situation in North Korea is poor.

²⁹⁶– Voice of America, January 7, 2017.

²⁹⁷– *Ibid.*; FAO, “Outlook for Food Supply and Demand in 2015/16 (November/October),” April 27, 2016.

²⁹⁸– *Ibid.*

²⁹⁹– FAO, “Crop Prospects and Food Situation.”

According to the testimony, many North Korean people are self-sufficient or get food from markets because of the shortage of food.

However, it was identified in the 2013, 2014 and 2015 surveys that food rations temporarily improved in some regions in 2012, 2013 and 2014. Specifically, it was identified that rations resumed temporarily in many regions including Yonsa County, North Hamgyeong Province; Hoeryeong, North Hamgyeong Province; Musan County, North Hamgyeong Province; Onsung County, North Hamgyeong Province; Gilju County, North Hamgyeong Province; Hyesan, Yanggang Province; Samjiyeon County, Yanggang Province; Daehongdan County, Yanggang Province; Bocheon County, Yanggang Province and Pihyeon County, North Pyeongan Province. In particular, there were relatively more testimonies collected revealing that Daehongdan County, Yanggang Province, received more rations than other regions. Moreover, in the 2016 survey, a North Korean defector who resided in North Pyeongan Province testified that there were rations from the ration center when he or she was defecting from North Korea in 2015.³⁰⁰

³⁰⁰-NKHR2016000009 2016-01-12.

Table III-3 Recent Receipt of Grain Rations

Testimonies	Testifier ID
On April 15, 2012, the testifier received 1.5kg of rice and 2kg of whole corn kernels in commemoration of the 100th anniversary of Kim Il Sung's birthday.	NKHR2016000056 2016-05-03
On January 1, 2013, and on February 16, 2013, which was the birthday of Kim Jong Il, snacks including candies and biscuits were provided to students, and on April 15 of the same year, which was Kim Il Sung's birthday, the testifier also received a ration.	NKHR2016000196 2016-12-27
In 2014, rations for fifteen days were given in Buryeong County, North Hamgyeong Province.	NKHR2015000099 2015-05-19
During his onsite instructions in early February 2014, Kim Jong Un reportedly gave 20kg of frozen seafood such as octopus, anchovies, and sailfin sandfish to each family in Samjiyeon County, Yanggang Province.	NKHR2014000138 2014-09-02
The defector received rations for 5-6 months until the spring of 2014 in Hyesan, Yanggang Province, but not after that.	NKHR2014000200 2014-12-02
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
Until right before 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

Such sporadic distribution of rations from 2012 is identified to be due to temporary releases of military reserve grains and continuous expansion of food production.

However, the overall food ration situation in North Korea

remains poor. Specifically, according to a testimony by a North Korean defector, only those sites inspected by Kim Jong Un such as fertilizer factories provide partial rations in South Hamgyeong Province. Moreover, as for North Hamgyeong Province and Yanggang Province where rations were reportedly resumed, there was a testimony that only reduced rations are provided to people other than some factory workers, and thus people need to feed themselves through gathering edible plants or farming. It is identified that even when rations are given, they are given irregularly and in greatly insufficient amounts.³⁰¹

Table III-4 Testimonies of Military Reserve Grain Releases

Testimonies	Testifier ID
Kim Jong Un gave directions that from March to July 2013, the people were to receive 15 days of rations per month in corn and non-glutinous rice in a 7:3 ratio.	NKHR2014000013 2014-03-04
Since Kim Jong Un came to power, the authorities released rations from No. 2 Warehouse, and the people's perception of Kim Jong Un improved slightly.	NKHR2014000055 2014-05-20
	NKHR2014000076 2014-06-17
	NKHR2014000085 2014-07-01
Soldiers received 18kg (10% white rice and 90% whole corn) every six months. Ration amounts include that for families (spouse and one child).	NKHR2016000029 2016-03-08

³⁰¹- To the investigation team from the World Food Program and the Food and Agriculture Association, the North Korean authorities reported that they gave rations of 200-400g per day per person (an annual average of 100kg or more per person) in 2008-2013 to populations targeted for rations (entire population excluding farmers = around 70 percent of the total population). FAO/WFP, "Crop and Food Security Assessment Mission to the DPRK," (November 2013), p. 30.

Rice is rationed to high-ranking officials including battalion commanders, but as the amount is insufficient, they need to ask for help from people around them or get food by earning money.

NKHR2016000037
2016-03-22

B. Lack of Accessibility

The primary reason for the failure in guaranteeing the right to food of the North Korean people is a shortage of food production. However, North Korea states in its Constitution that “the State shall provide all working people with the opportunity to obtain food, clothing and housing” (Article 25). The distribution of food is alluded to in the statement, “citizens shall work according to their abilities and shall be paid in accordance with the quantity and quality of their work” (Article 70). Therefore, even if there is a food shortage, most people should have the benefit of a food ration if the ration policy is implemented properly. However, there is a substantial gap between overall food availability in North Korea and the rations actually received by the North Korean people. This is attributable to the discriminatory distribution policy and corruption.

In particular, the North Korean authority’s ration policy for grain distribution based on background (*songbun*) serves to intensify the polarization of accessibility to grain by the North Korean people. The core class still have relatively high access to food guaranteed by the State through the Public Distribution System (PDS).³⁰² However, it is said that a sufficient amount of food is

not provided to low-ranking officials.³⁰³ In the case of the general population, the ration situation varies significantly based on the circumstances at individual enterprises.

As such, due to the inappropriate execution of the ration system, there are a wide variety of realities. For instance, some are able to live on rations, others need to supplement them through market activities or paddy cultivation and still others need to survive completely on their own. There is also variance among those families who receive rations, including cases where only one family member receives rations to cases where other family members also receive rations. In addition, there is variance in terms of ration frequency, for example regularly and occasionally, and amount by time, region, class and enterprise. It is not easy to identify the overall situation regarding inequal access that is actually occurring as the North Korean authorities do not disclose accurate statistics. However, many testimonies by North Korean defectors point out that the food situation in North Korea remains poor and there are gaps between classes and regions.

According to the survey by KINU in 2016 (101 respondents, multiple answers allowed), around 63.5% were found to have secured food through a marketplace and 23% (19 persons) through the cultivation of paddies. In other words, marketplaces are

³⁰²- NKHR2010000005 2010-03-16; NKHR2010000031 2010-11-09; NKHR2010000071 2010-11-09.

³⁰³- NKHR2012000033 2012-03-13.

playing important roles in North Korean people's securing of food. While there are crackdowns by the North Korean authority on marketplaces, people can avoid punishment including the confiscation of sales goods or detention through bribery when caught. In particular, there is a testimony by a North Korean defector revealing that the age limit related to sales in marketplaces was recently relaxed.

Table III-5 Methods of Securing Grain

Methods of Securing Grain	Number of Respondents	Percent(%)
From markets	80	63.49
Ration centers	5	3.96
State-run stores	3	2.38
Old-age security pension	0	0
Relatives & friends	1	0.79
Farming (cultivating paddies)	29	23.01
Other	8	6.34
Total	126	100

(1) Disparities in Access to Food amongst Enterprises

As the conventional public distribution system does not work properly, the phenomenon where major institutions such as enterprises need to secure food on their own for rationing has become widespread. 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 in rations.

North Korea has continuously stressed the need to expand coal production to overcome the energy crisis. Therefore, workers at coal mines have more favorable access to food than at other job types. In other words, the ration situation at coal mines and other mines is relatively good. However, as the situation has deteriorated, there are also cases where coal mines give rations only to the workers and not to their families.³⁰⁴

Table III-6 Rations at Coal Mines

Testimonies	Testifier ID
In 2014, in Yeonpoong mine located in Jaseong County, Jaggang Province, there were 1~2 rations given per month. If one performs well, sometimes more rations are given.	NKHR2016000138 2016-08-23
The testifier received a ration from a youth mine in Hyesan, Yanggang Province, until April 2015.	NKHR2015000133 2015-09-22
In the case of 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
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.	NKHR2015000023 2015-01-27
The copper mine in Hyesan, Yanggang Province produced copper jointly with China due to the lack of facilities. Since the joint business was established with China in 2010, the testifier received 7kg and his wife received 4kg as ration once every 15 days or month. His daughter received 7kg. On average, 15kg of rice was given as ration and as it was a joint business with China, Chinese rice was given, but much was deducted.	NKHR2015000130 2015-09-22

³⁰⁴- NKHR2012000090 2012-05-22.

The situation of enterprises that operate factories and export products is identified to be better. It is said that workers at special factories that produce supply items for the KPA and those at military camps are also in a relatively better situation. North Korean defector ○○○, who was a laborer at a military camp, testified that not only himself but also his family received rations that included soybean paste and oil.³⁰⁵ In addition, there are cases where the provision of rations depends on the ability of senior officials of the factories even when the factories are not operated normally.³⁰⁶

Table III-7 Testimonies on Enterprises and Special Factories

Testimonies	Testifier ID
At the export business the defector worked for in April 2011, regular rations were given once a month. The amount was 15kg for him or her and 20kg for his or her family.	NKHR2011000210 2011-09-20
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
Workers at military facilities received 700kg, and their wives received 400kg, and their children also received rations. The workers received soybean paste and oil, and the families of military officers received soybean paste, oil and meat.	NKHR2015000001 2015-01-13

Even if rations were given, the amounts were generally meager and they were given at irregular times, making them insufficient

305_ NKHR2015000001 2015-01-13.

306_ NKHR2008000015 2008-08-27; NKHR2014000103 2014-07-29.

for living. Even those who receive better rations than others still do not have an adequate availability of food. As a result, it is generally the case that people try to supplement the ration shortage by purchasing items from the markets as much as he or she can afford. It is also generally the case that people rely on the cultivation of paddies to resolve the food situation, in addition to operating vending or peddling businesses.³⁰⁷ In the case of the cultivation of paddies, some people pay taxes on their paddies, while others do not.³⁰⁸

Table III-8 Testimonies on Cultivation of Paddies

Testimonies	Testifier ID
A brother of the testifier was working for a small-/mid-sized power plant which allocated him around 992 square meters (300 pyong) of paddies for six months and let him use the produce from those paddies as food for the six months. In return, he had to pay for the price of paddies and the cost of cultivating the paddies.	NKHR2015000031 2015-02-10
As the rations from coal mines were minimal, the defector had to cultivate paddies.	NKHR2015000023 2015-01-27
The defector survived by growing vegetables in the front yard of his or her house, and cultivating barley and potatoes in privately-owned paddies in addition to the ration given from the publication distribution agency in Baekam County, Yanggang Province.	NKHR2015000071 2015-04-07

In some cases, some enterprises assigned patches of land to help address the insufficient grain rations. Some hospitals assigned patches of land instead of government rations so employees could cultivate land as a substitute for those grain rations.

³⁰⁷- NKHR2013000099 2013-05-28.

³⁰⁸- NKHR2015000019 2015-01-27.

Table III-9 Testimonies on Patches of Land Being Cultivated in Lieu of Rations

Testimonies	Testifier ID
For the People’s Hospital in Hyesan, Yanggang Province in 2010, there were no government rations. The hospital distributed the potatoes and beans cultivated in the hospital’s land to its employees as rations.	NKHR2012000132 2012-07-03
Each work unit was assigned patches of land and cultivated vegetables, potatoes and corn, and the enterprise distributed them.	NKHR2012000134 2012-07-10
	NKHR2015000031 2015-02-10

(2) Deteriorating Access to Grain by Farmers at Cooperative Farms

Farmers at collective farms receive a ration once a year based on an annual settlement of accounts. The food situation in farm areas is better than other places. However, it has been found that there are a few reasons why farmers also do not receive sufficient grain rations.

First, the food situation of the agricultural population is deteriorating due to the excessive increase in skimming by officials. Testimonies revealed cases where even the yield from farmland assigned to individuals is collected when the target public distribution amount is not filled. As grand causes for official skimming are provided based on the pretexts of Kim Jong Il’s teachings or Party policies, farmers cannot openly resist these mobilizations.³⁰⁹ While official skimming is led in practical terms

³⁰⁹ NKHR2014000003 2014-02-18.

at the State level, the North Korean authorities issue propaganda declaring that official skimming is a voluntary act.

The *Chosun Shinbo* reported, “There was a ‘Patriotic Rice’ campaign triggered by an act of a young man at Samjigang cooperative farms. Everyone made a resolution, thinking of ‘the responsibilities of farmers.’ 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.”³¹⁰ Such propaganda from the government media rather suggests that official skimming in North Korea is very serious.

Table III-10 Grain Shortages Due to Official Skimming

Testimonies	Testifier ID
From 2014, individual paddies were given to all residents in Hoeryeong, North Hamgyeong Province, and the residents had to pay a certain amount as a quota and were able to keep the excess amount based on the quality of the soil. However, due to bad soil quality and high quotas, the actual life of residents did not get better.	NKHR2016000059 2016-05-03
In 2014, in Hoeryeong, North Hamgyeong Province, the paddy unit responsibility system was suspended and individuals cultivated paddies and raised pigs.	NKHR2016000106 2016-06-28
In the fall harvest season, the entire harvest was taken by military trucks.	NKHR2014000003 2014-02-18
While the crops were good, due to substantial official skimming for military reserve grains, etc., not much was distributed. As a result only 30~40 percent of the standard amount was distributed from the farms.	NKHR2014000164 2014-10-07

³¹⁰- “Patriotic Rice Dedicated Voluntarily,” *Chosun Shinbo*, January 27, 2014.

In South Hwanghae Province, there was a substantial amount of official skimming for military reserve grains.	NKHR2015000017 2015-01-27
There was official skimming for military reserve grains from the farm and the defector did not receive rations in Daehongdan County, Yanggang Province. Only the heads of sub-work groups and heads of working groups received rations, and the average farmer lived by stealing.	NKHR2015000050 2015-03-10

Second, the food shortage for farm workers is also attributable to the imposition of excessive production quotas and the manipulation of books where the amount of food distributed to these workers is exaggerated.³¹¹ Once a projected output has been proposed, the real output should be adjusted to match the projected figure, but this is not always the case in reality.³¹² Moreover, there are cases where water content is falsified in order to distribute a smaller amount of corn to the workers.³¹³

Third, as most farmers do not have time to run a vending or peddling business, there are cases where they borrow grain from others and sometimes repay a few times the borrowed amount. In other words, farmers use high-interest loans to temporarily resolve food shortages.³¹⁴ However, this only leads to more serious food crisis.

311- NKHR2014000003 2014-02-18.
 312- NKHR2014000055 2014-05-20.
 313- NKHR2014000150 2014-09-23.
 314- NKHR2014000099 2014-07-29.

(3) Disparities in Accessibility by Region

Under the circumstances where freedom of residence and movement is restricted, preference given to certain regions leads to discrimination by region. There is also an interesting case where rations have temporarily resumed along the border regions in an attempt to eradicate the increasing tide of defections.³¹⁵ Moreover, there are several testimonies collected that rations in Hoeryeong, North Hamgyeong Province were relatively good because the city was the birthplace of Kim Jong-suk, mother of Kim Jong Il.³¹⁶ More specifically, there were testimonies that people in Hoeryeong received more rations than in other regions and as they received on average of six to seven months' amount, the people of other regions envied them.³¹⁷

Moreover, it is said that those sites inspected by Kim Jong Un or regions where military supplies factories are located are given relatively larger rations.³¹⁸ North Korean defector ○○○ testified that those sites inspected by Kim Jong Un such as the fertilizer factory in South Hamgyeong Province give relatively larger rations.³¹⁹ In addition the testifier said that until he or she defected

³¹⁵- NKHR2012000020 2012-02-07.

³¹⁶- NKHR2015000016 2015-01-27; NKHR2015000069 2015-04-07; NKHR201500089 2015-04-21; NKHR2015000172 2015-12-01; NKHR2015000164 2015-12-01; NKHR2016000059 2016-05-03.

³¹⁷- NKHR2016000059 2016-05-03.

³¹⁸- NKHR2016000020 2016-01-26; NKHR2016000009 2016-01-12.

³¹⁹- NKHR2016000020 2016-01-26.

from North Korea in 2015, the region of military supplies factories in North Pyeongan Province gave rations.

The food ration situation in Pyongyang is known to be better than in other regions.³²⁰ The food situation along the border regions including Hyesan, Yanggang Province, where business is active, including with China, is identified to be better than in other regions. It is said that the situation is worse in Hwanghae Province, which is a granary area. A North Korean defector who defected in September 2015 testified that even in Yanggang Province, where the food situation is known to be better than other regions, there are few rations given except to some factory workers, and thus people have to gather edible plants or cultivate paddies to feed themselves.³²¹

(4) Discrimination in Accessibility in the Military

North Korea has utilized the military to advocate the *Seongun* ideology. One of the ways to do this is by granting priority to the military in receiving rations. As a result, the food situation of those in the military is better than that of the population at large. A North Korean defector who saw that rations were being given in Hyesan, Yanggang Province, in 2015 testified that rations were only given to honored veterans and not to the general population.³²²

³²⁰- NKHR2014000202 2014-12-02.

³²¹- NKHR2016000020 2016-01-26.

³²²- NKHR2016000041 2016-04-05.

However, the fact that the military has priority in receiving rations does not necessarily mean that all soldiers receive generous rations. In other words, even within the military, it seems that a soldier's access to food also varies. Such gaps in the right to food seem to be due to the fact that rations are allocated in amounts that vary by region and rank.³²³

More specifically, in terms of accessibility based on rank, military food is provided as rations to officers with priority. However, there are testimonies that the amount of rice rationed to high-ranking military leaders is also very insufficient.³²⁴ Even among military officers, there are recorded cases that rations are not properly given to their families.³²⁵ A North Korean defector whose husband was a soldier testified that although the amount for families was included in the ration for high-ranking soldiers, as the amount was not sufficient even for basic survival, she had to ask for help from her parents or get food by working for others.³²⁶

The amount of food rationed to enlisted soldiers is known to be relatively limited. As a result, there are increasing cases where enlisted soldiers in the military suffer from malnutrition.³²⁷ There are cases where some soldiers who are not given sufficient food

³²³- NKHR2014000121 2014-08-12; NKHR2016000037 2016-03-22.

³²⁴- NKHR2016000037 2016-03-22.

³²⁵- NKHR2014000003 2014-02-18; NKHR2016000037 2016-03-22.

³²⁶- NKHR2016000037 2016-03-22.

³²⁷- NKHR2012000235 2012-11-06; NKHR2015000018 2015-01-27.

harm civilians.³²⁸ There are also cases where they receive money from their families.³²⁹ One of the reasons the soldiers are not provided with proper food rations even under the military-first policy is corruption combined with the food shortage.³³⁰

C. Evaluation

Since the 2000s, the North Korean authorities have been taking reformative measures, although in a limited manner, including with the paddy unit responsibility system, to increase food production. However, food production is still insufficient due to the drought in 2015 and flood in Hamgyeong Province in 2016. As a result, food availability is very low in North Korea. Even with an insufficient availability of food, North Korean people would be able to receive a certain amount of rations if the rationing system simply operated normally. However, due to the inefficient and discriminatory ration system, many people are excluded from food rationing. As a result, people continue to engage in self-rescuing measures, including vending and cultivating paddies, to supplement the available food. However, in spite of such self-rescuing measures, the right to food in North Korea is

328_ Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea* (Seoul: KINU, 2012), pp. 152~154 (In Korean); NKHR2014000003 2014-02-18.

329_ NKHR2013000091 2013-05-14.

330_ Above testimony; NKHR2014000003 2014-02-18.

not improving. Of particular note is that because of the excessive skimming caused by the introduction of the paddy unit responsibility system, the right to food for the agricultural population continues to be infringed upon.

2

Right to Health

The UDHR stipulates, “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” (Article 25, paragraph 1). As such, the Declaration articulates the right to health rather comprehensively, along with other rights. The ICESCR stipulates the right to health more specifically.

Table III-11 Article 12 of the ICESCR

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	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: (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.

The Preamble of the WHO Charter also contains a comprehensive stipulation, stating “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.” In addition, General Comment 14 of the Committee on Economic, Social and Cultural Rights presented the elements of the right to health as availability, accessibility, acceptability and quality. Accessibility, in particular, is interpreted to include non-discriminatory, physical, economic and information accessibility.

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 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).

A. Deteriorating Availability and Accessibility and the Reality of the Free Medical Care System

(1) Unbalanced Accessibility by Class

North Korea's healthcare delivery system consists of clinics, people's hospitals at city and county level, 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, the physical accessibility to the right to health of the general population, who mostly use clinics and People's hospitals, is deteriorating. However, even in the primary and secondary healthcare delivery system, medical offices used by senior officials are operating relatively well. As such, even in People's hospitals, there is a gap in accessibility between officials and the general population.

In contrast, the third and fourth level hospitals that middle class citizens and senior officials have easy access to are in relatively better condition than the primary and secondary facilities.³³¹ While there is a widening gap in physical and financial accessibility to medical service between Pyongyang and other major cities and

³³¹–Soo-am Kim *et al.*, *Quality of Life of North Korean Residents: Reality and Perception* (Seoul: KINU, 2011), pp. 137–138. (In Korean)

the provinces, instead of attempting to narrow this gap, North Korea has been expanding its medical facilities for the privileged few, including construction of the Pyongyang Children's Hospital and the Pyongyang Dental Clinic.³³² As such, as the North Korean authorities pursue policies that further widen this gap, it is assessed that they are failing to fulfill their duty to realize properly for the North Korean people their right to health.

(2) Unequal Access to Medications

Although Article 10, paragraph 1 of the North Korean Public Health Law stipulates that medicines are also free, access to medicines is found to be unequal by class due to the absolute shortage. Such situation of the distribution of medicine in North Korea impacts this access in three dimensions.

The first dimension involves patients with connections to the privileged class who are able to enjoy the benefits of medicines supplied to hospitals on a limited basis.³³³ Moreover, medical benefits are given in a discriminatory manner based on background (*songbun*) and the medicines from hospitals are also provided only to senior officials.³³⁴ As these medicines are provided according to connections and power, the level of discrimination in access to

³³²- Yonhap News Agency, September 24, 2013; Yonhap News Agency, October 6, 2012.

³³³- NKHR2016000135 2016-08-23; NKHR2016000021 2016-01-26.

³³⁴- NKHR2016000175 2016-11-15.

the right to health has become serious.³³⁵ Moreover, medicines are provided for free to people who are friends of doctors.³³⁶

The second dimension is that, for the general population, there is a gap in access to medicines by financial capability. While treatment is supposed to be free of charge under law, since hospitals suffer from an extreme shortage of medicines, patients often have to purchase their own medicines from markets or unofficial pharmacies run by individuals or introduced by doctors.³³⁷ Therefore, in many cases, people give up treatment for economic reasons.

With regard to the specific realities of private pharmacies, there is an expanding phenomenon where doctors who have retired or quit from hospitals operate illegal “pharmacies” set up in private houses to sell medicine. Moreover, there are cases where doctors and private pharmacies enter into unofficial contracts for mutual profit.³³⁸ Recently, there have even been cases where doctors sell medicine from their home.³³⁹ In some cases, doctors write down a list of medicine needed for patients and have the patients buy those medicines at private pharmacies that they are running.³⁴⁰

³³⁵_ NKHR2012000234 2012-11-06.

³³⁶_ NKHR2012000018 2012-02-07; NKHR2014000157 2014-09-23.

³³⁷_ NKHR2016000036 2016-03-02; NKHR2016000055 2016-05-03; NKHR2016000164 2016-11-01; NKHR2016000167 2016-11-01.

³³⁸_ NKHR2015000030 2015-03-10.

³³⁹_ NKHR2015000131 2015-09-22; NKHR2016000164 2016-11-01.

³⁴⁰_ NKHR2014000013 2014-03-04.

Due to such private sales of medicines, the inequality in access to medicines based on financial capability is intensifying.

Table III-12 Testimonies on Unofficial Sales of Medicines

Testimonies	Testifier ID
People get diagnoses from doctors and go to markets with diagnosis documents and purchase/take medicines from the markets.	NKHR2016000055 2016-05-03
There are stores selling diverse medicines in markets. There are also medicines from the UN in markets. Medicines are also sold by individuals in apartments, and sometimes the sellers are pharmacists.	NKHR2016000164 2016-11-01
The testifier sold medicines supplied by the UN to Pyongyang, Pyeongseong, Suncheon and Hamheung. to hospitals, military units and senior officials.	NKHR2016000175 2016-11-15

Such sales of medicines at markets or unofficial private pharmacies is in violation of Article 38 and 41 of the Medicine Control Law. However, while North Korean people are not able to receive medicines for free from official pharmacies, they are able to purchase them from markets or unofficial private pharmacies. In other words, although the North Korean authorities are propagating a free medical care system, North Korean people are securing medicine on their own. As such, North Korean people are not appropriately supplied with medicine, therefore they are forced into a situation where they have no choice but to violate laws.

Table III-13

Article 38 and 41 of the Law on Pharmaceutical Administration

Article 38	Pharmaceuticals may be sold at designated pharmacies or pharmaceutical stands. They must be sold in accordance with the general sales index set by the Central Health Guidance Institution or the prescription issued by the treatment or prevention facility. Pharmaceuticals not specified in the general sales index may be sold at designated pharmacies with the approval of the health care guidance institution.
Article 41	Citizens can use public medicines based on direction manuals. However, even when using medicines that are not public medicines, citizens shall follow the directions of doctors.

Moreover, as the general population, who do not have professional knowledge about medicines, are selling them, this can have fatal results for ordinary people. Medicines are smuggled into the country, stored in private homes, and sold wholesale. The wholesalers learn the basic effects, usages, and dosages by translating manuals brought from China and the UN and they outline these facts to retailers.³⁴¹ Moreover, there are cases where the medicine sellers sell medicines without proper expertise, based only on self-study.³⁴² As there are many ineffective or fake medicines on the market, this threatens the right to health of the North Korean people without financial capabilities.³⁴³

The third and final dimensions to the deterioration of access to medicines by patients are corruption in the process of supplying

341_ NKHR2011000203 2011-09-06.

342_ NHKR2016000164 2016-11-01.

343_ NKHR2012000018 2012-02-07; NKHR2013000050 2013-03-19; NKHR2015000030 2015-02-10.

medicines, for example skimming. During the supply process from the central government to hospitals in provinces, cities, and counties, a significant amount of the medications are pocketed.³⁴⁴ Moreover, the MSS, which is supposed to crack down on medicine management centers, is not fulfilling its roles including through rough crackdowns on vehicles transporting medicines.³⁴⁵ As a result, while there are cases where hospitals provide medicines for free,³⁴⁶ there is an increasing number of cases where healthcare providers charge for the medicines they provide. In other words, the medicines supplied to hospitals become personal possessions and then merchandise for illegal sales. However, it was found that for certain diseases such as tuberculosis, free treatment is provided through external support in some regions.³⁴⁷

³⁴⁴-The distribution should follow a line from the central supplier to province to city, or county to hospital and to the patient. In the process, however, it seems that large amounts of medicine are skimmed for sale on the market. NKHR2012000060 2012-04-10.

³⁴⁵-NKHR2016000167 2016-11-01.

³⁴⁶-NKHR2015000131 2015-09-22.

³⁴⁷-NKHR2010000032 2010-11-23; NKHR2011000213 2011-10-04; NKHR2012000004 2012-01-10.

Table III-14 Testimonies on Medicines in Hospitals

Testimonies	Testifier ID
The testifier had his or her eyes treated at a hospital in Yanggang Province. After he or she paid 100 Chinese yuan to the doctor, the doctor gave him or her South Korean eye drops (Cosopt) for the appropriate treatment.	NKHR2012000112 2012-06-12
After you purchased an ampule from the drug store as directed by the hospital, the hospital would administer the shot.	NKHR2012000222 2012-10-23
Hospitals had medicines, but they would only treat them as private property for illegal sales.	NKHR2013000005 2013-01-08

As pharmaceutical factories are not operating normally due to the economic crisis, the North Korean authorities are actively developing a movement to cultivate herbal medicines. The Law on Herbal Medicine stipulates that “the State shall have a deep interest in the cultivation of herbal medicine and carry out this cultivation of herbal medicine in a planned manner” (Article 3). The authorities push this cultivation by mobilizing both specialized institutions and general organizations or the general population (Article 19, Herbal Medicine Cultivation by the Masses, the Law on Herbal Medicine). Doctors provide alternative herbal medicines at clinic level, but as such self-made medicines have little effect, the quality of health of the general population is being seriously undermined.

The practice of taking narcotics to cure illnesses has also undermined health. As North Korea’s free treatment system fails to function properly, many patients increasingly depend on opium to relieve pain, as they cannot get treatment or procure the right

medicine,³⁴⁸ and it is said that people use narcotics that include the opium poppy, when they cannot find medicines for pain. Narcotics are effective as temporary painkillers, but when users finally go to the hospital, treatment is impossible.³⁴⁹ The North Korean authorities also stipulate in its Law on Narcotics Control that “Citizens can use narcotics for treatment of illness based on diagnosis of illness and prescription by medical institutions. Use of narcotics is allowed in preventive medical institutions or at home with attendance of such institutions” (Article 41, Use of Narcotics for Treatment of Illnesses). However, people without the necessary financial means are driven to an inevitable situation where they wish to relieve pain even if they must violate the Law on Narcotics Control as they cannot receive proper treatment.

(3) The Realities of Free Treatment

In an effort to promote the people’s right to health, North Korea has stipulated detailed obligations for the government to fulfill. First, its Constitution stipulates a free treatment system as “citizens shall have the right to free treatment” (Article 72). Article 9 of the Public Health Law 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.” The

³⁴⁸- NKHR2013000065 2013-04-02.

³⁴⁹- Good Friends, *North Korea Today*, no. 419 (2011); NKHR2011000173 2011-07-26.

Law on Medical Care also stipulates that “in the DPRK, healthcare shall be based on a complete and overall free treatment system” (Article 3). Article 10 of the Public Health Law stipulates details of free treatment in Article 10 as seen in the table below.

Table III-15 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.

Officially, North Korea is maintaining a free medical care system. But the reality is that medical treatment is only provided free on a very limited basis for the general population. Under the circumstances where hospitals provide only diagnosis and people must buy medicines on their own, most people tend not to go to hospitals and treat themselves after self-diagnosis and use medicines from private pharmacies or the markets.³⁵⁰ People visit hospitals predominantly only when they need medical examinations, such as X-rays, surgery or hospitalization. However, even if they go to hospitals, they are not treated well or are not treated properly as

³⁵⁰_NKHR2016000012 2016-01-26; 2016000055 2016-05-03; 2016000164 2016-11-01.

medicines are expensive.³⁵¹ Moreover, there are many misdiagnoses and even cases where patients lose their lives in the course of simple surgeries such as appendectomy.³⁵² Due to such reasons, North Korean people are said to have a high distrust of hospitals. However, there are also cases where hospitals provide part of their services free of charge, although not in a comprehensive manner.

Table III-16 The Perception of Hospitals by Ordinary Citizens

Testimonies	Testifier ID
Hospitals will only confirm the nature of the illness, and the patients will have to purchase their own medicines for treatment.	NKHR2013000050 2013-03-19
Recently, people hesitate to go to hospitals because there are so many wrong diagnoses. People do not trust hospital diagnoses, because there are some doctors who have purchased their licenses. So people simply diagnose themselves, and go to hospitals only for major illness such as cancer or similarly grave illnesses.	NKHR2013000057 2013-03-19
As people do not trust hospitals, they do not go to hospitals unless they need to get surgery, even if they are in pain, and even when they go to hospitals, they are not treated well and medicines are expensive.	NKHR2016000032 2016-03-02
When sick, people endure it as much as possible, and as there are individual pharmacies, people personally purchase medicines.	NKHR2016000036 2016-03-22
Even when sick, people do not go to hospitals and personally treat themselves at home with medicines purchased in the markets. Instead, there are two private doctors in Saemaeuldong in Hoeryeong, North Hamgyeong Province, and they are visited by many patients.	NKHR2016000055 2016-05-03

Under the Public Health Law, all these services should be offered free of charge. But in most cases, patients are charged for

³⁵¹- NKHR2016000032 2016-03-02; NKHR2016000043 2016-04-05.

³⁵²- NKHR2016000063 2016-05-03.

all of them.

First, while basic medicines are sometimes provided by hospitals for free, patients are mostly charged for special medicines needed for surgery. Even when medicines are provided by hospitals, they are often of low quality so people try to buy medicines externally.³⁵³

Second, while hospitalization itself is free of charge, patients are charged for most of the items and the expenses needed in the hospital rooms. Once a patient is hospitalized, he or she must bring his/her own food and bedding. While some hospitals provide meals, there are cases where the quality of the food is so poor that patients provide their own. They must bear the cost of heating as well. They must bring firewood or an electric stove during the winter if they wish to keep warm because heating is not provided at hospitals.³⁵⁴

Third, it is said that patients are charged for surgery costs in many cases.³⁵⁵ If they do not have enough money at the moment, the hospital may sign a contract with the patients allowing them to undergo surgery first and pay later.³⁵⁶ There are even cases where patients pay for blood transfusions.³⁵⁷ And one testimony revealed

³⁵³_ NKHR2015000024 2015-01-27; NKHR2015000018 2015-01-27; NKHR2015000130 2015-09-22.

³⁵⁴_ NKHR2011000118 2011-05-17.

³⁵⁵_ NKHR2016000040 2016-04-05.

³⁵⁶_ NKHR2014000119 2014-08-12.

³⁵⁷_ NKHR2014000131 2014-08-26.

that people get surgery by purchasing and bringing the gauze, cotton balls and surgery gloves used in the procedure.³⁵⁸

Table III-17 Testimonies of Patients Charged for Medical Services

Testimonies	Testifier ID
In the summer of 2013, a nephew/niece of the testifier had two surgeries for bone tuberculosis in his or her legs. The cost was 700,000 North Korean won for the first surgery and 300,000 North Korean won for the second.	NKHR2015000015 2015-01-27
In August 2013, the testifier had an appendectomy in a hospital in Hyesan, Yanggang Province, and the surgery cost was 100 yuan.	NKHR2016000040 2016-04-05
In September 2013, the testifier had an appendectomy at the No. 2 Hospital in Hyesan, Yanggang Province, and the price for the surgery was pre-decided. Simple surgery such as appendectomies are 50 Chinese yuan, while serious surgeries cost 100 Chinese yuan.	NKHR2015000067 2015-04-07
To have an appendectomy, one needs to pay a bribe to doctors. The amount of the bribe is 50 Chinese yuan for surgery and 100,000 North Korean won for meals.	NKHR2015000172 2015-12-01

Fourth, although it is not directly related to the cost of surgery, in general, people treat medical providers to meals or give small amounts of cash as an extra when having surgery or for hospitalization. North Korean defector ○○○ testified that his brother was hospitalized in the provincial hospital in Hyesan, Yanggang Province for leg surgery, and gave doctors 200 Chinese yuan for meals instead of paying for surgery.³⁵⁹ A North Korean defector who worked as a nurse at a local (Li-level) hospital in

³⁵⁸- NKHR2016000040 2016-04-05.

³⁵⁹- NKHR2015000024 2015-01-27; NKHR2015000047 2015-02-24.

Yonsa County, North Hamgyeong Province, until 2012, testified that the hospitals received 20,000~50,000 North Korean won as surgery payment.³⁶⁰ And the testifier added that after having surgery, patients treat doctors to meals. Moreover, there are cases where the government does not fully support hospitals financially and shifts the cost related to hospital operation to the patients. A North Korean defector was hospitalized for 15 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.³⁶¹

Fifth, there are also cases where soldiers pay for the cost of surgery for their families as the military hospital is not operating normally. In 2010, a brother of North Korean defector ○○○ was hospitalized in a military hospital due to stomachalgia when he was serving in the military. However, as the situation at the hospital was very poor due to the lack of medicines, his brother paid the entire cost of needed medicine and meals.³⁶²

As the free treatment system does not work properly, there are also cases where people die from the lack of proper treatment.

³⁶⁰_ NKHR2015000174 2015-12-15.

³⁶¹_ NKHR2015000057 2015-03-24.

³⁶²_ Above testimony.

Table III-18 Testimonies on Deaths due to Inadequate Treatment

Testimonies	Testifier ID
In 2013, the older brother of the testifier was diagnosed with laryngeal cancer by a hospital, but he could not receive treatment as he did not have money and died as a result.	NKHR2016000043 2016-04-05
A brother-in-law of the testifier had a lung disease but died in May 2014 as he could not receive adequate treatment.	NKHR2014000004 2014-02-18
A relative of the testifier had tuberculosis while in the military but eventually died as he or she had to rely on self-treatment due to the lack of adequate care.	NKHR2014000023 2014-04-01
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

B. Realities of the Preventive Medicine System

Article 12, paragraph 2 of the ICESCR stipulates on 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.” The North Korean preventive medicine 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.” This preventive medicine system is also stipulated in Article 4 and 5 of the Law on Medical Care. Moreover, the Law on Prevention of Epidemics specifically stipulates regarding vaccination that “the State shall rightly establish an epidemic vaccination system and carry out vaccination in a planned manner” (Article 5).

With regard to vaccination, although still insufficient, there were many testimonies collected in the 2015 and 2016 surveys that vaccinations occurred in North Korea. The situation of vaccination seems to be better for students than of adults as the students receive vaccinations at school.³⁶³ However, according to many testimonies, vaccinations are not properly conducted under the Kim Jong Un regime in the case of adults.³⁶⁴

Table III-19 The Reality of Vaccinations

Testimonies	Testifier ID
There were vaccinations in Hoeryeong, North Hamgyeong Province in December 2013.	NKHR2015000031 2015-02-10
In Cheongjin, North Hamgyeong Province, the testifier was vaccinated against measles, hepatitis, tuberculosis and paratyphoid until he defected in 2014.	NKHR2014000091 2014-07-15
The testifier received vaccinations for malaria in Yeonsan County, North Hwanghae Province, in the spring of 2014.	NKHR2014000021 2014-04-01

³⁶³- NKHR2015000040 2015-02-24.

³⁶⁴- NKHR2016000079 2016-05-31; NKHR2016000049 2016-04-19; NKHR2016000084 2016-05-31.

The testifier was vaccinated against hemorrhagic fever in the summer of 2014.	NKHR2016000020 2016-01-26
The testifier was vaccinated against a global epidemic in the summer of 2015.	NKHR2016000020 2016-01-26
The testifier was vaccinated against hemorrhagic fever in the summer of 2016.	NKHR2016000171 2016-11-01
The testifier was vaccinated against BCG after childbirth, and against hepatitis a week after that.	NKHR2014000001 2014-02-18
The testifier was vaccinated against typhoid and other infectious diseases in Baeksan-Li, Daehongdan County, Yanggang Province.	NKHR2014000121 2014-08-12
While living in Hamheung, South Hamgyeong Province, the testifier was vaccinated against paratyphoid, malaria, and measles twice a year.	NKHR2014000157 2014-09-23

It is known that the incidence of tuberculosis is still serious. The number of tuberculosis patients in 2015 was 141,000 or 561 per 100,000 persons. This is higher than 409 in 2012 and 442 in 2014.³⁶⁵ With regard to tuberculosis, the North Korean government has carried out a nationwide preliminary investigation into the current status of the disease with support from WHO since 2015. WHO estimated in its “Global Tuberculosis Report 2016” that around 15,000 North Korean people lost their lives due to tuberculosis in 2015.³⁶⁶ This number represents 61 deaths per 100,000 tuberculosis patients and is very high compared to 5 in South Korea and 2.6 in China and 2.5 in Japan. It is reported that there was a large investment in tuberculosis medication with an extensive tuberculosis prevention program carried out with

365- See, WHO, “Global Tuberculosis Report 2016,” <www.who.int/en>.

366- *Ibid.*

three-year goals based on the direction of Kim Jong Un in 2016. However, the right to health of the North Korean people is still under serious threat due to tuberculosis.³⁶⁷

North Korean defectors are mostly unaware of the need for medical examinations. But there are some cases where medical examinations are conducted. For example, it is said that workers of enterprises producing food products should receive medical examinations.³⁶⁸ In Pyongyang, in particular, there are testimonies of people receiving examinations for adult diseases. North Korean defector ○○○ who lived in Pyongyang until August 2013, testified that all citizens of Pyongyang received examinations for adult diseases.³⁶⁹

Table III-20 The Reality of District Doctors

Testimonies	Testifier ID
District doctors have limited roles.	NKHR2014000212 2014-12-30
	NKHR2015000018 2015-01-27
	NKHR2015000019 2015-01-27
Although district doctors need to do vaccinations, executing sanitary programs every day, the district doctors are not active as the government is not compensating them for their work.	NKHR2016000021 2016-01-26
Although district doctors are supposed to go to a <i>inminban</i> and check whether there are patients, they are not playing such roles as their livelihood is difficult.	NKHR2016000164 2016-11-01

367- NKHR2016000164 2016-12-27.

368- NKHR2015000172 2015-12-01.

369- NKHR2015000001 2015-01-13.

Moreover, the district doctor system which is executed for vaccinations is also not being carried out properly. However, there are regions where district doctors are working to prevent diseases through giving prescriptions and giving vaccinations against epidemics. In addition, district doctors also hold sessions to explain epidemics to people.³⁷⁰ However, in many cases, the government is not compensating them for their work. As a result, there are cases where district doctors are supporting their livelihoods through vending or collecting firewood in the mountains.³⁷¹ In other words, they are not in the proper situation to manage the health of the North Korean people. As a result, it is said that in many cases, nurses act as district doctors.³⁷² Moreover, there are also cases where district doctors ask for money when requested to visit. Some patients even give cigarettes. upon receiving a diagnosis.³⁷³ Sufficient medicines should also be given to realize the preventive intention of the district doctor system. However, in the reality of North Korea where the supply of medicines is lacking, the district doctor system only represents a troublesome administrative burden on the North Korean people.³⁷⁴

³⁷⁰- NKHR2014000111 2014-08-12; NKHR2015000024 2015-01-27.

³⁷¹- NKHR2016000021 2016-01-26.

³⁷²- NKHR2013000063 2013-04-02.

³⁷³- NKHR2015000130 2015-09-22.

³⁷⁴- NKHR2016000191 2016-12-27.

C. Evaluation

The medical system of North Korea is still failing to protect the right to health of the North Korean people. In particular, clinics at the Li- or Dong-level and People's Hospitals used mostly by the general population do not receive adequate support compared to the relatively high investment in large hospitals in Pyongyang. As a result, discrimination in terms of the availability and accessibility of the right to health of the North Korean people based on class and region is intensifying. While the availability of medicines remains insufficient, it has become common practice for ordinary people to buy medicines from the market or unofficial private pharmacies. While North Korea officially maintains a free medical care system, the situation is becoming fixed where most of the items stipulated as free in the Public Health Law regulations are shouldered predominantly by patients. In particular, the infringement on the right to health of vulnerable groups who fall between the cracks in terms of the benefits of the free medical care system, is found to still be serious. Moreover, while some vaccinations are provided, the prevention and control of disease is also assessed to remain poor.

3

Right to Work

Article 23 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.” 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 (Article 6 to 8).

Table III-21 Article 6, 7, 8 of the ICESCR

<p>Paragraph 1</p>	<p>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.</p>
<p>Article 6 Paragraph 2</p>	<p>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.</p>

<p style="text-align: center;">Article 7</p>	<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> <p>(a) Remuneration which provides all workers, as a minimum, with:</p> <p>(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;</p> <p>(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;</p> <p>(b) Safe and healthy working conditions;</p> <p>(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;</p> <p>(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays</p>
<p style="text-align: center;">Paragraph 1</p> <p style="text-align: center;">Article 8</p>	<p>The States Parties to the present Covenant undertake to ensure:</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.</p>
<p style="text-align: center;">Paragraph 2</p>	<p>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.</p>

Chapter I
Chapter II
Chapter III The Reality of Economic, Social and Cultural Rights
Chapter IV
Chapter V

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.

The goal of the right to work is to guarantee the survival of individuals and their families. However, the right to work in international standards on human rights does not mean the unconditional right to be employed. Each state can decide on the policies and other technical issues to achieve complete and productive employment based on their standards. In general, the right to work is reviewed in terms of freedom to choose jobs,³⁷⁵ decent work,³⁷⁶ prohibition of forced labor,³⁷⁷ prohibition of unfair dismissal,³⁷⁸ and principles of non-discrimination.³⁷⁹ The

³⁷⁵- 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."

³⁷⁶- *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."

³⁷⁷- *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."

³⁷⁸- *Ibid.*, para. 11. "ILO Convention No. 158 concerning Termination of Employment

right to form and engage in trade unions voluntarily and the right to strike are also important items of the right to work.³⁸⁰

North Korea clearly prescribes the individual's "right to work" in its Constitution, the 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). 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 to the realities on the ground. We will examine infringement on the freedom of employment and choosing one's

(1982) 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."

³⁷⁹ *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.

³⁸⁰ ICESCR, Article 8, para. 1.

job, infringement on the right to safe and healthy work conditions, exploitation of labor through technically unpaid labor and infringement on the freedom to form and join trade unions.

A. Job Assignments against One's Ability and Desire and Infringement on the 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 North Korea's 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 workplaces freely, but rather, the government designates work to the people. There is no concept such as a labor contract, and the supplementation of the labor force is made through "deployment by application." The allocation of manpower is carried out by the Labor Ministry after the number of people required in its economic sector is determined through manpower planning by the State Planning Committee. Senior officials are assigned to staffing departments at provincial/city/county level and those qualified are college

graduates, office workers, and those with high loyalty to the Party and who have manifested good job performance. General workers are uniformly assigned by the labor department of the People's Committee in each province/city/county.³⁸¹ 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 capabilities. North Korean defectors testified that the individual worker's wishes are rarely considered in work assignments. For example, those who do not work as an expression of complaint about being assigned to a job he or she does not want are subject to discipline that includes loss of employment and imprisonment at labor training camps.³⁸²

In the 2016 survey, there were multiple testimonies that not only the people's wishes are not reflected in selecting jobs but also "family background" has an influence on job assignment. A North Korean defector testified that after graduating from high school, those who do not serve in the military or go to college are sometimes assigned to jobs based on the financial capability of their parents,³⁸³ and sometimes the job of the head of household decides the job of the children.³⁸⁴ Moreover, while general

³⁸¹- Byong-yu Jeon *et al.*, *Reforming North Korea's Markets and Enterprises and the Work-incentive System* (Seoul: Korea Labor Research Institute, 2004), pp. 42-45. (In Korean)

³⁸²- NKHR2015000018 2015-01-27.

³⁸³- NKHR2016000011 2016-01-12.

³⁸⁴- NKHR2016000017 2016-01-26.

enterprises do not consider family background, special-grade enterprises tend to consider family background.³⁸⁵

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. This means that people are forcibly and unilaterally assigned their jobs in groups to factories, mines or construction facilities and workplaces, based on where there is a shortage of labor, at the direction of the State, regardless of the people's intention. From the testimonies that discharged soldiers are group-allocated to mines, factories and military supply factories,³⁸⁶ and testimonies that personal connections or bribery are frequently used to avoid group allocations,³⁸⁷ we can understand that such allocations are taking place with no consideration of the workers' desires. Moreover, there were also testimonies that even if a job is group-allocated, some of those with money or power do not come to work.³⁸⁸

Beyond job assignments, it is difficult to change jobs as well. In the process of attempting to change their work, individuals are controlled through certificates for organizational transfer and the

³⁸⁵- NKHR2016000103 2016-06-28.

³⁸⁶- NKHR2016000006 2016-01-12.

³⁸⁷- NKHR2011000209 2011-09-20; NKHR2011000217 2011-10-04; NKHR2012000030 2012-02-21. A North Korean defector testified that the testifier was group-allocated after graduating middle school in 2011 but only 3-4 worked in the end in Hoeryeong, North Hamgyeong Province. NKHR2013000131 2012-05-25.

³⁸⁸- NKHR2016000136 2016-08-23.

suspension of the ration certificates or worker ID cards. In order to change jobs for personal reasons, it is necessary to get the approval of the office manager and the Party secretary, and during this process one needs to mobilize personal connections or engage in bribery. Since the economic hardships in the 1990s, there are increasing cases where workers abandon their assigned jobs and get new jobs by bribing related agencies or labor guidance agents.³⁸⁹

B. Infringement on the Right to Safe and Healthy Working 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” (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.

In terms of realizing the right to work to support families in safe working conditions, North Korea’s reality falls far short of “safe working conditions” prescribed in the Labor Law. And because people cannot earn a sufficient living from the jobs officially

³⁸⁹- NKHR2012000032 2012-03-13; NKHR2013000056 2013-03-19.

assigned by the State, they have to support themselves and their families through unofficial work such peddling, daily menial labor, and “8.3 work”³⁹⁰ etc.³⁹¹ This is evidence that North Korea’s working conditions offer jobs that are far from the “stable jobs” prescribed in North Korean laws.

Legal provisions prescribing “working hours” and “working conditions” are also only nominal in reality. 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.” Labor Protection Law also stipulates similar provisions related to working hours and rest.

³⁹⁰ “8.3 work” is a type of “contract work” in which the government pays the enterprise so that workers can concentrate on their work without financial pressures under the reduced manpower demand. Seog-ki Lee, “Work in North Korea: Since The Year 2000,” *KDI North Korean Economic Review* (November 2012) p. 83. (In Korean)

³⁹¹ - NKHR2013000131 2013-07-09.

However, since the economic hardship in the 1990s, normal factory operations have dropped significantly as old factory facilities broke down, raw materials appeared in short supply, and the supply of electricity became intermittent, although the situation varies by region and size of factory. With regard to this, multiple North Korean defectors testified that average working hours were less than the standard working hours of eight hours as there was not much work at the work sites.³⁹² On the other hand, at some factories the working hours have been extended due to such campaigns as worker competitions and mobilizations.³⁹³ A North Korean defector who worked at a 2nd-grade enterprise testified that although the standard working hours were eight hours, it was no exaggeration to say that people actually worked almost 24 hours,³⁹⁴ and another North Korean defector testified that the standard working hours were not well complied with and people had to work overtime during a “100-day battle” or “70-day battle.”³⁹⁵

The situation related to rest for workers varied by work site similarly to working hours. Workers at work sites without much work could use the legally guaranteed 15 days of annual leave, while another factory worker testified that the work site did not give around 15 days of leave or did not allow workers to take any

392_ NKHR2016000103 2016-06-28; NKHR2016000135 2016-08-22.

393_ NKHR2012000010 2012-01-31.

394_ NKHR2016000056 2016-05-03.

395_ NKHR2016000135 2016-08-22.

leave.³⁹⁶

In the 2016 survey, it was found that even under the poor working conditions in North Korea, the regulations on working hours of pregnant women were relatively well complied with. North Korea had regulated the pre-/post-natal leave of pregnant women as 60 days of pre-natal and 90 days of post-natal leave until June 30, 2015. North Korean defector ○○○, who gave birth in 2004, testified that she was provided with five months of pre-/post-natal leave and another North Korean defector ○○○ testified that at farms, pregnant women received two months of pre-natal leave and three months of post-natal leave and they also received benefit money.³⁹⁷ On June 30, 2015, North Korea revised the Socialist Labor Law and Law for the Protection of Women's Rights to expand pre-/post-natal leave for pregnant women 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 for the Protection of Women's Rights) and emphasized such measures in the Implementation Report on the CEDAW and the Implementation Report on the CRC submitted in April 2016.³⁹⁸ It seems that it is necessary to continuously identify whether pre-/post-natal leave is given as stipulated in laws.

³⁹⁶- NKHR2016000006 2016-01-12; NKHR2016000056 2016-05-03.

³⁹⁷- NKHR2016000006 2016-01-12; NKHR2016000181 2016-11-29.

³⁹⁸- UN Doc. CEDAW/C/PRK/2-4 (2016), para. 37; UN Doc. CRC/C/PRK/5 (2016), para. 165.

C. Exploitation of Labor through Unpaid Labor and Labor Mobilization

It was found that most North Korean people are technically working without payment as they are not paid the decided wage in an appropriate manner. Even when they are paid, the wage is mostly not helpful in sustaining their family due to drastic inflation or the actual amount paid is extremely minimal. Comprehensive analysis of the testimonies collected survey identified that there is a substantial gap between the wages paid according to documents and wages actually paid. While it is recorded in documents that the wage has been paid, in actuality it has not. Even when wages are actually paid, there are a variety of deductibles, resulting in little money actually left for workers.³⁹⁹ In testimonies it is identified that although monthly salaries are paid in general, they are irregularly paid, and after membership fees (Youth League fees), patriotic support fees, condolence money and money for celebrations, are deducted, there is not much left, and thus it is hard to support livelihood.⁴⁰⁰ Also, a testifier worked for a corporate factory but was not paid with a salary for the reason that there were no products produced, and there was also a testimony that people live based on support from their parents in the end as they are not paid even if they work.⁴⁰¹ Technically, this constitutes

³⁹⁹- NKHR2015000030 2015-02-10.

⁴⁰⁰- NKHR2015000061 2015-03-24.

unpaid labor for which workers do not receive legitimate compensation for their labor.

Meanwhile, if a worker does not go to work for a certain period of time because he or she did not like the job assignment he or she received, he or she is subject to statutory punishment, including imprisonment at labor training camps (*rodongdanryundae*) or prison camps (*kyohwaso*).⁴⁰² Since the economic hardship in the 1990s, most enterprises have not operated normally and maintaining family life with only the income from one's official workplace became difficult. As a result, most North Korean workers began to engage in various market-related activities rather than going to their workplace. This practice is regarded as an irregularity under North Korean laws. Article 90 of the Administrative Penalty Law prescribes penalties for "jobless hoodlum" behaviors. According to this provision, if anyone does not come to their assigned workplace for six months or more or if anyone is missing from work for a month or more, he/she can be penalized with three months or less, or three months or more of reeducational labor discipline, depending on the seriousness of the case. That workers need to perform the work they do not want because of the threat of the punishment that they may infringe on human rights. However, according to a recent testimony, there were also cases where

⁴⁰¹- NKHR2016000042 2016-04-05; NKHR2016000017 2016-01-26.

⁴⁰²- NKHR2012000002 2012-01-10; NKHR2012000038 2012-03-20; NKHR2012000060 2012-04-10; NKHR2016000006 2016-01-12.

people were allowed to be absent without notice by paying bribes to managers and submitting medical certificates.⁴⁰³

In addition, the North Korean authorities are found to mobilize people for large-scale civil engineering work and force people to work in poor working environments. A North Korean defector testified that he or she was working for the “618 Shock Troop,” with the name 618 coming from the fact that there were six hours of rest given for every eighteen hours of labor. The 618 Shock Troop was assigned to the construction of Samsoo power plant in Yanggang Province, Bukcheong-Hyesan highway, Gosan fruit farm in Gangwon Province, and in spite of the intense labor, the monthly wage was 5,000 North Korean won, and 230g of corn was provided per meal. The corn was mostly rotten, and excluding the by-products, actually weighed around 180g. It is said that they had to get up at 3:30 am and work from 6 am until midnight or until the daily quota was filled. The testifier said that many of the mobilized people died during labor due to malnutrition and weakness.⁴⁰⁴

D. Restrictions on the Freedom to Form, Join and Withdraw from Trade Unions

Free labor unions that protect and represent the interests of

⁴⁰³_ NKHR2016000106 2016-06-28.

⁴⁰⁴_ NKHR2015000021 2015-01-27.

laborers do not exist in North Korea. The only labor union that exists is the Chosun (North Korea) General Federation of Trade Unions, but its only functions is as a “link between the Party and the working class,”⁴⁰⁵ and does not have the right to collectively organize or bargain. Following the Ninth Plenum of the Fourth Party Central Committee 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.⁴⁰⁶ Furthermore, in North Korea’s general worker-related laws, there are no provisions concerning workers’ rights to collective action or collective bargaining.

However, Article 66 of the Enforcement Regulations of the Business Law for Foreigners mentions some of the roles of the Chosun (North Korea) General Federation of Trade Unions as they relate to protection of workers’ rights including supervision of signing and execution of collective contracts, mediation of labor disputes between foreign enterprises and their workers,

⁴⁰⁵- Gang-sik Kim, *Labor in North Korea* (Seoul: Jipmoon, 2003), p. 153. (In Korean)

⁴⁰⁶- *Ibid.*, p. 155.

participation in discussions related to the rights and benefits of workers and the giving of advice and recommendations.

E. Evaluation

According to the 2016 survey, the North Korean authorities do not properly recognize the right to work stipulated in international standards on human rights. It is identified that the freedom to choose jobs based on one's ability and desire, the right to work under favorable working conditions, the right to receive just compensation for labor, and the freedom to form, join and withdraw from trade unions are still not protected or guaranteed. The unilateral assigning of jobs without consideration of personal desires by the State authority continues, and "group allocation" involving forcibly assigning people to work on construction projects and in harmful labor environments is found to be increasing rather than declining. Moreover, it has been found that working hours are being excessively extended unlawfully, and the required periods of rest and safety measures are not provided while wages are not provided. This not only represents a serious infringement on the right to work stipulated in international standards on human rights but also a serious violation of the eight hour work day system and work safety stipulated by North Korea itself in its Constitution and Labor Protection Law.

4

Right to Education

The right to education refers to everyone, not only children. And 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-22 Article 13 of the ICESCR

<p>Paragraph 1</p>	<p>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.</p>
<p>Paragraph 2</p>	<p>The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:</p> <ul style="list-style-type: none"> (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>
Paragraph 3	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
Paragraph 4	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.

The internationally accepted standards with which to assess the level of guarantee of the “right to education” are availability, accessibility, acceptability, and adaptability. We will now examine the status in North Korea of the right to education in accordance with the above standards.

A. Lack of Availability

Availability in education means that there should be normally operating educational institutions and programs offering education of a sufficient quality. In other words, it means that there should be minimum conditions established required for education.

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.” Moreover, North Korea extended its eleven years of free compulsory education to twelve years through the educational system reform in 2012 when Kim Jong Un came to power. Specifically, it was restructured to free education for one year of pre-school and eleven years of primary and middle school. There are five years of elementary school, three years of junior secondary school (junior high school), three years of senior secondary school (high school), and 4~6 years of advanced (college) education. Kindergartens (pre-school) are divided into one year of lower class and one year of upper class.⁴⁰⁷

Although the free compulsory education and educational system by stages (elementary, middle, advanced school) are established by law, since the economic hardship of the mid-1990s, the government has suspended the issuing of school uniforms and school supplies, including even textbooks, to students. A North Korean defector who resided in Hyesan, Yanggang Province, testified that there is a shortage of textbooks for students and when chairs and tables are broken, students repair them on their

⁴⁰⁷- Jeong-ah Cho *et al.*, *Education Policy, System and Textbooks in North Korea under Kim Jong Un* (Seoul: KINU, 2015), pp. 19~20. (In Korean)

own.⁴⁰⁸ Thus, most North Korean defectors negatively replied to questions on support for education at the government level including the provision of textbooks, the developmental change of educational curricula and other forms of direct and indirect support for education. In other words, the economic deprivation in North Korea is the leading cause of the lack of availability in terms of the right to education.

Table III-23 Mobilization of Students

Testimonies	Testifier ID
Students from elementary schools to middle schools were mobilized to attend political events. They were recruited and prepared for events, and they went around singing with flowers in their hands for 10 days. Excellent students were mobilized for military event.	NKHR2016000107 2016-06-28
The testifier had to work at farms for two hours in the afternoon for 1.5 months (45 days) since the testifier was in 5th grade in elementary school. When grains were harvested in fall, the crops were given to teachers. The testifier also had to earn foreign money (resided in Daedong County, South Pyeongan Province).	NKHR2016000152 2016-09-06
In spring, students in 4th-6th grade in middle school (senior secondary school) were mobilized for one month in May to support farming villages. Instead of going to school, they were mobilized for rice planting, weeding, etc.,. In fall, students supported farming villages after school. From when the testifier was in the 1st grade in middle school (junior secondary school), the testifier brought sand to be used at construction sites and buildings, cut sod, etc., in addition to farming, except for in winter (resided in Gilju County, North Hamgyeong Province).	

⁴⁰⁸_NKHR2016000072 2016-05-17.

<p>There was labor mobilization by season. The schools had students earn foreign money, and those who could not had to pay money to the schools. Those who could not bring rabbit skins to earn foreign money had to pay money or were punished.</p>	<p>NKHR2016000138 2016-08-23</p>
<p>In 2009, there was around a month of bracken vacation and students submitted bracken they collected during bracken season. Those who could not pay bracken had to pay money (resided in Hyesan, Yanggang Province).</p>	<p>NKHR2016000174 2016-11-15</p>

B. Lack of Accessibility

Accessibility means whether educational institutions and programs are accessible to everyone without discrimination. Accessibility in education is divided into non-discriminatory physical and economic accessibility.⁴⁰⁹ Non-discriminatory 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

⁴⁰⁹ 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.”

regarded as potential reactionaries including political criminals, etc. The twelve years of compulsory education which are offered under the law are not permitted inside political prison camps (*kwanliso*). Although elementary education is offered inside camps, the curriculum is different from elementary schools outside.

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. However, the rate is significantly different between the genders for college education. Specifically, the rate of female students advancing to higher education is much lower than that of male students. With regard to this issue in 2004, the UN Committee on the Rights of the Child recommended that North Korea “provide female students with the same opportunities for higher education as male students.” Such gender difference in accessibility in educational reality is also related to the lower participation in society by women in North Korea.

In terms of physical accessibility, Article 22 of North Korea’s 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. However, outside of these legal regulations, the actual accessibility to education by students living in remote areas is assessed to be substantially low given the general situation of roads, mass transit systems and the difficulties of distance learning. Furthermore, these students are mostly from the absolute poverty

class, and the inequality to educational opportunity caused by isolation tends to coincide with poor economic accessibility.

Since the economic hardship of the 1990s, the access to education of economically vulnerable groups grew worse as the public education system deteriorated. The State's financial support for elementary and middle school education has greatly reduced, and it has become common for schools to depend on parents for the funds required for operation of the school. Currently, a substantial portion of the costs of public education, ranging from the cost of textbooks and school supplies to school equipment such as desks and chairs, and the cost of maintaining school facilities, is shouldered by parents. There are a significant number of cases where students take a leave of absence or quit school. This shouldering of the costs related to education on parents applies not only to elementary and middle schools, but also for kindergartens and colleges, and has increased greatly, leaving the free education system meaningless in all but name.⁴¹⁰

C. Lack of Acceptability

Acceptability is about whether the form and nature of education, including educational programs and instructional styles, are

⁴¹⁰ Most North Korean defectors had consistently similar views of the collapse of the free education system and matters related to support for school supplies. NKHR 2015000018 2015-01-27; NKHR2015000052 2015-03-10; NKHR20160000068 2016-05-17 and many other testimonies.

acceptable to students who are the receivers of education and its direct beneficiaries.

Article 29 of the CRC presents the goal that education should be well-rounded in terms of acceptability and stresses its importance in child education. North Korea also advocates, by law, a well-rounded education based on Socialist principles, as it stipulates in Article 3 of the Education Law that “raising trustworthy personalities who possess sound ideological awareness, deep scientific-technological knowledge, and strong physical capability is the basic principle of Socialist pedagogy.” However, the excessive political ideological education, mobilization for political events and regime propaganda and mandatory military training are far from the realization of the goals of child education.

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 work including farming work and construction work under the pretext that it is a part of their educational programs.

The issue of the lack of acceptability in education shall be examined in more detail in Chapter IV-2 Children.

D. Lack of Adaptability

Adaptability in education is about the level of guarantee of an adequate educational environment from the perspective of the

receivers and the level 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 thing noteworthy 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 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, it is no exaggeration that 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 operated 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

When analyzed in terms of availability, accessibility, acceptability and adaptability, the educational reality of North Korea was found to be insufficient on all counts. In particular, the ideological education that the 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. The 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.” The international community’s

support and cooperation are urgently needed for North Korea to improve its educational system.

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 UN Committee on Economic, Social, and Cultural Rights stipulates in the General Comments on this provision that the right to social security is of central importance in guaranteeing human dignity for all persons.⁴¹¹ Social security plays an important role in reducing and alleviating poverty, as well as preventing social exclusion and promoting social inclusion.⁴¹² Meanwhile, Article 2, paragraph 1 of the ICESCR stipulates that each State Party to the Covenant shall undertake to take steps “to the maximum of its available resources,” with a view to “achieving progressively” the full realization of the rights recognized in the Covenant. However, this provision should not be misused by the States Parties to the ICESCR to avoid the duties in the Covenant.

⁴¹¹- UN CESCR, General Comment, no. 19 (2007), para. 1.

⁴¹²- *Ibid*, para. 3.

The UN Committee on Economic, Social, and Cultural Rights, in its General Comment No. 3, stipulated that even when it is only possible to progressively achieve full realization of the rights, the sovereign States have a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of those rights. The UN Committee on Economic, Social, and Cultural Rights has mentioned the obligations to provide essential primary healthcare, basic shelter and housing, and an educational environment such as general primary school education as the minimum core obligations of the State Parties to the ICESCR.⁴¹³

Table III-24 Article 9 of the ICESCR

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

It is difficult to find an established definition of the concept and scope of social security. It is also used in a mixed way with the concept of social welfare. Moreover, the right to social security is closely related to other rights, including the right to equality, the right to food, the right to health, the right to work and the right to education. It is also related to improvement of the rights of women, children and persons with disabilities which are covered in the later part of this *White Paper*. The social security system, pensions and related subsidies in North Korea will be examined below.

⁴¹³- UN CESCR, General Comment, no. 3 (1990), para. 10.

A. North Korea's Social Security System Existing in Name Only

The UN Committee on Economic, Social, and Cultural Rights presents healthcare, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors and orphans as the nine principal branches of social security.⁴¹⁴ And it presents availability, adequacy and accessibility as factors required in social security. Availability refers to the laws and systems for social security.⁴¹⁵ Adequacy refers to sufficient benefits to realize the right to family protection and assistance stipulated in Article 10 of the ICESCR, the right to an adequate standard of living stipulated in Article 11, and the right to adequate access to healthcare stipulated in Article 12.⁴¹⁶ Accessibility refers to coverage, eligibility and affordability. All persons should be covered by the social security system, and the qualifying conditions for benefits must be reasonable, proportionate and transparent. The contribution of people to social security should be at an affordable level.⁴¹⁷

The North Korean Constitution stipulates that the right to free treatment, and the right to material assistance for people who have

414- UN CESCR, General Comment, no. 19 (2007), paras. 12~21.

415- *Ibid.*, para. 11.

416- *Ibid.*, para. 22.

417- *Ibid.*, paras. 23~27.

lost their ability to work, elderly persons with no one to rely on, and children are guaranteed by the national social insurance and social security systems (Article 72). North Korea has also enacted and implemented sub-laws in diverse areas to execute the social security provisions in its Constitution, including the Social Security Law in 2008. In particular, it stipulates free treatment,⁴¹⁸ free childcare,⁴¹⁹ and free education⁴²⁰ in its laws. <Table III-25> below summarizes the laws of North Korea related to their fulfillment of the nine categories of social security presented by the UN Committee on Economic, Social, and Cultural Rights.

Table III-25 North Korean Laws on Social Security

Category of Social Security	Relevant Laws	
	Framework Law	Special Laws
Healthcare	Social Security Law	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 Insurance Law, Socialist Labor Law, Labor Protection Law
Employment Injury		
Family and Child Support		Law on the Nursing and Upbringing of Children, Law for the Protection of Children’s Rights, Law for the Protection of Women’s Rights
Maternity		
Disability		Law on the Protection of Persons with Disabilities
Survivors and Orphans		Social Insurance Law

⁴¹⁸- Article 10, 11 of the Public Health Law; Article 79 of the Socialist Labor Law.

⁴¹⁹- Article 5 and 12 of the Law on the Nursing and Upbringing of Children.

⁴²⁰- Article 12 of the Education Law; Article 9 and 13 of the Elementary School Law; Article 10 of the High School Law.

As evidenced above, a legal framework has been established in North Korea for a social security system. It can therefore be said that North Korea fulfills the aspect of availability as one of the factors required by the UN Committee on Economic, Social, and Cultural Rights for execution of social security. However, it is assessed that a social security system for the general population in North Korea exists in name only. Such a phenomenon has continued since North Korea went through economic hardship in the mid-1990s. As of 2012, the per capita GNI of North Korea (645 US dollars) is ranked in the bottom 20 of the 212 countries in the UN statistics.⁴²¹ In 2015, North Korea declined into minus growth after recording positive economic growth since 2011,⁴²² and the reality of its social security has witnessed little change regardless of the status of economic growth. In this regard, social security in North Korea is severely insufficient in fulfilling the aspect of adequacy, which refers to adequately sustaining life. Meanwhile, North Korea stipulated the abolishment of taxes when it enacted its Constitution in 1972 (Article 33), and officially abolished the tax system in 1974. Currently, taxes are collected only in special economic districts. However, in reality, it requires

⁴²¹ Seong-min Moon, *Introduction of National Income of North Korea and International Comparison* (Seoul: Institute for Monetary & Economic Research, Bank of Korea, 2015), pp. 5-6. (In Korean)

⁴²² North Korea's economic growth rate was 0.8% in 2011, 1.3% in 2012, 1.1% in 2013, 1.0% in 2014 and -1.1 % in 2015. Statistics Korea, *2016 Major Statistical Index of North Korea* (Daejeon: Statistics Korea, 2016), p. 100. (In Korean)

a variety of payments: workers are required to pay 1% of their monthly compensation, and enterprises and cooperative organizations are required to pay 7% of the living expenses calculated by monthly sales as social insurance premiums (Article 47 of the Law on National Budget Income). People must pay other fees as well. People who violate national payment orders are subject to one year or less of labor training punishment (Article 110 of the Criminal Law). These various charges technically constitute tax and cause further difficulty in the lives of the North Korean people. In other words, the charges that North Korean people must pay goes beyond the level they can afford, which means that North Korea is failing to fulfill its obligation to provide accessible social insurance.

B. Pension and Subsidies Insufficient for Sustaining Life

(1) Old Age Pension and Subsidies

The international community protects the right of women, children and persons with disabilities through adoption of the CEDAW, CRC and CRPD. However, unlike it has for other vulnerable groups, it has not adopted international treaties on elderly persons. Only in 1991 was the United Nations Principles for Older Persons adopted through a resolution of the UN General Assembly.⁴²³ The United Nations Principles for Older Persons

presents 18 principles on independence, participation, care, self-fulfillment and dignity for elderly persons, each of which are clearly related to the rights stipulated in the ICESCR.⁴²⁴ The first principle stipulates that older persons should have access to adequate food, water, shelter, clothing and healthcare through the provision of income, family and community support, and self-help. In other words, it emphasizes the need for a certain level of income to maintain an adequate standard of living. The UN General Assembly has recommended promotion of the United Nations Principles for Older Persons in the international community⁴²⁵ as it adopted the Proclamation on Ageing in 1992.⁴²⁶

The North Korean Social Security Law stipulates the obligation to provide a social security pension and subsidies (Article 17~23), 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 an old age pension and subsidies, 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 economic hardship of the mid-1990s, old age

⁴²³- UN Doc. A/RES/46/91.

⁴²⁴- Pyoung-keun Kang, "The Protection of Older Persons in the Perspective of International Law with Specific Reference to General Comments by UN CESCR," *Seoul International Law Study*, vol. 2, no. 15 (2008), p. 98. (In Korean)

⁴²⁵- UN Doc. A/RES/47/5.

⁴²⁶- UN Doc. A/RES/47/5, para. 1(b).

pensions were sufficient to maintain life, although not much was provided.⁴²⁷ However, since the economic hardship, the provisions on payment of old age pensions have not been enforced. While laws stipulate payment of old age pensions and subsidies, it is found that in actuality they are not paid in many cases. Even when they are, some people give up seeking them as the amount is minuscule. The old age pension most often amounts to around 600 to 1,000 North Korean won, insufficient for even one meal.⁴²⁸ As of 2014, 700 North Korean won is less than the price of a bowl of noodles.⁴²⁹ A North Korean defector testified that the grandmother of the testifier received 90 won in cash and around 600g in rations after the grandfather passed away, and the mother received around 800~900 won of old age pension, but as that was not sufficient to buy corn and rice, and as she could not maintain her livelihood, she supported herself through cultivating paddies.⁴³⁰ When paid, old age pensions and subsidies are not paid on a regular basis, once every several months, instead of on a monthly basis. In other words, it is impossible to sustain life with the existing old age pension. This is in violation of the United Nations Principles for Older Persons and the UN Proclamation on Ageing. Elderly people in North Korea hold jobs on the side to support themselves, or receive support from family, relatives or acquaintances.

427- NKHR2013000065 2013-04-02.

428- NKHR2014000065 2014-06-03.

429- NKHR2015000178 2015-12-15.

430- NKHR2016000164 2016-11-01.

It was found that those who served in high-ranking posts or with significant accomplishments receive a slightly higher old age pension. A testifier whose father was a patriotic martyr testified that his or her mother received medal payment and military term payment, etc., and also old age pension as she was 55 years of age or older. However, as she could purchase only around 1kg of rice with the medal payment, military term payment and old age payment altogether, she supplemented her living costs by cultivating paddies.⁴³¹ Those awarded the Medal of Labor through activities as deputies received 3,000 North Korean won in old age pension,⁴³² while a North Korean who served as the president of Samjiyeon Students Palace received 1,000~1,200 North Korean won per month in old age pension.⁴³³ However, even this increased amount is insufficient to sustain life.

There are testimonies that recently, the authorities have been distributing land for people to manage instead of paying out money. Testimonies included the story of one recipient of old age pension being allocated by the authorities a certain amount of land from the farm that he or she used to work on and he or she was to manage the land.⁴³⁴

431_ NKHR2016000137 2016-08-23.

432_ NKHR2013000197 2013-10-29.

433_ NKHR2014000085 2014-07-01.

434_ NKHR2015000132 2015-09-22.

Table III-26 Testimonies on the Practical Difficulties of Sustaining Life with Old Age Pensions

Testimonies	Testifier ID
The father of the testifier who lived in Samjiyeon County, Yanggang Province in 2013, received help from the testifier's brother and a male friend who were in China as he could not live on the old age pension.	NKHR2014000085 2014-07-01
The testifier, who resided in Hyesan, Yanggang Province, received old age pension from September to October 2013. As her husband had been a manager of an enterprise, not a general worker, she received 3,000 won, which is equivalent to two months' of regular pension. However, it was still insufficient to sustain life.	NKHR2014000096 2014-07-15
The father of the testifier, who resided in Bocheon County, Yanggang Province, received 1,000 won per month in old age pension before he died in October 2013. As he was a Party member, he received more than other people. Sometimes, the payment was made irregularly with several months paid together.	NKHR2014000119 2014-08-12
Farmers rarely receive old age pension. Workers receive 700 won.	NKHR2013000049 2013-03-19
Those with accomplishments receive more in old age pension. Those without accomplishments received around 1,000 North Korean won.	NKHR2013000197 2013-10-29
The amount paid differed by region. Sometimes several months of overdue payment was paid at once, but the monthly payment was less than the cost of a meal.	NKHR2014000065 2014-06-03
The father-in-law of the testifier who resided in Myeonggan County, North Hamgyeong Province, was a former MPS officer and received an old age pension but it was impossible to buy even 1kg of corn with the payment.	NKHR2014000123 2014-08-26
The grandmother of the testifier, who lived in Hoeryeong, North Hamgyeong Province, received an old age pension of 700 won per month.	NKHR2015000141 2015-10-06
The mother of the testifier who resided in Dancheon, South Hamgyeong Province, received medal payment and military term payment as well as old age pension, but supplemented living costs through farming and vending as it was hard to support herself.	NKHR2016000137 2016-08-23
The mother of the testifier who resided in Bocheon County, Yanggang Province, received 800-900 won of old age 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

Table III-27 Testimonies on Failing to Receive Old Age Pensions

Testimonies	Testifier ID
The grandfather of the testifier, who lived in Poongseo County, Yanggang Province in 2012, qualified for an old age pension but only received a minuscule amount.	NKHR2014000075 2014-06-17
The old age pension was 600 North Korean won, but the testifier did not actually receive it.	NKHR2013000054 2013-03-19
The old age pension was paid only when there were enough resources for the month. Before the economic hardship, although minimal, the pension could support life.	NKHR2013000065 2013-04-02
The testifier did not receive his or her pension and was simply excluded from work.	NKHR2013000095 2013-05-14
The father of the testifier, who lived in Poongseo County, Yanggang Province, was 64 years old as of 2014 and was qualified to receive the old age pension, but did not. He survived by doing side jobs. He assumed that he had to live this way and did not expect the State to give him a pension.	NKHR2014000055 2014-05-20

(2) Employment Injury Pension and Subsidies

The North Korean Constitution stipulates that those who cannot work due to disability shall have the right to material assistance and this right shall be guaranteed by the social security system (Article 72). The Social Security Law also includes those who cannot work due to disease or physical disability as eligible for social security (Article 2). The Socialist Labor Law stipulates that Employment Injury Pensions and subsidies and survivor pensions shall be given. For workers who temporarily are unable to work due to industrial accidents, sickness or other injuries, temporary subsidies shall be paid, and if the duration exceeds six months, a disability benefits shall be paid (Article 73). In the event of a worker's death, a survivors pension shall be paid to the bereaved

family (Article 77). As stipulated in such provisions, there are cases where a certain amount of money and food is provided in the name of social security in the event of employment injuries. However, it is impossible to sustain life with these payments. It is identified that Employment Injury Pensions and subsidies are not received more often than they are received. In such cases, the authorities sometimes help families find jobs so that the family of a worker who was injured can sustain themselves. It is impossible to express complaints about a failure to receive an Employment Injury Pension or subsidies.⁴³⁵

One should receive a written diagnosis from a hospital to receive an Employment Injury Pension or subsidies. Moreover, to extend the beneficiary status, one needs to be diagnosed every six months or one year.⁴³⁶ There is corruption in this process. Without bribing the doctors at hospitals, one cannot be eligible for social security as the doctors will not proceed with diagnosis.⁴³⁷ Some North Korean people try to become eligible for social security through bribery as well, because once they are eligible, they can be absent from work and make money from peddling during that time.⁴³⁸

435_ NKHR2014000174 2014-10-21.

436_ NKHR2014000036 2014-04-15; NKHR2015000175 2015-12-15.

437_ NKHR2014000036 2014-04-15.

438_ NKHR2014000004 2014-01-13.

Table III-28 Testimonies on Receiving Employment Injury Pension or Subsidies

Testimonies	Testifier ID
Honored veterans were given some help including with cutting of wood. Around 1,500~2,000 won was provided per month and medicine was provided once a year.	NKHR2014000115 2014-08-12
A certain amount of money and 140kg of corn was paid to farmers.	NKHR2014000036 2014-04-14
An acquaintance of the defector's father who could no longer work received 500 won and 6kg of corn per month.	NKHR2015000141 2015-10-06

Table III-29 Testimonies on the Failure to Receive Employment Injury Pension or Subsidies

Testimonies	Testifier ID
The father of the testifier, who lived in Hyesan, Yanggang Province in 2000, lost two fingers while working on plastering. He did not receive insurance money and neither the State nor the enterprise took responsibility.	NKHR2013000195 2013-10-29
Miners lost their lives due to an accident in Myeonggan (Hwaseong) County, North Hamgyeung Province. There was no money paid out to the miners' families. Instead, the wives of the miners were given jobs at diners at the mine.	NKHR2013000043 2013-03-05
The father of the testifier was a company commander of 12.5 Youth Mine in Shindo County, North Pyeongan Province. There were many industrial accidents involving the loss of fingers and death. If someone died from an employment injury, only a medal (citation) was given to the family, and no other special treatment.	NKHR2014000174 2014-10-21
In principle, a cash payment is supposed to be given in accordance with the grade of employment injury. However, the testifier had never received one.	NKHR2015000060 2015-03-24
There is no special guarantee or pension provided. But one does not need to go to work.	NKHR2015000175 2015-12-15

C. Evaluation

In terms of laws, the North Korea social security system is well established. However, it does not work for the general population

due to the economic crisis. Elderly people do not generally receive these old age pensions or subsidies. Even when they are received, they consist of such a small amount of money or goods as to be insufficient to support life for a single day. As a result, elderly persons in North Korea need to have side jobs or receive help to if they wish to live. The situation is the same for employment injuries. Although the provisions stipulate that pensions or subsidies shall be provided, they are not, or are in such small quantities that they offer no assistance in reality. In the New Year's Speech announced on January 1, 2017, North Korea emphasized the policy of taking people importantly, stressing "People First."⁴³⁹ However, the cost for the 5th nuclear experiment is estimated to be 5 million dollars (around 5.53 billion Korean won). And North Korea is presumed to have used the massive amount of 1.1~1.5 billion dollars in total for nuclear development since its first nuclear experiment in 2006, a cost equivalent to buying 6.4~8.7 million tons of corn or one-and-a-half years of food for all North Korea.⁴⁴⁰ As such, as long as North Korea continues its nuclear and missile testing without giving up pursuing its nuclear capabilities along with the economy, the social security situation will remain at a standstill for the general North Korean population.

⁴³⁹- Min Hong *et al.*, "Analysis of 2017 North Korea's New Year's Speech," *KINU Tongilnachimban*, 17-02 (2017), p. 22. (In Korean)

⁴⁴⁰- Dongailbo, September 12, 2016.



White Paper on Human Rights
in North Korea 2017



Chapter IV

Vulnerable Groups

- 1 Women
 - 2 Children
 - 3 Persons with Disabilities
-

1

Women

The Preamble of the UDHR reconfirms the equal right of men and women along with the basic human rights and the value of human 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, and 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.⁴⁴¹ However, the UDHR, the ICCPR and the ICESCR have limitations in that they attempt to guarantee the rights of women through realizing the

⁴⁴¹-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 child-birth" 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.

right to equality between men and women instead of in terms of the special characteristics of women's rights. The CEDAW, which was adopted by the UN General Assembly on December 18, 1979, and took effect on September 3, 1981, is distinct from previous international documents on women in that it reflects the notions of the special characteristics of women's issues that can occur in private and gender sensitivity, overcoming the limitation of only dealing with the right to equality in the public area. The CEDAW is composed of a preface, 6 parts and 30 articles. Part 1 (Article 1~6) stipulates the duties of States Parties to eliminate discrimination, Part 2 (Article 7~9) stipulates civil and political rights, Part 3 (Article 10~14) stipulates economic, social and cultural rights, Part 4 (Article 15~16) stipulates legal abilities and the rights on marriage and family life, Part 5 (Article 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 (Article 23~30) sets forth the conditions for the Convention to enter into force and its revision procedures, etc.

North Korea ratified the CEDAW on February 27, 2001. States Parties have to submit an implementation report to the Committee (Article 18), and North Korea had postponed its submission of reports since it submitted the first report in September 2002. It submitted the combined second, third and fourth periodic reports in April 2016. The Committee finished the preliminary review in

March and will announce the Concluding Observations, which include its major concerns and recommendations, after the full review in November 2017.

In the combined second, third and fourth periodic reports, North 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.”⁴⁴² 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 2015.⁴⁴³ 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 Council 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.⁴⁴⁴ Moreover, it stressed that it adopted the Law for the Protection of Women’s Rights 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

⁴⁴²- UN Doc. CEDAW/C/PRK/2-4 (2016), para. 2.

⁴⁴³- *Ibid.*, para. 7.

⁴⁴⁴- *Ibid.*, paras. 9~10.

gender equality as stipulated in Article 2 and is strictly preventing all forms of discrimination.⁴⁴⁵ It also explained that “all forms of discrimination” stipulated in Article 2 include all direct/indirect discrimination against women and that the meaning of the phrase is identical with the definition of discrimination in the CEDAW. Based on the 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.⁴⁴⁶ These actions can be assessed as the measures taken by North Korea in response to the recommendations by the Committee in 2005 that North Korea should completely accept the definition of discrimination in the CEDAW in its domestic law and carry out a campaign to raise awareness on the Convention, including on the meaning and scope of indirect discrimination, etc.⁴⁴⁷

The CEDAW stipulates that States 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

⁴⁴⁵ *Ibid.*, para. 11.

⁴⁴⁶ *Ibid.*, paras. 12~13.

⁴⁴⁷ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea* (Seoul: KINU, 2016), p. 5.

3). In the Law for the Protection of Women's Rights, North Korea stipulates women's social/political rights, rights to education/culture/healthcare, 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. As such, it seems that North Korea is relatively faithfully implementing its obligations as a State Party in terms of legislative measures. However, in that the rule of law in North Korean society operates at a perfunctory level, it is also true that such legislative measures cannot be taken seriously. Therefore, we will examine the situation of North Korean women's rights by major issue below.

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 States 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 for the Protection of Women’s Rights, North Korea is preventing “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 the Predominance of Men 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.⁴⁴⁸ In the combined second, third and fourth periodic reports, North Korea also stated that the custom of male superiority still remains ingrained in society and family even after the Law for the Protection of Women's Rights 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.⁴⁴⁹

North Korea emphasized that the Chosun (North Korea) Democratic 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.⁴⁵⁰ Moreover, North Korea stated that it decided to investigate prejudice and discrimination against women in all government agencies at the institutional level to actively respond to such issues.⁴⁵¹ However, the North

⁴⁴⁸- UN Doc. CEDAW/C/PRK/1 (2002), para. 101.

⁴⁴⁹- UN Doc. CEDAW/C/PRK/2-4 (2016), para. 53.

⁴⁵⁰- *Ibid.*, para. 56.

⁴⁵¹- *Ibid.*, para. 58.

Korean authority admitted that the stereotype of male predominance and fixed gender roles are deeply rooted in the perceptions of North Korean people. North Korean defector ○○○, a woman in her late 50s who defected from North Korea in 2010, stated that “women are biologically inferior to men and as women should prioritize their families, it is more appropriate that men become senior officials than women,”⁴⁵² which clearly shows how strongly the idea of male predominance is ingrained among the older generation of North Koreans.⁴⁵³

Table IV-1 Testimonies on the Stereotype of Male Predominance and Fixed Gender Roles

Testimonies	Testifier ID
A woman in her 50s who defected from North Korea in 2010 testified that the fixed division of gender roles that men’s sphere is matters outside of the family and women’s sphere is inside the home still remains.	KHR2016000145 2016-08-23
A woman in her 20s who defected from North Korea in 2012 testified that the idea of male predominance is prevalent, and as an example, there is intense control over women’s clothing and hairstyles in the streets.	NKHR2016000135 2016-08-23
A woman in her 20s who defected from North Korea in 2013 testified that men are 100% and women are 50% in North Korea, which means that women are treated as though they have half the status of men and must respect men.	NKHR2015000093 2015-05-12
A woman in her 20s who defected from North Korea in 2013 testified that the idea of male predominance still exists in North Korea, and generally, women are regarded as being responsible for miscellaneous matters as the owner of the sphere inside the home.	NKHR2016000139 2016-08-23

⁴⁵²- NKHR2015000095 2015-05-12.

⁴⁵³- Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 13~14.

As such, the majority of testimonies revealed that the idea of male predominance is still generally held in North Korean society.⁴⁵⁴ However, while this concept was stronger among the older generation, the idea has weakened recently as women's economic participation has increased,⁴⁵⁵ and there were also testimonies that the situation varies by individual family and province.⁴⁵⁶ North Korean defector ○○○, a woman in her 20s who she defected from North Korea in 2013, testified that she did not perceive the idea or custom of male predominance that often, and it seemed that the distinction between men and women has decreased recently.⁴⁵⁷

(2) Women's Limited Political Participation and Social Entry

States Parties to the CEDAW 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

⁴⁵⁴- NKHR2016000121 2016-07-26; NKHR2016000123 2016-07-26; NKHR2016000132 2016-08-09.

⁴⁵⁵- NKHR2016000131 2016-08-09; NKHR2016000140 2016-08-23.

⁴⁵⁶- NKHR2016000134 2016-08-09.

⁴⁵⁷- NKHR2016000136 2016-08-23.

Law for the Protection of Women’s Rights 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, North Korea stressed that North Korean women have equal status with men in political and public life.⁴⁵⁸

However, it seems that the social and political activities of North Korean women are limited in reality. A case in point is the very low political participation of women. Since the 1970s, North Korea has maintained a level of 15~20 percent of the deputies of the Supreme People’s Assembly (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.⁴⁵⁹ However, the election of deputies is based on the perfunctory consideration of the KWP instead of reflecting the voluntary

⁴⁵⁸_UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 75~83.

⁴⁵⁹_UN Doc. CEDAW/C/PRK/2-4 (2016), 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 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>.

participation of the people based on free will. Moreover, the SPA only plays the role of confirming what is decided by the KWP, which is the core power institution, without the practical authority to supervise and criticize national affairs. Therefore, it can be said that the women deputies in the SPA are only significant as symbolic representations and the actual political influence of women does not correspond to their ratio of seats.

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.⁴⁶⁰ 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).⁴⁶¹ Moreover, all five permanent members of the Political Bureau of the Party Central Committee

⁴⁶⁰-Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 9.

⁴⁶¹- 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.

and 19 members of the Political Bureau and nine candidate members of the Political Bureau elected at the 7th Congress of the Workers' Party of Korea held on May 9, 2016, are male. As such, the ratio of women in the Party is low, and it gets even lower moving closer to the core of power.⁴⁶² 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 for the Protection of Women's Rights 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 the 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.⁴⁶³ In its first State Party's Report on the CEDAW, submitted in September 2002, North Korea said, "We have increased the ratio of female senior staff in the public sector in an

⁴⁶²-Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 8-9.

⁴⁶³-UN Doc. A/HRC/25/CRP.1 (2014), para. 314.

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,”⁴⁶⁴ and 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.⁴⁶⁵

The problem is that it is hard to expect that women’s social entry will expand significantly going forward.⁴⁶⁶ First, there appears to be a gap between men and women in terms of educational opportunities. There is little difference in the school entrance ratio based on gender for elementary/middle school education, which is compulsory. However, it seems that there is a wide gap in the entrance ratios for higher educational institutions including colleges. In its first State Party’s Report on the CEDAW, submitted in September 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.⁴⁶⁷ However, the combined second, third and fourth periodic reports mention that the college entrance ratio for women has increased, but they do not present specific statistics as they do on elementary/middle

⁴⁶⁴- UN Doc. CEDAW/C/PRK/1 (2002), para. 111.

⁴⁶⁵- UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 89, 254.

⁴⁶⁶- Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 9-11.

⁴⁶⁷- UN Doc. CEDAW/C/PRK/1 (2002), para. 132.

school education.⁴⁶⁸ Given this, it seems that higher education opportunities for women have not changed much in the last decade. North Korean defector ○○○, a woman in her 20s who defected from North Korea in 2016, testified that there are many women in technical schools, and more men are entering colleges.⁴⁶⁹ North Korean defector ○○○, a woman in her 50s who defected from North Korea in 2014, testified that mostly only men are selected for senior official training and there is little opportunity for women.⁴⁷⁰ North Korean defector ○○○, a woman in her 30s who defected from North Korea in 2014, testified that she had never seen a female senior party official other than the officials of the Chosun (North Korea) Democratic Women’s Union.⁴⁷¹

The perception of women’s social status among the general population of North Korea reflects the above testimonies. Of the respondents to KINU’s interviews from 2012 to 2016, 73.46 percent replied that the social status of North Korean women was “unequal” (including 18.46 percent who replied “very unequal”). When examining the statistics of only those who came to South Korea in 2016, the ratio of those replying “unequal” was 52.77 percent, which shows that the related perception of the general population has improved, but the majority still perceives the

468_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 99.

469_ NKHR2016000141 2016-08-23.

470_ NKHR2016000143 2016-08-23.

471_ NKHR2016000150 2016-09-06.

social status situation as unequal. North Korean defector ○○○ testified that women's scope of social entry is limited to art and statistics, etc.⁴⁷² However, there were also many testimonies that revealed that, regardless of gender, financial capability or family power, parents' status and family background were more important than one's capability for social entry.⁴⁷³

(3) Family Life Centered around Male Heads of Household

During the early days of the regime, North Korea declared that the existing male-centered and authoritarian traditional Confucian family system not only was 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 anti-imperialist, anti-feudal democratic revolution.” However, although superficial legal and institutional measures were implemented to provide Socialist-style equality between men and women, the traditional patriarchal structures were maintained within families, and in particular, as the sole leadership of Kim Il Sung and Kim Jong Il solidified during the 1970s, premodern

⁴⁷²- NKHR2016000117 2016-07-26.

⁴⁷³- NKHR2016000128 2016-08-09; NKHR2016000129 2016-08-09; NKHR2016000133 2016-08-09; NKHR2016000134 2016-08-09.

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,” and 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 is hard to say this is because of institutional factors such as the enactment of the Law for the Protection of Women’s Rights, and it is assessed to be attributable to women’s strengthened right to speak as their economic activities have increased and as there are an increasing number of cases where women are supporting their family’s livelihood.⁴⁷⁴

In the KINU survey in 2016, 59.09 percent of those surveyed said the husband was the “actual authority” in the family, while 29.55 percent viewed the husband as the “perfunctory authority.” In addition, 48.57 percent replied that the status of and perceptions on women have “changed since they started engaging in economic

⁴⁷⁴-Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 14~16.

activities.” North Korean defector ○○○, a woman in her 40s who defected from North Korea in 2014, replied that her husband was only the perfunctory authority (dog, landscape painting) and that women’s status had improved with their increasing economic activities, a trend that was more pronounced in urban areas. However she said that in farming villages, family life was still centered around men.⁴⁷⁵ Meanwhile, North Korean defector ○○○, a woman in her 20s who defected from North Korea in 2015, replied that even if women do all the housework, outside work and child care, when there are struggles, it is the men who boss around their wives.⁴⁷⁶ As such, while there is a trend that women’s status is increasing in the family, it is still common that women take full charge of housework, as we will examine later, and the burden on women is gradually increasing due to forced labor by the Chosun (North Korea) Democratic Women’s Union along with economic activities in unofficial areas.

(4) Double Burden of Housework and Social Labor

The North Korean authority argues that it has guaranteed the conditions for women’s equal social entry through the socialization of housework and the socialization of child care. However, despite this argument, it seems that the traditional role of women in the

⁴⁷⁵- NKHR2016000038 2016-04-05.

⁴⁷⁶- NKHR2016000154 2016-09-06.

family is still emphasized. With the continued economic crisis, the policies to socialize housework and child care have decreased and the division of housework and child care 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 2005, the Committee expressed its concern that there was indirect discrimination against women, including women were not choosing to enter administrative positions. Moreover, women lacked time for their social life because of family duties imposed on them even though the committee urged the North Korean authority to take measures to remove such discrimination.⁴⁷⁷ In the most recent reports, 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.⁴⁷⁸

Yet, in reality North Korean women's human rights have not been improved. They still should be in charge of housework and social labor. The KINU surveys between 2012 and 2016 show that 91.93 percent of the respondents replied "women" were

⁴⁷⁷- UN Doc. CEDAW/C/PRK/1 (2002), paras. 27~28.

⁴⁷⁸- UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 45, 47, 55.

responsible for housework, while 78.08 percent replied women (wives) should take responsibility for housework even when they are financially supporting their families. When examining the statistics of only those who came to South Korea in 2016, these figures changed to 84.64 percent and 79.59 percent, respectively. This means that the perception that housework should be shouldered by women has not decreased significantly despite the fact that women are engaging in economic activities to maintain the livelihood of the family. As such, with the perception that economic activities and housework should be shouldered by women being firmly established, the insufficient economic performance of women can sometimes lead to domestic violence.⁴⁷⁹ Such a situation creates a substantial burden on women. North Korean defector ○○○, a woman in her late 50s, pointed out that women are getting married at a later age because “they are worried that they need to support their husband and also their kids when they get married.”⁴⁸⁰

While economic activities and housework already represent a substantial labor burden, North Korean women have little free time to rest. This is because they need to participate in Life Review Sessions (*saenghwalchonghwa*), education and labor mobilization campaigns carried out by the Chosun (North Korea)

⁴⁷⁹-Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 17.

⁴⁸⁰-NKHR2015000095 2015-05-12.

Democratic Women’s Union organizations, etc., on a daily basis.⁴⁸¹ North Korean defector ○○○, a woman in her early 50s who defected from North Korea in 2014, testified that she participated in mobilization campaigns for farming villages, railroads and *inminban* almost every day, working from 9 am to 12 pm and 2 pm to 4~5 pm, and she had to pay 3,000 North Korean won if she was absent.⁴⁸² North Korean defector ○○○, a woman in her late 20s who defected from North Korea in 2011, testified that street mobilization by a *inminban* was so frequent that the phrase “the street is endless and endless” was popular and that she participated mostly in mobilization campaigns for farming villages and road construction, etc., that she had to walk back and forth several kilometers and that the intensity of the labor was very high.⁴⁸³ However, there is no compensation for the social labor that mobilized women carry out.⁴⁸⁴

B. Prevalent Violence against Women

(1) Domestic Violence

Domestic violence is one of the most malicious forms of

⁴⁸¹-Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 18.

⁴⁸²-NKHR2016000143 2016-08-23.

⁴⁸³-NKHR2016000133 2016-08-09.

⁴⁸⁴-NKHR2016000148 2016-09-06.

violence against women.⁴⁸⁵ Through its specific recommendations, the Committee recommended that States 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 violence that result (e).⁴⁸⁶

The Committee expressed concerns in its Concluding Observations in 2005 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.⁴⁸⁷ Article 46 of the Law for the Protection of Women's Rights 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

⁴⁸⁵- UN CEDAW, General Recommendation, no. 19 (1992), para. 23.

⁴⁸⁶- *Ibid.*, para 24.

⁴⁸⁷- UN Doc. CEDAW/C/PRK/CO/1 (2005), paras. 37-38.

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.

To the extent that 77.5 percent of respondents in the interview investigation by KINU in 2012~2016 on North Korean defectors replied that domestic violence is common, it seems that domestic violence occurs frequently. However, the more serious problem is that women victims are still not being properly responded to or protected. The majority of the North Korean defectors replied that one could report domestic violence to an officer at the city/county branch but would not because no measures would taken even if reported.⁴⁸⁸ Also, one of the reasons women victims are reluctant to file reports is that even if they report domestic violence to MPS town offices, etc., the offices respond as though the reports are troublesome, saying that family matters should be handled within families and not showing any willingness to resolve the problems. North Korean defector ○○○, a woman in her mid 20s who defected from North Korea in 2015, testified that even when women talk to MPS officers in charge, they just say “handle your

.....
⁴⁸⁸_NKHR2016000117 2016-07-26; NKHR2016000118 2016-07-26; NKHR2016000120 2016-07-26; NKHR2016000128 2016-08-09; NKHR2016000130 2016-08-09; NKHR2016000139 2016-08-23 etc.

family problems between yourselves,” and that it is hard to expect any legal measures or assistance.⁴⁸⁹ Even the Party organizations simply advise or criticize the husbands. For such reasons, victims of domestic violence rarely reveal their situations, even to their neighbors, and cases of reporting domestic violence are also very rare. North Korean defector ○○○, who defected from North Korea in 2016, testified that although there are frequent cases of domestic violence as their lives are so hard, people do not even consider reporting them.⁴⁹⁰ North Korean defector ○○○, 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 in vain, resulting in her being beaten even more.⁴⁹¹

There are some confirmed cases in which a victim reported domestic violence and her husband was punished. For example, a woman in her 30s who resided in Jeongju, North Pyeongan Province, and defected from North Korea in 2013 testified that a woman in her late 50s who was assaulted by her husband in around January 2012 reported the case to the Chosun (North Korea) Democratic Women’s Union, local secretary, MPS Jeongju city/county branch several times and her husband had to spend three months in a labor training camp (*rodongdanryundae*).⁴⁹²

⁴⁸⁹- NKHR2016000154 2016-09-06.

⁴⁹⁰- NKHR2016000141 2016-08-23.

⁴⁹¹- NKHR2016000148 2016-09-06.

⁴⁹²- NKHR2014000188 2014-11-04.

However, this case seems to be a rare exception, and unless there is an extreme situation such as a domestic violence homicide, measures such as criminal punishment are rarely taken. Moreover, North Koreans tend not to think of domestic violence as something that should be reported, believing that reporting domestic violence is humiliating. It also seems that there is a deep-rooted perception that the cause of domestic violence is the women themselves.⁴⁹³ The Chosun (North Korea) Democratic Women's Union is also not very helpful in resolving domestic violence issues.⁴⁹⁴ As such, it has been found that women exposed to domestic violence are not protected by the government or the society.

(2) Exploitation and Violence Based on Gender

According to the 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). 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.⁴⁹⁵ The North Korean Law for the Protection of Women's Rights stipulates that those who conduct,

⁴⁹³-Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 20.

⁴⁹⁴- *Ibid.*, p. 21.

⁴⁹⁵- UN CEDAW, General Recommendation, no. 19 (1992). para 1.

organize, encourage or force prostitution shall be punished by law (Article 40). In the combined second, third and fourth periodic reports, 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.⁴⁹⁶ Moreover, North Korea stated that it is guaranteeing the protection of the identity of the victims of sexual violence and providing compensation for damages based on the Law on Compensation for Damages.⁴⁹⁷

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, as some facts on related concerns have been confirmed based on the testimonies of North Korean defectors that have been secured, it seems that the issue should be raised continuously. First of all, unlike the North Korean authority's official argument, North Korean defectors were skeptical about

⁴⁹⁶- UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 66-70.

⁴⁹⁷- *Ibid.*, para. 71.

the possibility of victims being protected and suspected assailants being punished when sexual violence occurs. It is said that even if victims report their case, suspects can avoid punishment through bribery in many cases,⁴⁹⁸ and there are a substantial number of cases where victims avoid reporting the case and hide their experience, believing that reporting sexual violence is humiliating.⁴⁹⁹ There are also testimonies that there is negative social perception of the victims of sexual violence,⁵⁰⁰ 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.⁵⁰¹ 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.

There are occasional cases where the suspects are punished. North Korean defector ○○○, who resided in Samjiyeon County, Yanggang Province, witnessed the public trials of a man who sexually assaulted a female middle school student in 2013. The man was sentenced to five years of correctional labor punishment. However, the testifier said that such a punishment was only possible because the father of the victim was working for the Inspection Division of the Samjiyeon County MPS city/county

498_NKHR2016000143 2016-08-23.

499_NKHR2016000139 2016-08-23; NKHR2016000140 2016-08-23.

500_NKHR2016000143 2016-08-23; NKHR2016000145 2016-08-23.

501_NKHR2016000148 2016-09-06.

branch.⁵⁰² In other words, unless it is a special case such as this, the punishment of sexual criminals is rarely handed down properly.

Although physical violence is not involved, it seems that there are many cases where women experience sexual exploitation or suffer damages based on the social structure in North Korea. For women who are engaging in unofficial economic activities, those working for the authority 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.⁵⁰³

Another problem that should be pointed out is that education to prevent sexual violence is not taking place.⁵⁰⁴ When asked if there is education to prevent sexual violence in North Korea, North Korean defectors commonly replied that they have not received such education.⁵⁰⁵ North Korean defector ○○○ testified that although the testifier received much education on socialist gender equality, he or she had never received sex education.⁵⁰⁶ As

⁵⁰²-NKHR2014000120 2014-08-12.

⁵⁰³-Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 25.

⁵⁰⁴- *Ibid.*, pp. 25-26.

⁵⁰⁵-NKHR2016000117 2016-07-26; NKHR2016000118 2016-07-26; NKHR2016000119 2016-07-26 etc.

⁵⁰⁶-NKHR2016000134 2016-08-09.

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. A woman in her 20s who defected from North Korea in 2012 testified that in North Korea, senior officials recklessly sexually assault women they like, but the testifier only realized that such behaviors constitute sexual violence and were wrong when she stayed in China after defecting from North Korea. The testifier also stated that it was hard to perceive such acts as an issue as the women who accept the sexual assault of such senior officials are well-off.⁵⁰⁷ This clearly shows the seriousness of the lack of education on the prevention of sexual violence.

C. Treatment of Women Repatriated after Defecting from North Korea

(1) Punishment of Women Victims of Human Trafficking

In general, poverty and unemployment lead to an increase in the human trafficking of women. The Committee expressed concern that new forms of sexual exploitation, including planned marriages between women from underdeveloped countries and foreign men,

⁵⁰⁷ NKHR2014000157 2014-09-23.

in addition to existing forms of human trafficking exist and 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.⁵⁰⁸ The Committee called for the introduction of special measures to eliminate poverty aimed at improving the situation of vulnerable women exposed to exploitation including human trafficking, etc., in its recommendations in 2005. 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.⁵⁰⁹ In 2014, the UN Commission of Inquiry on Human Rights in the DPRK stressed that the human trafficking of women should be immediately and effectively responded to and recommended that the structural reasons for these women becoming vulnerable to such violence should be resolved.⁵¹⁰

North Korea strictly limits the freedom of entering/exiting its borders. As a result, North Korean women are sometimes put in the situation where they have no choice but to use organized human trafficking to cross the border.⁵¹¹ In the most recent report,

⁵⁰⁸- UN CEDAW, General Recommendation, no. 19 (1992). para 14.

⁵⁰⁹- UN Doc. CEDAW/C/PRK/CO/1 (2005), para. 42.

⁵¹⁰- UN Doc. A/HRC/25/63 (2014), para. 89(i).

⁵¹¹- NKHR2014000071 2014-06-17; NKHR201400083 2014-07-01; NKHR2015000043

North Korea only emphasized that human trafficking is strictly punished and did not provide an answer regarding the measures it has taken to resolve the structural reasons for the vulnerability to human trafficking or the authority's 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.⁵¹² However, it has been found that, in reality, women victims of human trafficking are subject to punishment.⁵¹³ This is assessed to be because the North Korean authority regards them as "criminals" who have committed the crime of illegal border-crossing and not as victims of human trafficking based on the grounds that the women who are subjects of human trafficking mostly accepted being trafficked to go to China to earn money or knew that they would be subjects of human trafficking beforehand. North Korean defector ○○○ who defected from North Korea in 2014 testified that as victims of human trafficking knew they would be subjects of human trafficking beforehand, they are not exempted from punishment and are punished for the crime of illegal border-crossing.⁵¹⁴ In the

2015-02-24; NKHR2015000072 2015-04-07.

⁵¹²_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 74.

⁵¹³_NKHR2016000117 2016-07-26.

⁵¹⁴_NKHR2016000148 2016-09-06.

2000s, there were testimonies that women who voluntarily returned after going to China through human trafficking received education sessions that they commuted to for a week after the investigations on their reasons for border-crossing instead of legal punishment, or they were released or treated with “group discipline” after they turned themselves in as the North Korean authority argues.⁵¹⁵ However, according to most testimonies, the current situation has changed and those who have committed illegal border-crossing are unconditionally punished.⁵¹⁶ In cases where legal punishment is not carried out, it seems that they receive treatment that is the same as that of criminals due to mistreatment during the investigation process.⁵¹⁷

In general, the weight of punishment is decided based on the length of the defectors’ stay in China.⁵¹⁸ According to testimonies by women North Korean defectors, it has been found that the level of punishment of forcibly repatriated women has become more severe after Kim Jung-un came to power. North Korean defector ○○○, a woman in her 40s who defected from North Korea in 2010, testified that the punishment for those who returned after staying in China for six months was not that severe under the Kim

⁵¹⁵- NHKR2016000131 2016-08-09; NKHR2016000129 2016-08-09; NKHR2016000143 2016-08-23.

⁵¹⁶- NKHR2016000143 2016-08-23; NKHR2016000134 2016-08-09.

⁵¹⁷- NKHR2016000148 2016-09-06.

⁵¹⁸- NKHR2016000131 2016-08-09; NKHR2016000133 2016-08-09.

Jong Il regime.⁵¹⁹ North Korean defector ○○○, a woman in her 20s who defected from 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.⁵²⁰

(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 the North Korean authority is the practice of forced abortions during the forced repatriation process as well as inhuman 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.⁵²¹ After the international community raised its criticism of the cases where North Korea urges women forcibly repatriated from China after getting pregnant there to have abortions and leaves the infants to die in cases of these women giving birth, North Korea allowed these women to give birth in some regions and tried to

⁵¹⁹_ NKHR2016000145 2016-08-23.

⁵²⁰_ NKHR2016000123 2016-07-26.

⁵²¹_ UN CEDAW, General Recommendation, no. 19 (1992). para. 22.

hand over the babies to the families of the men in China. However, there are continuous testimonies collected that 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.⁵²²

Table IV-2 Testimonies on Violations of the Human Rights of Forcibly-Repatriated Pregnant Women

Testimonies	Testifier ID
In February 2011, a woman who was seven months pregnant was asked her opinion as a formality and had to go through an abortion in OOO holding centers (<i>jipkyulso</i>) in OOO Province.	NKHR2016000142 2016-08-23
In 2012, at a holding center (<i>jipkyulso</i>) in an unidentified region, a fellow prisoner was beaten to induce miscarriage because she was pregnant with a Chinese baby.	NKHR2014000113 2014-08-12
In July 2012, a fellow prisoner underwent an abortion in a hospital at an unidentified detention facility in Hyesan, Yanggang Province because she was pregnant with a Chinese baby.	NKHR2014000167 2014-10-07
In November 2012, a fellow prisoner underwent an abortion in a hospital at a detention center (<i>guryujang</i>) of an MPS city/county branch in Hyesan, Yanggang Province, because the baby was Chinese.	NKHR2012000090 2013-04-30
In the summer of 2013, the testifier heard that a woman pregnant with the baby of a Chinese man who was among his or her fellow prisoners went through an abortion procedure when the testifier was detained at a labor training camp (<i>rodongdanyunda</i>) in Daehongdan County, Yanggang Province (second-hand information)	NKHR2014000141 2014-09-02

⁵²²-NKHR2012000090 2013-04-30; NKHR2014000113 2014-08-12; NKHR2014000167 2014-10-07; NKHR2016000130 2016-08-09; NKHR2016000131 2016-08-09; NKHR2016000145 2016-08-23 etc.

There are also cases where physical violence is directed at pregnant women who are forcibly repatriated. North Korean 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.⁵²³ There are also cases where forcibly repatriated women are exposed to hard labor and violence without receiving treatment after having a miscarriage. North Korean defector ○○○ went to a holding center (*jipkyulso*) in Cheongjin after being forcibly repatriated from China in 2010 and found out she was pregnant and had miscarriage as she experienced continuous bleeding. However, she did not receive proper treatment, was forced to do hard labor and was even assaulted by an MPS officer of the provincial holding center (*jipkyulso*). The officer demanded that she pay him, claiming that the bleeding continued because she was hiding money. As a result, her physical condition became weak and she was sent to a relief center instead of being sent directly to a relief center.⁵²⁴ The issue of sexual violence at detention facilities has also been identified. North Korean defector ○○○ testified that when he or she was in a holding center

⁵²³_NKHR2014000203 2014-12-02.

⁵²⁴_NKHR2016000149 2016-09-06.

(*jipkyulso*) for illegal border-crossing criminals in Hyesan, Yanggang Province, in December 2012, the testifier witnessed a 27-year-old fellow prisoner being sexually assaulted by a guard at the holding center (*jipkyulso*).⁵²⁵

Another serious problem is the so-called “uterus examination,” which is not only humiliating but also very unsanitary, 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 (*guryujang*) and MSS holding centers (*jipkyulso*) etc.⁵²⁶ In most 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. North Korean defector ○○○, a woman in her mid-40s who defected from North Korea in 2013, testified that, in the process of her forcible repatriation, she received a uterus examination with plastic gloves in Duman, China, and an anus and uterus examination by a woman after she was sent to the MSS in Onsung County, North Hamgyeong Province. She was then transferred to an MPS county branch detention center (*guryujang*) in Gilju, North Hamgyeong Province, where she received another uterus

⁵²⁵- NKHR2015000079 2015-04-21.

⁵²⁶- NKHR2013000038 2013-02-19; NKHR2013000192 2013-10-17; NKHR2013000198 2013-10-29; NKHR 2013000218 2013-11-26; NKHR2013000227 2013-12-24.

examination while naked by a 29-year-old male correctional officer.⁵²⁷ As such, it was found that North Korean inspection authorities are mobilizing methods including the forced repetition of sitting and standing or conducting inspections after feeding women and making them relieve themselves as well as performing uterus examinations under the pretext of finding money brought from China.⁵²⁸

D. Poor Women's Health and Maternal Health Care

According to the CEDAW, States Parties shall take all appropriate measures to eliminate discrimination against women in the field 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). States Parties shall ensure to 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 recent combined second, third and fourth periodic reports, North Korea emphasized that it took several measures to protect women's health and guarantee maternal health care. For

⁵²⁷-NKHR2013000218 2013-11-26.

⁵²⁸-NKHR2016000131 2016-08-09; NKHR2016000149 2016-09-06.

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, etc.,⁵²⁹ and, in terms of policies, that it 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), etc.⁵³⁰ Moreover, it introduced specific measures including the establishment of a modern breast cancer center under the OB/GYN clinic of Pyongyang in 2012 and the introduction of paid maternity leave of eight months from 2015, etc.⁵³¹ Related contents are similar to the contents of the country report submitted to the second Universal Periodic Review in 2014.⁵³² However, such measures are limited to Pyongyang and their effectiveness is also questionable. Moreover, given that most women in the public sector quit their jobs after they get married, it is hard to expect that the paid maternity leave, which is mostly applied to those working in the public sector, will be practically helpful for women. We will examine the details of the real

⁵²⁹- UN Doc. CEDAW/C/PRK/2-4 (2016), para. 143.

⁵³⁰- *Ibid.*, paras. 164~167, 196.

⁵³¹- *Ibid.*, paras. 155, 161.

⁵³²- UN Doc. A/HRC/WG.5/19/PRK/1 (2014), paras. 91~95.

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. According to the recent survey, it seems that this dire situation has not improved significantly.

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.⁵³³ As part of the investigation, an analysis on 7,649 women of childbearing age from 15~49 with children aged 0~59 months was performed,⁵³⁴ which measured plasma hemoglobin concentration and mid-upper arm circumference, etc., and the overall health condition of the women was found to be poor. The

⁵³³-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. 23, no. 3 (2016). (In Korean)

⁵³⁴-96.3 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.

results showed that 31.8 percent of women in 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.

The hard daily life of women engaging in both housework and economic activities also seems to be the main factor aggravating the poor sanitation environment and the resulting diseases. It is also questionable whether women who develop women's diseases can receive systematic treatment. Due to the poor health care environment, many resort to medical activities relying on narcotics that are not verified at all, even by health care providers, creating another threat to women's health.⁵³⁵

(2) Maternal Health Care

One of the most important indicators related to maternal health care is the maternal mortality rate. Through the most recent report, North Korea stated that the maternal mortality rate decreased from 97 deaths per 100,000 newborns to 62.7 deaths in 2012.⁵³⁶

⁵³⁵- For example, there are several stories found that narcotics including *bingdu* is used to treat women diseases. New Focus, August 22, 2016.

However the 2016 World Development Indicators announced by the World Bank show that the maternal mortality rate is actually 82 deaths per 100,000 newborns as of 2015.⁵³⁷ While it is difficult to identify the reason for the substantial gap between what North Korea stated and the statistics published by the World Bank, it seems clear that the maternal health care situation is poor given that the maternal mortality rate in South Korea was 11 deaths per 100,000 newborns in 2015 in the 2016 World Development Indicators. However, considering that the figure stands at 547 in Sub-Saharan Africa and that the average figure for low-income countries is 495, it seems that North Korea's maternal health care level is not among the lowest in the world. In the most recent report, North Korea stated on the direct causes for maternal mortality that 58.5 percent of the deaths are due to premature birth, among which 50 percent are due to bleeding.⁵³⁸

The North Korean authority argues that “There are maternity hospitals with modern health care facilities in all provinces in our country, and based on the passionate care by the health care workers including competent midwives, the life and health of mothers and newborns are strictly guaranteed. The medical service system for the reproductive health of women is also

⁵³⁶_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 185.

⁵³⁷- World Bank, “World Development Indicators 2016,” (2016), p. 72, <<http://data.worldbank.org/>>.

⁵³⁸_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 185.

well-established.”⁵³⁹ In the most recent reports, it also self-evaluated that as of 2011, 94 percent of mothers received four or more treatments during pregnancy, and through such efforts, the maternal mortality rate was lowered.⁵⁴⁰ However, all of the healthcare systems for pre-natal/childbirth/post-natal care seem to be in very poor condition. For example, regarding pre-natal examinations, according to the survey conducted by the Central Bureau of Statistics of North Korea with technological support from UNICEF in 2009, the ratio of women who received all of the three examinations that WHO requires as basic examinations, a blood pressure check, blood test (syphilis and severe anemia, etc.) and urine examination (bacteriuria and albuminuria, etc.), was only 79 percent.⁵⁴¹ The results of survey on North Korean defectors also showed that only 30~50 percent of women received all of the three examinations.⁵⁴² Given the economic situation in North Korea, it is likely that the current level of pre-natal care systems is not very different.

With regard to childbirth, North Korea stated that childbirth under the supervision of an experienced medical provider increased

⁵³⁹-Rodong Shinmun, May 6, 2016.

⁵⁴⁰-UN Doc. CEDAW/C/PRK/2-4 (2016), para. 188.

⁵⁴¹-UNICEF, "Multiple Indicator Cluster Survey: Democratic People's Republic of Korea," (2009), p. 64. (<<http://mics.unicef.org/>>).

⁵⁴²-Sang-min Park *et al.*, "Status of Maternal Health Care in North Korea and Efficient Ways to Support It," *KDI North Korean Economic Review*, August 2014, p. 6. (In Korean)

from 92.6 percent in 2002 to 99.1 percent in 2012.⁵⁴³ Moreover, based on the survey results in 2011, it stated that 87 percent of mothers received a doctor's assistance in childbirth in cities, and the rate was also 75 percent in rural areas. Among them, childbirths in medical facilities stood at 87.9 percent with the remaining 12.1 percent conducted at home or other places.⁵⁴⁴ Indeed, based on testimonies by North Korean defectors, it was found that the ratio of childbirths at hospitals has increased recently.⁵⁴⁵ However, in rural areas, it is still assessed that the ratio of childbirths with the assistance of midwives at home is substantially high.⁵⁴⁶ In this case, many receive the help of midwives who do not have licenses,⁵⁴⁷ and the high ratio of childbirths at home with insufficient means of transportation in case of an emergency can be a factor that raises the maternal mortality rate caused by excessive bleeding and infection, etc.

E. Evaluation

As stated in the Preamble of the CEDAW, discrimination against women violates the principles of equality of rights and respect for human dignity. Discrimination against women not

543_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 186.

544_ *Ibid.*

545_ NKHR2016000133 2016-08-09; NKHR2016000154 2016-09-06.

546_ NKHR2016000118 2016-07-26; NKHR2016000134 2016-08-09; NKHR2016000142 2016-08-23; NKHR2016000143 2016-08-23.

547_ NKHR2016000148 2016-09-06.

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 families and the complete development of women's potential. North Korea showed confidence that it was resolving the concept of discrimination as defined in the CEDAW in its Law for the Protection of Women's Rights 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 States Parties stated in the Article 5 of the CEDAW which stipulates that States Parties shall take all appropriate measures to eliminate all forms of discrimination including customary practices. Moreover, North Korean women are easily exposed to domestic violence, gender-based exploitation and violence in society, and the social conditions where women can be protected from such violence or seek relief were found to be lacking.

The most serious of the human rights violations against women imposed by the North Korean authority are the forced abortions during the repatriation process of female North Korean defectors and their inhuman treatment during the investigation process.

Moreover, due to limitation of freedom to enter/exit the borders, North Korean women sometimes become the victims of organized human trafficking. While the women 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.

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 specially mention the rights of children. The ICCPR and the ICESCR have provisions that can be related to the rights of children.⁵⁴⁸ However, neither of these two covenants explicitly recognize children as the subject of rights. The CRC, which was unanimously adopted at the UN on November 20, 1989, and took effect on September 2, 1990, is distinct from previous international documents related to children in that it fully recognizes children, who had only remained as the targets of protection, as the subjects of rights. The CRC is composed of a preamble, three parts, and 54

⁵⁴⁸-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 “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).

articles. Part 1 (Article 1~41) stipulates the rights of children and the duties of States Parties, Part 2 (Article 42~45) stipulates the Committee on the Rights of the Child (hereinafter the Committee) and country report system, and Part 3 (Article 46~54) sets forth the signature, ratification, accession and amendment procedures, etc. The rights in the CRC are largely divided into the right to survival, protection, development and participation.

Table IV-3 The Four Major Rights in the CRC

Right to Survival	Rights required for basic life including the right to adequate living standards, right to live in a safe residence, right to sufficient nutrition and basic medical services, etc.
Right to Protection	The right to be protected from harmful matters to children including all forms of abuse and negligence, discrimination, violence, torture, conscription, unjust criminal punishment, excessive labor and substance and sexual abuse, etc.
Right to Development	Rights required for children to realize their 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 enabling children to actively participate in the activities of a country or local community including the freedom of expression and the right to access organizations or participate in peaceful assemblies, etc.

North Korea ratified the CRC on September 21, 1990, and the Convention took effect in North Korea on October 21, 1990. Moreover, North Korea ratified the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography on November 10, 2014, and it took effect in North Korea on December 10, 2014. States Parties should submit reports on the

measures they have adopted which give affect to the rights of the child to the Committee (Article 44), and North Korea submitted its first report in February 1996, the second report in May 2003, the combined third and fourth reports in December 2007 and the fifth report in April 2016. The Committee completed its preliminary review of North Korea's fifth report in February and plans to announce its Concluding Observations that include major concerns and recommendations from its main review 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 who loves children the most and spares nothing for them.”⁵⁴⁹ Moreover, it emphasized that it took several measures including the enactment of the Law on the Protection of the Rights of Children (2010) and the Law on General Secondary Education (2011), the promulgation of The Ordinance on the Enforcement of Universal 12-year Compulsory Education (2012) and the Korea Association for Supporting the Children (2013), etc.⁵⁵⁰ At the same time, it stated that the age of children was stipulated as “up to the age 16,” which is different from the definition of children in the CRC, because it considered that the age when children finish their education under the

⁵⁴⁹- UN Doc. CRC/C/PRK/5 (2016), para. 7.

⁵⁵⁰- *Ibid.*, paras. 8~10, 17, 21, 25.

existing eleven years of the compulsory education system was 16 or 17, and as children will finish their education when they are 17 or 18 in the new 12-year compulsory education system, the definition of children will be changed to match that of the Convention.⁵⁵¹ This can be evaluated as a positive measure that considers the recommendations presented in the Concluding Observations of the Committee in 2009. However, as North Korea has provisions that do not conform to the CRC, for example, it stipulates the possible age for labor as 16 in its Constitution and Socialist Labor Law and the possible age for marriage for women as 17 years old in its Family Law, there should be further revisions on these provisions as well.⁵⁵²

According to the CRC, States 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 is reflecting most of the rights in the CRC in its Law on the Protection of the Rights of Children. The relevant provisions on civil rights and freedoms including the freedom of ideology, conscience and religion and the freedom of assembly and association can be found in the Constitution and other laws. As mentioned above, although there is still room for improvement, it seems that North Korea is

⁵⁵¹– *Ibid.*, paras. 27–28.

⁵⁵²– Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 42.

relatively faithfully fulfilling its obligations as a State Party to enact corresponding legislation. However, as the rule of law in North Korean society still operates at a perfunctory level, it is difficult to take legislation very seriously. Therefore, we will examine the status of North Korean children's human rights by major issue.

A. Status of Children's Health Care/Welfare

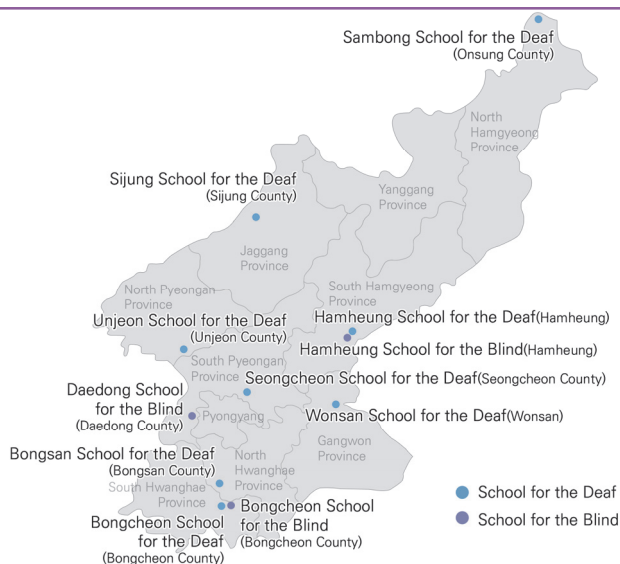
(1) Shortage of Educational Facilities for Disabled Children

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 the 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 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 of the Rights of Children stipulates that "Educational supervision institutions and health care supervision institutions and local People's Committees shall immediately operate schools for the blind/deaf and guarantee the conditions required for the education, treatment and life of

disabled children.”

In the fifth report, North Korea emphasized that it established special classes for disabled students in general schools and established special schools for students with visual/hearing disabilities.⁵⁵³ It has been found that there are eight schools for the deaf and three schools for the blind.

Figure IV-1 Schools for Deaf and Schools for Blind in North Korea



Source: Refer to the website of Green Tree Korea, (<http://www.greentreekorea.org>).

It is difficult to accurately identify the ratio of children with visual and hearing disabilities among the overall child population in North Korea. However, the fact that there are only 11 special

⁵⁵³_UN Doc. CRC/C/PRK/5 (2016), para. 137.

schools for children with visual and hearing disabilities in North Korea and that there is no such school in Yanggang Province, in particular, shows that the special education situation for disabled children is lacking. Moreover, even if there are some special schools being operated, it is also questionable whether they have the appropriate facilities and environment. North Korean defector ○○○ testified that her sister visited Wonsan School for the Deaf in Gangwon Province as she considered sending her child to that school, but the mother gave up because the facilities and environment were very poor.⁵⁵⁴ However, as North Korea stated in the fifth report that it carried out a project to improve the living environments at special schools for the disabled from 2013 to 2015,⁵⁵⁵ it seems that there should be an investigation on whether improvements were made and how much the living environments were improved. At the same time, whether there are special classes for disabled students operated in general schools as North Korea argues has not been confirmed. While we surveyed North Korean defectors who came to South Korea in 2016 about the operation of special classes in general schools, we could not secure relevant testimonies.

⁵⁵⁴- NKHR2013000224 2013-12-10.

⁵⁵⁵- UN Doc. CRC/C/PRK/5 (2016), para. 140.

(2) Poor Health Care and Nutrition

Article 24 of the CRC stipulates that children have the right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illnesses and rehabilitation of health. In the 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 of the Rights of Children has provisions on children's right to receive free treatment, medical services for children, children's hospitals, nursing facilities for children and nutritional supplement and nutritious foods (Article 33~37). The Law on the Nursing and Upbringing of Children stipulates systematic medical services for children in daycare centers and kindergartens and the establishment of children's wards in daycare centers (Article 25 and 26).

In the fifth report, North Korea explained that there is access to hospitals and clinics in all regions and there are dedicated medical providers for vaccinations.⁵⁵⁶ Moreover, it stated that several medicine factories are producing hundreds of medicines and vaccines, thus sufficiently meeting basic demand for medicines, and that it is making efforts to close the gap between regions on children-related health care services.⁵⁵⁷ According to the survey so far, it seems that the level of vaccination to prevent diseases in

⁵⁵⁶ *Ibid.*, para. 152.

⁵⁵⁷ *Ibid.*, paras. 154, 157.

North Korea is improving (Chapter III-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 to be particularly serious in rural areas compared to cities.⁵⁵⁸ As for children's hospitals, it was also found that there is a significant gap between Pyongyang and other regions. North Korea has engaged in a massive propaganda campaign on the opening of Okryu Children's Hospital in 2013, but it seems that there are few children's hospitals in other regions, and even if they do exist, they are not properly operated. A female North Korean defector who resided in Hyesan, Yanggang Province, and defected from North Korea in 2013 testified that there was a children's hospital in Hyesan, Yanggang Province, but it was barely operated.⁵⁵⁹ Another woman who resided in Wonsan, Gangwon Province, and defected from North Korea in 2014 explained that a children's hospital in Gangwon Province had very nice facilities because the hospital received support from UNICEF and was geographically close to Pyongyang.⁵⁶⁰ Meanwhile, we also found some cases where treatment was administered at daycare centers. North Korean defector ○○○ testified that when a child has diarrhea or a fever, the teacher at the daycare center will give the child an

⁵⁵⁸- NKHR2016000131 2016-08-09; NKHR2016000132 2016-08-09.

⁵⁵⁹- NKHR2016000136 2016-08-23.

⁵⁶⁰- NKHR2014000209 2014-12-16.

injection.⁵⁶¹

In the fifth report, North Korea also emphasized that it established the Strategy and Action Plan to Control Child and Maternal Malnutrition (2014~2018) in consideration of the recommendations by the Committee in 2009 and that the mortality rate of infants aged 1 or younger and children aged 5 or younger has dramatically decreased due to public health care policies and the efforts by medical providers.⁵⁶² Indeed, the malnutrition rate and infant/child mortality rate are declining,⁵⁶³ and these should be understood as the combined results of measures taken by the North Korean authority, the spread of markets and the private economy and support from the international community. Although the situation has rebounded, it is found that North Korean children are still suffering from malnutrition. The WFP stated that based on the survey in 2014, one out of three North Korean children aged five or younger and almost half of the children aged twelve months to twenty three months suffer from anemia.⁵⁶⁴ In addition, in 2015, it stated that the survey on children aged six months or older and five years or younger in daycare centers supported by the WFP showed that 25.4 percent had poor growth.⁵⁶⁵ It also seems that

⁵⁶¹_NKHR2015000015 2015-01-27.

⁵⁶²_UN Doc. CRC/C/PRK/5 (2016), paras. 53, 149.

⁵⁶³_See, World Bank, "World Development Indicators 2016," (<http://data.worldbank.org/products/wdi>).

⁵⁶⁴_See, WFP, "DPR Korea Country Brief," (2016), (www.wfp.org/countries/korea-democratic-peoples-republic).

the gap between cities and rural areas is substantial. The FAO estimated the ratio of underweight children in rural areas at 26.7 percent and in cities at 13.2 percent in *The State of Food and Agriculture* in 2015.⁵⁶⁶

(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 for the child's physical, mental, spiritual, moral and social development. North Korea stipulates child care based on state and social support and matters related to child care education institutions in the Law on the Nursing and Upbringing of Children. Moreover, it has provisions on the care of children without caregivers in the Law on the Protection of the Rights of Children (Article 31).

North Korea stated in the fifth report that “all the children at nurseries and kindergartens are provided with food in accordance with Article 15 of the Law on the Nursing and Upbringing of the Children, which provides that all children shall be supplied with food from birth.” In addition this report states that “despite food shortage, pregnant, delivered women, as well as children under 4 were supplied with food on a monthly rate.”⁵⁶⁷ However, despite

⁵⁶⁵– *Ibid.*

⁵⁶⁶– 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/>).

this argument, North Korean defectors commonly testified that the free food service at daycare centers and kindergartens has been halted since 2000.⁵⁶⁸ A North Korean defector who testified that when he or she sent a child to a work site daycare center, parents were responsible for not only meals but also diapers and even the teachers' salaries.⁵⁶⁹ This shows that, in reality, the authority is only providing space and the parents are shouldering all the costs for the operation of daycare centers and kindergartens. The situation of the facilities for children without caregivers is also found to be very poor. North Korean defector ○○○ testified that an orphanage in Musan County, North Hamgyeong Province, sent children to farms to work as it had little state support.⁵⁷⁰ Meanwhile, the majority of North Korean defectors testified that they were not aware of any regular provision of food to pregnant women and children younger than 4. However, it seems that special benefits are given to the families of some authorities. A woman who defected from North Korean in 2015 testified that her nephew was born in 2011, and as her brother was working for the MSS, there was ration for the mother and the baby for around one year.⁵⁷¹

567- UN Doc. CRC/C/PRK/5 (2016), para. 178.

568- NKHR2016000121 2016-07-26; NKHR2016000133 2016-08-09; NKHR2016000143 2016-08-23; NKHR2016000145 2016-08-23; NKHR2016000151 2016-09-06; NKHR2016000154 2016-09-06.

569- NKHR2016000153 2016-09-06.

570- NKHR2016000133 2016-08-09.

571- NKHR2016000154 2016-09-16.

B. Status of Child Education

Article 28 of the CRC stipulates that children have the right to education. Article 29 stipulates that child education shall 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 development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, 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 among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) The development of respect for the natural environment. Moreover, Article 31 of the CRC stipulates that children have the right to rest and leisure, to engage in play and recreational activities appropriate to the age of the child 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, 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 the Law on the Protection of the Rights of Children (Article 22~28).

(1) Excessive Political Ideology Education

In the fifth report, North Korea mentioned that it is carrying out 12-year compulsory education and that its educational program has been revised to conform to Article 29 of the CRC that stipulates the goals of child education.⁵⁷² However, the educational program of North Korea is found to be excessively concentrated on political ideology education and excessively focused on idolizing the current leader and the leader's family at a globally unprecedented level. The education time spent for the subjects related to Kim Il Sung, Kim Jong Il and Kim Jong Un by grade is presented in <Table IV-4>.

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

⁵⁷² UN Doc. CRC/C/PRK/5 (2016), para. 209.

Kim Jong Un-related subjects were newly introduced in the revision of the educational program in 2013, and while their share is smaller compared to subjects related to Kim Il Sung and Kim Jong Il, they account for a substantial proportion of education given that they are newly introduced subjects.⁵⁷³ While the major learning contents are divided into the five categories of the greatness of the Party and *Suryong*, the principles of *Juche* Ideology, Party policies, revolutionary tradition and revolutionary and communist education, they all converge on recognizing of the greatness of *Suryong*.⁵⁷⁴

Meanwhile, political ideology education is also carried out in compulsory organizational life including through the Chosun Children's Union and Kim Il Sung Socialist Youth League, etc. Children aged 7~13 join the Chosun Children's Union and learn and practice Unitary Ideology. Youth aged 14~30 join the Kim Il Sung Socialist Youth League and engage in organizational life.

(2) Mobilization to Political Events and Regime Propaganda

In the fifth report, North Korea stated that it took diverse measures related to the education and leisure of children in

⁵⁷³-Jeong-ah Cho *et al.*, *Educational Policies, Educational Programs and Textbooks under the Kim Jong Un Regime* (Seoul: KINU, 2015), p. 69. (In Korean)

⁵⁷⁴- *Ibid.*, pp. 95-96.

consideration of the relevant provisions in the CRC and the recommendations of the Committee.⁵⁷⁵ However, the children’s right to receive education and the right to enjoy leisure are seriously infringed upon as students are mobilized for diverse political events or regime propaganda in North Korea.

Table IV-5 Cases of Mobilization for Political Events and Regime Propaganda

Testimonies	Testifier ID
Students were mobilized under the name of “chorus (<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 Il, Kim Il Sung and Kim Jong Un, and played the role of creating a jubilant atmosphere by going around towns every afternoon for about a month.	NKHR2016000133 2016-08-09
Students were mobilized for the farewell events for those joining the military.	NKHR2016000152 2016-09-06

It was found that North Korean students are suffering from the physical burden or the disruption in learning due to long hours of practice for mobilizations for political events and regime propaganda, etc. A North Korean defector in his or her late teens testified that he or she practiced group gymnastics even on weekends from February to prepare for the April 15 “Day of Sun” every year in cold weather, and sometimes the practice lasted late

⁵⁷⁵ UN Doc. CRC/C/PRK/5 (2016), paras. 181-226.

into the night.⁵⁷⁶ Another North Korean defector said that some students fainted after practicing 3~4 hours in a heat wave in mid-summer.⁵⁷⁷ However, it was identified that most people have the perception that such mobilizations are something they should accept despite being difficult.⁵⁷⁸

(3) Compulsory Military Training

In spite of the continuous concerns by the Committee on compulsory military training, North Korea still maintains the military subject “preliminary military activities” in its senior secondary school (high school) program. In the fifth report, while avoiding directly mentioning this issue, North Korea only stated that the educational goal of senior secondary school “is equipping students with correct world outlook and comprehensive general knowledge, promoting their creative ability, lofty emotions with sound body so as to make them fully ready for military service, social life and campus life, thus preparing them to become talents with solid foundations for their life-long study.”⁵⁷⁹ Students in the second grade of advanced senior secondary school (high school) receive military training at a camping training facility of the Red

⁵⁷⁶- NKHR2016000123 2016-07-26.

⁵⁷⁷- NKHR2016000151 2016-09-06.

⁵⁷⁸- NKHR2016000122 2016-07-26; NKHR2016000134 2016-08-09; NKHR2016000143 2016-08-23; NKHR2016000152 2016-09-06.

⁵⁷⁹- UN Doc. CRC/C/PRK/5 (2016), para. 198.

Youth Protective Guard for one week, and third graders develop preliminary abilities for military activities through one week of outdoor billeting. According to testimonies by North Korean defectors, training on shooting, gun disassembling and assembling, crawling and forming ranks and education on military norms are provided during the military training.⁵⁸⁰

C. Status of the Labor Mobilization of Students

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 for the Protection of Children's Rights. However, as mentioned above, it does not conform to the CRC as the current Law for the Protection of Children's Rights stipulates 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 the fifth report, North Korea repeated its stance in previous reports that child labor was eradicated a long time ago.⁵⁸¹ Moreover, it stated that it included on-site exercises in the educational curriculum to combine theory and practice and have children visit

⁵⁸⁰_ NKHR2016000118 2016-07-26; NKHR2016000121 2016-07-26; NKHR2016000123 2016-07-26.

⁵⁸¹_ UN Doc. CRC/C/PRK/5 (2016), para. 240.

farms and factories.⁵⁸² Indeed, 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 is identified that students are mobilized frequently during after-school or school hours in addition to the officially established curriculum. Students are mobilized for after-school labor for 6~7 days every 10 days in spring, summer and fall, and it is said that students are sometimes mobilized for weeding and rice-planting in spring and for potato-digging and corn harvesting in fall.⁵⁸³ Moreover, students are sometimes mobilized for construction work such as transporting sand and pebbles.⁵⁸⁴ A North Korean defector testified that it was physically very hard as quotas are assigned when they are mobilized to supplement the labor shortage.⁵⁸⁵ Another North Korean defector testified that while the testifier was not hungry as he or she could pick and eat potatoes or fruits, the testifier was very exhausted and hungry in spring.⁵⁸⁶ It is said that there are students who do not attend the school to avoid mobilization.⁵⁸⁷ However, there was a testimony

⁵⁸²- *Ibid.*, para. 203.

⁵⁸³- NKHR2016000139 2016-08-23; NKHR2016000145 2016-08-23; NKHR2016000150 2016-09-06; NKHR2016000152 2016-09-06.

⁵⁸⁴- NKHR2016000133 2016-08-09.

⁵⁸⁵- NKHR2016000131 2016-08-09.

⁵⁸⁶- NKHR2016000139 2016-08-23.

⁵⁸⁷- NKHR2016000150 2016-09-06.

that other than those who are sick, those who missed work had to pay money to their schools.⁵⁸⁸

D. Status 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 States Parties shall take all appropriate measures to promote the physical and psychological recovery and social reintegration of a child victim of torture, abuse and exploitation, etc. North Korea has relevant provisions in the Criminal Law and Criminal Procedure Law and the Law on the Protection of the Rights of Children stipulates the basic requirement of protecting children's rights in the judiciary, the prohibition of imposing criminal responsibility and the death penalty on children, the application of social educational measures and the respect for the dignity of children in handling cases (Article 47~49 and 51).

In the fifth report, North Korea stated that “returnees who illegally crossed the border were subject to educational measures.”⁵⁸⁹

⁵⁸⁸_NKHR2016000152 2016-09-06.

⁵⁸⁹_UN Doc. CRC/C/PRK/5 (2016), para. 239.

In other words, the principle is to improve compliance with the law by making them aware of the relevant provisions in the Law on the Protection of the Rights of Children, Immigration Law and Criminal Law after investigating their motivation and goals for crossing the border illegally.⁵⁹⁰ North Korea also explained that such education will make ensure that such children adapt to school life through special care and the People's Committee in charge is in continuous contact with their parents to resolve any issues that parents may face in raising such children.⁵⁹¹ In the past surveys, there were testimonies that children repatriated from China receive mistreatment including verbal abuse and violence during the interrogation process and suffer beatings, hard labor and hunger during their detention.⁵⁹² Also, in the 2016 survey, a North Korean defector testified that a 16-year-old child was sold in China through human trafficking after his or her parents died and was forcibly repatriated in the fall of 2014 and died due to malnutrition during the MSS investigation.⁵⁹³ However, according to the 2016 survey, there were also testimonies that a child who was repatriated after defecting from North Korea was released after only receiving educational measures.⁵⁹⁴ North Korean

⁵⁹⁰ *Ibid.*

⁵⁹¹ *Ibid.*

⁵⁹² NKHR2013000018 2013-01-22; NKHR2013000032 2013-02-19.

⁵⁹³ NKHR2016000121 2016-07-26.

⁵⁹⁴ NKHR2016000112 2016-07-26; NKHR2016000123 2016-07-26.

defector ○○○ said that his or her younger brother who was 17 in 2013 was forcibly repatriated after defecting from North Korea with his mother and the mother was sentenced to three years of correctional labor punishment and the younger brother was released after a 15-day education session.⁵⁹⁵ However, they were said to be continuously subjected to surveillance by *inminban*.⁵⁹⁶ Another North Korean defector testified that minors were sent to Group 9.27 as they could not be detained in detention centers (*guryujang*) with adults.⁵⁹⁷ As there are mixed testimonies on this issue, it is required to continuously examine how cases on 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 of the Rights of Children that “children who cannot be

⁵⁹⁵_NKHR2016000131 2016-08-09.

⁵⁹⁶_Above testimony.

⁵⁹⁷_NKHR2016000143 2016-08-23.

cared for by their parents or guardians shall be raised, at a cost paid for by the State, at *Yukawon*, *Aeyukwon* and other institutes” (Article 31).

With regard to this, it is necessary to examine wandering child beggars known as “*kotjebi*.” In the 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, death or divorce of their parents are protected and a suitable living environment and learning environment are provided for them.⁵⁹⁸ It is not identified how many exist throughout North Korea. The North Korean authorities send who are caught to accommodation facilities known as “relief centers,” “lodging centers,” “boys’ education centers,” “lodging centers for drifters or protection centers” and “protection centers” to protect and manage them. However, most North Korean defectors testified that they are often found in front of stations or markets in border regions or provinces. However, a male North Korean defector who defected in June 2016 testified that it is hard to find in the streets anymore as many *Aeyukwons* have been constructed and they give clothes and meals after the recent direction by Kim Jong Un and many flocked to *Aeyukwons*.⁵⁹⁹

However, testimonies have been continuously collected that

⁵⁹⁸- UN Doc. CRC/C/PRK/5 (2016), para. 109.

⁵⁹⁹- NKHR2016000158 2016-09-20.

reveal that even if have access to accommodations, they run away eventually because of the poor facilities and environments and harsh discipline.⁶⁰⁰ North Korean defectors who resided in Hyesan, Yanggang Province, testified that there is a *kotjebi* accommodation facility called “*yuhakwon*” in Seonghu-dong, Hyesan, and it is said that the discipline there is very harsh and only small meals are provided.⁶⁰¹ It is also identified that there are cases of violence and sexual abuse by staff at *kotjebi* accommodation 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.⁶⁰² 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.⁶⁰³

E. Evaluation

In the 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 2016

600_NKHR2016000121 2016-07-26; NKHR2016000122 2016-07-26; NKHR2016000143 2016-08-23; NKHR2016000157 2016-09-20.

601_NKHR2016000139 2016-08-23; NKHR2016000140 2015-08-23.

602_NKHR2016000132 2016-08-09.

603_NKHR2016000139 2016-08-23.

survey found that the human rights situation of North Korean children remains poor. The overall level of the health care/welfare of children is low and the gap between Pyongyang and the provinces and the cities and rural areas is also found to be serious. Moreover, in spite of the continuous concerns of the Committee of the Rights of the Child and its recommendations on the educational policies that do not conform to the goals of child education, it was identified that there has been little improvement. It also seems that the mobilization of students to supplement the labor shortage, which goes beyond the goals of education, still continues. Special protective measures for children are still at an insufficient level with appropriate protection for *kotjebi* still not being provided. However, there are some positive changes as well, including an increase in the vaccination rate and the declining trends in the malnutrition rate of children and the infant/child mortality rate, etc. In the 2016 survey, there were also cases where forcibly repatriated children were released back to their homes after educational measures, and further investigation to more accurately identify the situation is required going forward.

3

Persons with Disabilities

The 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 July 3, 2013, North Korea became a signatory to this Convention. By ratifying the Convention on December 6, 2016, North Korea became a State Party to the CRPD.

A. Policies on and Population of Persons with Disabilities

(1) Policies on Persons with Disabilities

Taking into consideration criticism from and concerns of the international community, North Korea enacted the Law on the Protection of Persons with Disabilities in June 2003. Following is a quick overview of the main articles of this Law, which 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 rights and freedoms, as well as benefits, that are equal to those granted to healthy citizens in all social and political areas.” 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 advocate for the interests of persons with disabilities is the “Chosun (North Korea) Federation for Protection of Persons with Disabilities,” which 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 persons with disabilities. It has branch committees at the county, city and province levels.⁶⁰⁴ The

⁶⁰⁴– 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 (January 15, 2008), para. 134.

Chosun (North Korea) Federation for Protection of Persons with Disabilities has also established the Chosun Association for the Deaf, the Chosun Rehabilitation Center for Disabled Children, the Chosun Association for the Blind, the Chosun Company for Sponsoring the Disabled, the Chosun Disabled Athletes Association, and the Chosun Association of Disabled Artists.⁶⁰⁵ The Chosun (North Korea) Federation for Protection of Persons with Disabilities established its first mission in Beijing in 2010, and the Shenyang mission in 2015. It is said that Pun-hui Ri, formerly the secretary general of the Chosun Disabled Athletes Association, is serving as the first representative.⁶⁰⁶ The North Korean authorities also established a “2008~2010 Comprehensive Action Plan for Persons with Disabilities.”⁶⁰⁷

(2) Size of the Population of Persons with Disabilities

The North Korean authorities stipulate in the Law on the Protection of 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”

⁶⁰⁵– Rodong Shinmun, September 30, 2012.; Korea Central News Agency, December 16, 2014.

⁶⁰⁶– Voice of America, May 13, 2015.

⁶⁰⁷– 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,” para. 134; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance* (Seoul: KINU, 2013), p. 66. (In Korean)

(Article 5). It has not been identified whether the North Korean authorities have conducted systematic investigation of the overall reality for persons with disabilities in accordance with this provision. However, it is identified that there have been two instances of sample investigations, once before and once after the enactment of the Law on the Protection of Persons with Disabilities.

According to data collected by the World Association of Milals, the Chosun (North Korea) Association for Supporting the Disabled investigated the reality in 1999. According to the same data, there are 763,237 persons with disabilities, accounting for 3.41% 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, while there were 168,141 persons with hearing-impairment, 165,088 with visual impairments, 68,997 persons with severe disabilities and 37,780 persons with mental disabilities. It was found that around 1.75 percent of the population of Pyongyang was disabled. Persons with disabilities more often lived in cities (64%) than in rural areas (35.4%).⁶⁰⁸

In addition, according to its 2009 report to the UN, North Korea conducted a survey in 2005. According to the same report, there were 3,639 children with handicapped mobility, including 2,176 boys and 1,463 girls.⁶⁰⁹

⁶⁰⁸- Yonhap News Agency, April 9, 2006.; Yonhap News Agency, November 23, 2006.

Table IV-6 Children with Disabilities by Age Group (Unit: %)

0~4 years	5~6 years	7~10 years	11~17 years	Total
11.6	11.2	30.2	47.0	100

The Chosun (North Korea) Federation for Protection of Persons with Disabilities and the Central Bureau of Statistics conducted a second sample survey in 2011 on 2,400 households in three provinces.⁶¹⁰ According to Mun-chol Kim, Deputy Chairman of the Federation’s Central Committee, who led the North Korean sports delegation to the 14th “Paralympics” held in London (August 30~September 10, 2012), and partially disclosed the findings of the survey, the number of persons with disabilities in one of five major categories of sight, hearing, physical movement (limbs), mental abilities (including intelligence), or multiple disabilities equaled 5.8% of the population.⁶¹¹

The WHO in its “2013 World Report on Persons with Disabilities in the Southeast Asian Region” estimated that persons with disabilities in North Korea made up about 3.4 percent of the population as of 2007. In terms of types of disability, the highest number were those with physical disabilities, followed by those

⁶⁰⁹- The DPRK, “National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15(A),” p. 20.

⁶¹⁰- Rodong Shinmun, September 30, 2012.

⁶¹¹- Yonhap News Agency, September 10, 2012. North Korea also disclosed that 5.8% 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.

with visual impairments, hearing and speech impairments, and those with mental disabilities, in that order.⁶¹² A relief group for North Korea, known as Together-Hamheung and with headquarters in Germany, held its “7th Gathering of Deaf Persons” in Pyongyang for five days from August 7, 2015, and around 350,000 deaf persons were registered.⁶¹³

B. Reality of the Rights of Persons with Disabilities

(1) Reality in Terms of Training and Rehabilitation

The CRPD stipulates regarding training and rehabilitation 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 the 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 the institutions in charge and enterprises should

⁶¹²- Voice of America, September 20, 2013.; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 82. (In Korean)

⁶¹³- Voice of America, August 13, 2015.

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, the North Korean authorities have taken measures on its own towards training and rehabilitation of persons with disabilities. First of all, with a focus on children with mental disabilities and disabilities related to their limbs, the Chosun Rehabilitation Center for Children with Disabilities was put in charge of projects for early detection and rehabilitation of disabilities in Pyongyang in March 2013.⁶¹⁴ On December 6, 2013, the Munsu Functional Recovery Center was launched in Pyongyang, offering comprehensive services for functional rehabilitation of people with disabilities. The Center is known to serve 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.⁶¹⁵ Moreover, North Korea has reportedly been working on construction of the Dongdaewon Gymnasium for the Disabled in Dongdaewon District, Pyongyang, for athletes with disabilities.⁶¹⁶

⁶¹⁴- Rodong Shinmun, September 30, 2012.; Korea Central News Agency, March 29, 2013.; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 69. (In Korean)

⁶¹⁵- Chosun Shinbo, December 17, 2013.; Korea Central News Agency, December 16, 2014.

⁶¹⁶- Tongil News, February 27, 2016.

In North Korea, it is reported that there are 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.⁶¹⁷ There are also North Korean defectors who were aware of the operation of manufacturers of alignment apparatus in Hamheung, South Hamgyeong Province. However, it is said that it is difficult for ordinary persons with disabilities to purchase items such as prosthetic legs and hands, etc., as they are expensive.⁶¹⁸ It is assessed that the reality of rehabilitation and training is poor as the systems for rehabilitation and training, although introduced, are in their very initial stages due to the economic crisis.

(2) Reality of 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

⁶¹⁷- Chosun Shinbo, May 23, 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, December 3, 2014.

⁶¹⁸- NKHR2013000057 2013-03-19; NKHR2013000070 2013-04-02; NKHR2015000131 2015-09-22.

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 to care for persons with disabilities so they can maintain an appropriate standard of living through factories where persons with disabilities can work. Two classifications exist: “honored veterans” who receive preferential treatment, and “general persons with disabilities,” with factories for either one operated separately.⁶¹⁹ Factories are also operated in the form of “light workplaces,” where persons with disabilities, including those suffering from hunchback and polio, engage in light work such as carving seals and repairing clocks, bicycles, shoes and TVs at local convenience service centers, while some persons with visual impairments earn money by playing guitar.⁶²⁰ However, it has been found that such factories for persons with disabilities do not normally operate due to the lack of funds budgeted to those factories since the mid-1990s.

⁶¹⁹-Daily NK, August 28, 2012.; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 71~72. (In Korean)

⁶²⁰-NKHR2012000026 2012-02-21; NKHR2015000036 2015-02-10.

Table IV-7 Reality of Operation of Factories for Honored Veterans

Testimonies	Testifier ID
The Nakrang honored veterans factory is in Nakrang district in Pyongyang. It serves as a nation-wide model.	NKHR2013000168 2013-09-17
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, and 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 it does not produce anything now.	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 about up to 6 months' worth 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 operated normally 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

Table IV-8 Reality of Operation of Factories for General Persons with Disabilities

Testimonies	Testifier ID
The testifier heard from his or her aunt that there is a factory for blind persons in Suseong district, Cheongjin, North Hamgyeong Province in 2013, where the aunt worked as a cashier.	NKHR2014000144 2014-09-02
While there was a light workplace for people with disabilities in Rimyongsugu, Samjiyeon County, it has not been in operation since 2014.	NKHR2016000030 2016-03-08
There are factories for visually-impaired persons in Suseong district, Cheongjin, North Hamgyeong Province.	NKHR2013000036 2013-02-19
There is a light-labor workplace for persons with disabilities in Seoncheon-dong, Hoeryeong, North Hamgyeong Province.	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 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 is a middle-sized plant for people with disabilities in Chukjeongdong, Pyongyang.	NKHR2016000170 2016-11-01
There are factories for people with hearing, visual and physical disabilities in Samsu County, Yanggang Province.	NKHR2016000083 2016-05-31

North Korean defectors testified that persons with disabilities do not benefit from any consideration or protection from the government and in most cases, live with their families or by begging on the street. It is said that only honored veterans are entitled to disability benefits or financial support from the government. General persons with disabilities have to purchase assistance devices or supplies on their own as they do not receive any support from the State, while honored veterans receive

livelihood support, including for supplies. North Korean defector ○○○ from South Hamgyeong Province, testified that there are some cases where schools ask students to give cash or supporting materials including gloves or clothes for honored veterans.⁶²¹ A North Korean defector from Hyesan, Yanggang Province, testified that he or she witnessed that the Hyesan ration center only provided rations to honored veterans, excluding general people, in 2015.⁶²² However, a North Korean defector from North Hamgyeong Province whose father was an honored veteran testified that the goods or subsidies actually provided were at a very perfunctory level.⁶²³

In its Law on the Protection of Persons with Disabilities, North Korea 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 achievement, age and level of disability of persons with disabilities” (Article 22).

In accordance with such provisions, North Korea is implementing policies to support employment of persons with disabilities. On May 2, 2012, the Chosun Technical and Vocational Skills Class for the Disabled opened in Pyongyang to help persons with disabilities

⁶²¹- NKHR2016000135 2016-08-23.

⁶²²- NKHR2016000041 2016-04-05.

⁶²³- NKHR2016000046 2016-04-19.

to more actively participate in social life. This “Class” is a one-year course designed for the hearing-impaired and other persons with disabilities, including those without the use of limbs.⁶²⁴ Moreover, a U.K. relief organization for North Korea, DULA International, entered into an agreement with the Federation to establish a design school for persons with disabilities in Pyongyang on May 2, 2016.⁶²⁵

However, there are some testimonies that persons with disabilities are discriminated against in employment. North Korean defector ○○○ testified that the father of his friend could not be a teacher but had become a librarian at a university as he had a limp.⁶²⁶

C. Reality of 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 regarding the freedom of residence that “Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal

⁶²⁴- Korea Central News Agency, May 2, 2012.; Chosun Shinbo, May 9, 2012.; Chosun Shinbo, May 23, 2013.; Ablenews, August 9, 2013.; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 70. (In Korean)

⁶²⁵- Voice of America, December 29, 2015.

⁶²⁶- NKHR2014000009 2014-03-04.

basis with others and are not obliged to live in a particular living arrangement” (Article 19 (a)). It also stresses the aspects of integration with 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 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 operation of segregated areas for persons with nanocormia. A substantial number of North Korean defectors also testified that there are segregated areas for persons with nanocormia. A representative area is Yeonha-li, Kimhyongjik County (formerly Huchang County).⁶²⁷ However, along with the testimonies that persons with nanocormia are segregated, there are also testimonies of observing persons with nanocormia in areas where ordinary people live. North Korean defector ○○○, who resided in Rason, North Hamgyeong Province, testified that he or she witnessed a person with nanocormia and a person with spinal lesions in downtown Rason in 2016.⁶²⁸ Given such testimonies, it seems that although there are some segregated areas for persons with nanocormia, not all persons with nanocormia are segregated.

⁶²⁷- NKHR2015000074 2015-04-07; NKHR2015000106 2015-05-19; NKHR2016000083 2016-05-31.

⁶²⁸- NKHR2016000186 2016-12-13.

Therefore, continued identification, through testimonies, of the accurate situation regarding segregation of persons with nanocormia is needed. Meanwhile, there are also testimonies that although discriminated against, including through segregation, persons with nanocormia maintain good standards of living.⁶²⁹

Table IV-9 Testimonies on Segregation of Persons with Nanocormia

Testimonies	Testifier ID
The testifier witnessed persons with nanocormia weeding in Yeonha-li, Kimhyongjik County, Yanggang Province.	NKHR2013000011 2013-01-22
The testifier heard about a town of persons with nanocormia from a person who used to live there.	NKHR2013000047 2013-03-05
The testifier witnessed persons with nanocormia segregated when he or she visited an aunt's house in Sanchang-gu, Kimhyongjik County, Yanggang Province.	NKHR2013000060 2013-04-02
It is said that there is a place that separately accommodates persons with nanocormia in Yonghwa-li, Sinpa County, Yanggang Province.	NKHR2013000074 2013-04-16
It is said that Duji-li, Kimhyongjik County, Yanggang Province is a town for persons with nanocormia.	NKHR2013000117 2013-06-25
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 together in remote mountain villages.	NKHR2014000076 2014-06-17
It is said that persons with disabilities were forced not to have children and populated in a concentrated manner in Huchang so that they do not spread to other areas.	NKHR2014000137 2014-09-12

⁶²⁹_NKHR2013000011 2013-01-22; NKHR2013000218 2013-11-26.

Table IV-10 Testimonies that Persons with Nanocormia are Not Segregated

Testimonies	Testifier ID
The testifier said that in 1995 he or she went to school with two persons with nanocormia in Hoeryeong, North Hamgyeong Province.	NKHR2015000126 2015-09-08
The testifier witnessed farther with nanocormia and son with nanocormia farming in 7-ban, Imgang-li, Musan County, North Hamgyeong Province in 2010.	NKHR2013000165 2013-09-03
The testifier witnessed a person with nanocormia in Namyang-gu, Onsung, North Hamgyeong Province.	NKHR2013000100 2013-05-28
A great-aunt on my mother's side was a person with nanocormia, but was not segregated.	NKHR2013000141 2013-07-23
The testifier heard from her sister that there were persons with nanocormia living in Hyesan, Yanggang Province.	NKHR2013000218 2013-11-26
The testifier witnessed many persons with nanocormia selling CD-Rs, etc., in a marketplace in Cheongjin, 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 or her aunt in Bocheon County, Yanggang Province.	NKHR2014000131 2014-08-26
Since the testifier was a child until he or she defected from North Korea in 2015, there was a person with nanocormia living in Saneop-dong, Hoeryeong, North Hamgyeong Province.	NKHR2015000141 2015-10-06

The freedom of persons with disabilities to choose their area of residence is restricted in North Korea. According to North Korean defectors, the North Korean authorities restrict residence by persons with disabilities in Pyongyang due to its status as a special district, and Nampo, Gaeseong, and Cheongjin, where foreigners

visit often. With exception granted to people with special skills, the authorities control the residence of persons with disabilities under the pretext that they may leave an unpleasant impression on visiting foreigners.⁶³⁰ North Korean defector ○○○ testified that she “had a conversation that ‘It seems there are many persons with disabilities in South Korea, but why are there no persons with disabilities in Pyongyang?’” when she was watching South Korean dramas.⁶³¹

(2) Violation of Respect for 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 stipulates that “the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children” (Article 23, paragraph 1 (b)) are recognized.

The most obvious human rights violations that infringe upon family rights, and inhumane discrimination, would be the sterilization of pregnant persons with nanocormia. There are many relevant testimonies by North Korean defectors that have been collected. It is identified that there have been complaints and protests regarding this in recent years, and many persons with

630_NKHR2014000078 2014-07-01.

631_NKHR2015000176 2015-12-15.

nanocormia were actually having their own children. North Korean defector ○○○ testified that he heard that persons with nanocormia protested against discrimination in 2000 in Kimhyongjik County, Yanggang Province.⁶³² There exists a need for follow-up investigation of the reality surrounding whether forced sterilization of persons with nanocormia has been performed, and if it was, whether this practice continues.

Table IV-11 Sterilization of Persons with Nanocormia

Testimonies	Testifier ID
People with Nanocormia in Onsung, North Hamgyeong Province, were forcibly sterilized in 2014.	NKHR2015000171 2015-12-01
A North Korean defector testified that he was a consulting physician at the hereditary department of a provincial hospital. He enforced a sterilization plan as instructed by the Party after conducting a survey on little people. Persons with nanocormia are called the subjects of “No. 71” measures, because Kim Il Sung had sent all persons with nanocormia to collective camps in 1971. In North Korea, it seems that people below 130 cm in height are defined as little people. In recent years, persons with nanocormia know they are subject to sterilization shots, so they refuse and even file petitions if doctors try to give them shots. But these petitions are dismissed because sterilization was the Party’s policy. Those persons with nanocormia with lower mental abilities were especially subject to sterilization shots, and would be told that the shots would “help them grow.”	NKHR2012000072 2012-04-26
It is said that persons with nanocormia are segregated and forcibly sterilized.	NKHR2012000073 2012-05-08
They were forcing sterilization on persons with nanocormia, but in reality many persons with nanocormia have children.	NKHR2013000117 2013-06-25 NKHR2013000200 2013-11-12

⁶³²-NKHR2013000117 2013-06-25.

(3) Reality of Mobility

The CRPD stipulates regarding mobility of individuals as “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 November 21, 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 accessibility by persons with disabilities to buildings and facilities.⁶³³

North Korea created spaces for persons with disabilities in the restrooms at Sunan International Airport as part of airport remodeling. Other than such special facilities, it is identified that North Korea has failed to take measures that guarantee the mobility of persons with disabilities due to the economic hardship.

D. Reality of Raising Awareness on Persons with Disabilities

The CRPD stipulates that the States shall “promote positive perceptions and greater social awareness towards persons with disabilities” (Article 8, paragraph 2, (a), ii).

⁶³³-Chosun Shinbo, December 6, 2013.; Yonhap News Agency, December 6, 2013.

North Korea also initiates activities to improve public awareness of persons with disabilities based on the Law on the Protection of Persons with Disabilities.

First, the 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 hold celebration events.⁶³⁴ 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 Pyongyang on December 3.⁶³⁵

North Korea also sponsors joint sporting events in which persons with and without disabilities participate together, to promote public interest in disability issues. With establishment of the State Athletic Guidance Committee (November 2012), etc., it is raising public attention to sporting events involving persons with disabilities. Recently, table-tennis matches for those with and without disabilities have been held on a regular basis, and the number of participants is also increasing.⁶³⁶

⁶³⁴- Chosun Shinbo, June 24, 2014.

⁶³⁵- Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance*, p. 72. (In Korean); Chosun Shinbo, December 7, 2013.

⁶³⁶- *Ibid.*, p. 72.

E. Cooperation with the International Community

North Korea has pursued cooperation with South Korea and the international community to support persons with disabilities.

First, there has been inter-Korean cooperation for 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, attended by a delegation from Daegu University (South Korea) and a delegation from Chosun Red Cross Hospital, for discussion of research results on rehabilitative treatment and special education, etc., was held for the first time at the Yanggakdo Hotel in Pyongyang on December 19, 2006.⁶³⁷ In addition, in May 2007, the Botonggang Convenience Complex was built and opened for operation 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 Federation.⁶³⁸

Second, cooperation with international NGOs is also taking place. Green Tree International is seeking to build the Daedonggang Rehabilitation Center for the Disabled in Pyongyang, which will offer medical support and training on rehabilitative skills for

⁶³⁷- Yonhap News Agency, December 22, 2006.

⁶³⁸- OOO, KINU Advisory meeting, June 29, 2012. Name is not disclosed upon request.

people with disabilities, as well as education programs for athletes and artists with disabilities.⁶³⁹ Handicap International will also teach therapeutic skills to physical therapists at the Pyongyang-based Munsu Functional Recovery Center, the Chosun Rehabilitation Center for Disabled Children, and elsewhere.⁶⁴⁰ A private relief group for North Korea, Together-Hamheung headquartered in Germany, opened the first kindergarten for children with hearing disabilities in North Korea, which has around 10 classrooms and can accommodate around 40 children, in Moranbong District, Pyongyang, in April 2016 with support from the Catholic organization and donors.⁶⁴¹

Third, exchanges with the international community are also underway. The Central Committee of the Chosun Federation for the Protection of Persons with Disabilities entered into a memorandum of understanding (MOU) with the World Federation of the Deafblind (WFDB) on February 9, 2011, through which the Chosun Association for the Blind (launched in March 2014) and the Chosun Association for the Deaf (launched in December 2013) are working on arrangements to join the World Federation.⁶⁴² On November 7, 2014, through the good offices of the Finnish Association of the Deaf, six North Korean delegates, including

⁶³⁹- See, Green Tree International, <www.greentreekorea.org>.

⁶⁴⁰-Voice of America, February 10, 2015.; Nocut News, February 10, 2015.

⁶⁴¹-Nocut News, July 1, 2016.

⁶⁴²-Chosun Shinbo, June 24, 2014.

three persons with hearing impairment, went to Finland and paid a courtesy visit to Ms. Sirpa Paatero, Minister of Foreign Trade and Development.⁶⁴³ A concert was held by students with disabilities in the U.K. and France from February 20 to March 2, 2015.⁶⁴⁴ Eighteen persons with hearing impairment from Japan, Singapore, and the Netherlands also visited North Korea from August 8 to 12, 2014.⁶⁴⁵ An official from the International Paralympic Committee, headquartered in Germany, visited Pyongyang from May 13 to 16, 2016, and explained the “disability grade system” and categorization methods adopted by the Paralympic Games to 21 persons including North Korean table tennis players and eight swimmers.⁶⁴⁶

Fourth, there is participation in international sport events for persons with disabilities. North Korea established the Chosun Association of Athletes with Disabilities in 2010 and the National Paralympic Committee in September 2011 and officially joined the International Paralympic Committee held in Athens from November 22~24, 2013. It also takes part in a wide range of international competitions for persons with disabilities, including the 2012 London Paralympics, the Asia Youth Para Games held

⁶⁴³-Voice of America, November 8, 2014.

⁶⁴⁴-Chosun Shinbo, August 27, 2014.; MK News, September 17, 2014.; The Asia Economy Daily, February 6, 2015.

⁶⁴⁵-Chosun Shinbo, August 27, 2014.

⁶⁴⁶-Voice of America, June 7, 2016.

in Kuala Lumpur, Malaysia in October 2013, the Asia Para Games held in Incheon in October 2014 and the Rio Paralympic Games in September 2016. In December 2014, the North Korean deaf football team composed of athletes with hearing and linguistic disabilities visited Australia to compete in a friendly match with the Australian team, and a second match was held in December 2016.⁶⁴⁷

F. Evaluation

North Korea affirmed at home and abroad that it will perform the duties stipulated by the CRPD by ratifying the Convention on November 23, 2016. In particular, it has stipulated 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, it is identified that there is still a negative perception in North Korean society that they are “handicapped.” Moreover, suspicion over practices that violate the right to integration in local communities and the right to family, such as through the segregation and sterilization of those with nanocornia, has yet to be resolved. Moreover, while efforts for rehabilitation are also being made through honored veterans

⁶⁴⁷-Yonhap News Agency, November 19, 2016.

factories and factories for general persons with disabilities, these are assessed as ineffective due to the economic hardship, and while the authorities emphasize that there is care for persons with disabilities, it seems that they are not investing significant resources.



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Chapter V

Major Issues

- 1 Political Prison Camps (*Kwanliso*)
 - 2 Corruption
 - 3 Overseas Defectors
 - 4 Overseas Workers
 - 5 Separated Families, Abductees,
and Korean War POWs
-

1

Political Prison Camps (*Kwanliso*)

A. Overview of Political Prison Camps (*Kwanliso*)

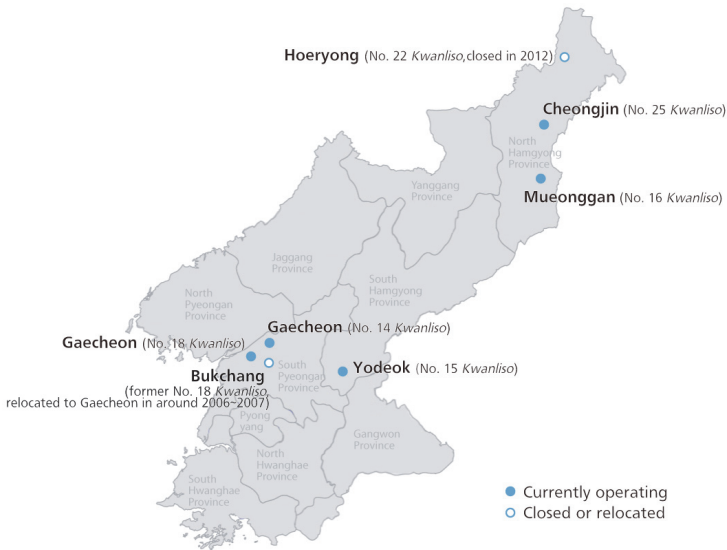
Although North Korea denies their existence, there are political prison camps, called “*kwanliso*,” in North Korea. These political prison camps (*kwanliso*) in North Korea have embedded in them fundamental factors that violate human rights in that they are not official detention facilities. It is identified that there are five political prison camps (*kwanliso*): No. 14 *Kwanliso* in Gaecheon, No. 15 *Kwanliso* in Yodeok, No. 16 *Kwanliso* in Myeonggan, No. 18 *Kwanliso* in Gaecheon, and No. 25 *Kwanliso* in Cheongjin.⁶⁴⁸ No. 14 *Kwanliso* in Gaecheon is located in Dongchanggol,

⁶⁴⁸ Although it was known that a total of six political prison camps (*kwanliso*) were operating, it is identified that No. 22 *Kwanliso*, located in Naksaeung-li, Haengyoung-li and Namseok-li in Hoeryeong, North Hamgyeong Province, finally closed around 2012, according to testimonies by North Korean defectors. Many testimonies on the closedown of No. 22 *Kwanliso* in Hoeryeong were also collected in the 2015 survey. 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.

Jamsang-li, Chang-dong, Gaecheon, South Pyeongan Province. No. 15 *Kwanliso* in Yodeok is located in the 5 lis of Daesuk-li, Ipseok-li, Gueup-li, Yongpyeong-li and Pyeongjeon-li in a vast area accounting for one-third of Yodeok 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 Gaecheon is located in Dongrim-li, Gacheon, South Pyeongan Province, and it has been found that the former No. 18 *Kwanliso* in Bukchang, located in Sepo-dong, Sampo-dong and Sinheung-li, was downsized and moved to Dongrim-li, Gaecheon, South Pyeongan Province. No. 25 *Kwanliso* in Cheongjin is located in Suseong-dong, Songpyeong district, North Hamgyeong Province. While No. 25 *Kwanliso* in Cheongjin is also called Suseong *Kyohwaso*, it is actually a political prison camp (*kwanliso*) accommodating political criminals. There are also 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 Cheongjin.⁶⁴⁹

⁶⁴⁹_NKHR2014000056 2014-05-20; NKHR2014000010 2014-03-04.

Figure V-1 Location of Political Prison Camps (*Kwanliso*)



KINU estimated in 2013 that there are at least between 80,000 and 120,000 political criminals imprisoned in the five political prison camps (*kwanliso*) based on testimonies of North Korean defectors and interpretation of satellite photos.⁶⁵⁰ The downsizing/relocation of Bukchang *Kwanliso* in 2006~2007, and the shutdown of Hoeryeong *Kwanliso* around 2012 also supports these estimated numbers, as do the testimonies of North Korean defectors, that the number of new prisoners has not been large since the 1990s, and that the accident mortality rate is high due to poor work environments inside coal mines also support such

⁶⁵⁰-Keum-soon Lee *et al.*, *Political Prison Camps in North Korea*, pp. 19~21. (In Korean)

estimation. However, this reduction in the number and size of the political prison camps (*kwanliso*) cannot be interpreted as an indication of a change in view and policies on political prison camps (*kwanliso*) by the North Korean authorities. What is important is that the system of political prison camps (*kwanliso*) that segregates groups hostile and potentially threatening to the regime still remains under Kim Jong Un.⁶⁵¹

The political prison camps (*kwanliso*) in North Korea can be classified into: those in the form of a town and those in the form of a prison camp (*kyohwaso*); those with both total control zones and revolutionary zones and those with only total control zones; those where only political criminals themselves are imprisoned and those where criminals are imprisoned together with their families; and those managed by the MSS and those managed by the MPS.⁶⁵²

⁶⁵¹– *Ibid.*, p. 21.

⁶⁵²– *Ibid.*, pp. 11~16 for more details.

Table V-1 Reality of the Management and Operation of Political Prison Camps (*Kwanliso*)

	No. 14 <i>Kwanliso</i> in Gaecheon	No. 15 <i>Kwanliso</i> in Yodeok	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 Cheongjin
Form	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>)
Possibility of release	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 those who commit “absolute” political crimes were imprisoned in political prison camps (*kwanliso*) in the early stage of their operation, it has been found that the scope of prisoners has expanded to include those who have committed general crimes, who cannot easily be regarded as political criminals.⁶⁵³ According to surveys so far, people are imprisoned mostly for criticizing the North Korean regime or insulting *Suryong*, attempting escape to

⁶⁵³ - *Ibid.*, pp. 10-11.

South Korea, contacting South Koreans or making favorable comments about South Korea. There are also continuous cases of imprisonment for engaging in religious activities such as religious services or for having family members that defected from North Korea and went to South Korea. It also seems that some are imprisoned as punishment for social delinquency or as examples, and some testimonies mentioned cases where people were imprisoned for human trafficking,⁶⁵⁴ as well as serious economic crimes.⁶⁵⁵ Meanwhile, it is identified that the principle of “guilty by association,” where both the criminal and his or her family, and sometimes even his or her relatives, are punished is applied to political criminals. It is said that generally “guilty by association” applies to direct families. There are also testimonies that when a spouse is accused as a political criminal, one may avoid going to political prison camp (*kwanliso*) by divorcing the accused spouse.⁶⁵⁶

It seems that legal procedures are not abided by in the process of arresting political criminal suspects and imprisoning them in political prison camps (*kwanliso*). North Korean defector ○○○ testified that imprisonment at political prison camps (*kwanliso*) is decided exclusively by the MSS without trials.⁶⁵⁷ As political criminal suspects are imprisoned at political prison camps

654_ NKHR2011000068 2011-03-15; NKHR2011000124 2011-05-24.

655_ NKHR2011000196 2011-09-06.

656_ NKHR2013000154 2013-08-20.

657_ *Ibid.*

(*kwanliso*) in such ways, it is not easy for the general population to know what has happened to their family members, and whether they have been imprisoned in political prison camps.

North Korean defector ○○○ testified that his or her mother was imprisoned in No. 25 *Kwanliso* in Cheongjin as it was discovered that she met her daughter in China and encouraged her to go to South Korea in February 2011.⁶⁵⁸ A North Korean defector who lived in Hoeryeong, North Hamgyeong Province, testified that a colleague and his or her family was arrested in China as they attempted to go to South Korea and were imprisoned at a political prison camp (*kwanliso*) around 2011.⁶⁵⁹ Another North Korean defector testified that he or she had heard that ○○○, who lived in the neighborhood, was imprisoned at a political prison camp (*kwanliso*) for smuggling goods from China and engaged in searches for separated family members in South Korea as he or she was caught through phone detection equipment in November 2014.⁶⁶⁰ It is said that the MPS officer in charge mentioned that ○○○ went to a political prison camp (*kwanliso*) in a People’s meeting and that “not even a law would forgive those who have relations with South Korea.”⁶⁶¹ In addition, a testifier heard that a mother of a colleague was caught for calling a

⁶⁵⁸- NKHR2015000101 2015-05-19.

⁶⁵⁹- NKHR2015000031 2015-02-10.

⁶⁶⁰- NKHR2015000136 2015-09-22.

⁶⁶¹- Above testimony.

son living in South Korea and was imprisoned at a political prison camp (*kwanliso*) in the summer of 2013.⁶⁶² However, there were testimonies that while there used to be many cases of imprisonment for the remaining family of defectors from North Korea, such cases have decreased as the cases of people escaping to South Korea have increased and it is difficult to handle each case in that way.⁶⁶³ Moreover, there were testimonies that even when families are imprisoned for “guilt by association,” children were released. Other testimonies were that families who attempted to escape to South Korea were imprisoned in political prison camps (*kwanliso*), but their children were not.⁶⁶⁴ Similar testimonies were also collected in 2016. According to second-hand testimony by a North Korean who defected from North Korea in June 2016, there was a family that was forcibly repatriated after attempting to defect from North Korea to head to South Korea and was detained in a political prison camp (*kwanliso*) in 2010 and the minors (14 years old and 7 years old) were released.⁶⁶⁵

⁶⁶²- NKHR2015000085 2014-04-21.

⁶⁶³- NKHR2015000028 2015-02-10.

⁶⁶⁴- NKHR2015000015 2015-01-27; NKHR2015000030 2015-02-10.

⁶⁶⁵- NKHR2016000171 2016-11-01.

C. Overview of Prison Life

(1) Extrajudicial, Summary or Arbitrary Execution

According to the testimonies by North Korean defectors collected so far, it is identified that executions are carried out by MSS agents, who do so without following any legal procedures, for violation of rules or disobedience to orders at political prison camps (*kwanliso*). It is testified that such executions are carried out in public in most cases but sometimes also in secret.

(2) Forced Labor

Prisoners are identified as being forced into hard labor at political prison camps (*kwanliso*). The type of labor differs by political prison camp (*kwanliso*), but it was 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.⁶⁶⁶ Work units at No. 15 *Kwanliso* in Yodeok were engaged in industry, agriculture, and other types of work.⁶⁶⁷ 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

⁶⁶⁶- North Korean defector ○○○, September 14, 2012, interviewed in Seoul; North Korean defector ○○○, October 12, 2012, interviewed in Seoul.

⁶⁶⁷- North Korean defector ○○○, September 27, 2012, interviewed in Seoul.

quota is met.⁶⁶⁸ It is identified that 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 was mobilized on off days to work in the houses of coal mine MSS agents or MPS officers in charge as well as plowing fields, planting potatoes, weeding, or carrying coal to the warehouse.⁶⁶⁹ There are also cases where forced labor resulted in death. North Korean defector ○○○ testified that he or she worked in the former No. 18 *Kwanliso* in Bukchang and around ten people died a year.⁶⁷⁰

(3) Inhumane Treatment

It is identified that violence and mistreatment are prevalent at political prison camps (*kwanliso*). 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, and the MPS officer in charge of the coal mine also beat him.⁶⁷¹

It is identified that prisoners also suffer from poor nutrition,

⁶⁶⁸– North Korean defector ○○○, September 14, 2012, interviewed in Seoul.

⁶⁶⁹– Hye-suk Kim, *A Prison Camp Created in Tears* (Seoul: Sidajeongshin, 2011), p. 38. (In Korean)

⁶⁷⁰– NKHR2013000126 2013-07-09.

⁶⁷¹– Above testimony.

sanitation and healthcare at political prison camps (*kwanliso*). Hye-suk Kim, while imprisoned at the former No. 18 *Kwanliso* in Bukchang, testified that her seven family members were given only eight kilograms of Annam rice (*allyangmi*) per month.⁶⁷² 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.⁶⁷³ North Korean defector ○○○ testified that in the former No. 18 *Kwanliso* in Bukchang, his or her father died from chronic sickness and malnutrition, and his or her two younger siblings died from malnutrition and sickness respectively.⁶⁷⁴ Moreover, at Yongjong Hospital in the former No. 18 *Kwanliso* in Bukchang in April 2004, medical staff took only an X-ray of his injured leg, and told him his leg should be amputated. No other medical treatment was offered.⁶⁷⁵

(4) Restrictions on Family Life

According to the testimonies of North Korean defectors collected so far, one cannot live with one's parents or siblings or even the spouse in total control zones. Moreover, in revolutionary

⁶⁷²- Hye-suk Kim, *A Prison Camp Created in Tears*, pp. 73-76. (In Korean).

⁶⁷³- *Ibid.*, pp. 73-76.

⁶⁷⁴- NKHR2013000126 2013-07-09.

⁶⁷⁵- Above testimony.

zones, marriage and childbirth are generally prohibited. There were testimonies that husbands and wives were assigned to opposite work shifts to prevent them from having sex.

D. Evaluation

Although there were not many related testimonies in the 2016 survey, cases of detention in political prison camps (*kwanliso*) for attempting to go to South Korea are continuously found. However, it seems that a certain level of compassionate treatment is given to minors as there were testimonies in the 2015 survey that children were released even when their families were detained in *kwanliso*, and similar testimonies were also collected in the 2016 survey.

The situation where political criminal suspects are imprisoned after arrest without any legal procedures being followed, and their families left in the dark regarding their whereabouts or whether they were alive or dead constitute infringements on the right to not be tortured or 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, there was no testimony on the actual life of prisoners in political prison camps (*kwanliso*) in the recent survey. If the situation remains essentially unchanged for prisoners, it is assessed that their diverse rights and freedoms recognized by the ICCPR are infringed upon. More specifically, summary execution

of prisoners and death caused by inhumane treatment constitute infringements on the right to life (Article 6 of the ICCPR) while serious exploitation of prisoners for labor constitute infringement on the right to not be forced into labor (Article 8 of the ICCPR). The violence, mistreatment and the poor nutrition, sanitation and healthcare that prisoners receive in themselves constitute violations of the right to humane treatment in detention (Article 10 of the ICCPR), and in serious cases, may also constitute infringement on the right to not be tortured or receive inhumane treatment (Article 7 of the ICCPR). In addition, restrictions on family life at political prison camps (*kwanliso*) also infringe on the right to form a family and be protected by society and the State (Article 23 of the ICCPR). The political prison camps (*kwanliso*) in North Korea can be concluded to form the most comprehensive and definitive version of the violation of human rights.

2

Corruption

A. Overview of Corruption in North Korean Society

Corruption is prevalent in North Korean society to the extent where it is part of daily life, without distinction between central, provincial and lower levels. Since the economic hardship of the 1990s, the provision of rations for the general population had technically been suspended, and the planned economy is operating in a distorted way. Against this backdrop, the 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.⁶⁷⁶

North Korea punishes bribery through the Criminal Law and the Administrative Penalty Law. North Korea increased the punishment on crimes concerning large bribes from three years to five years through the revision of the criminal law in 2015. Also, North

⁶⁷⁶ Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, p. 3. (In Korean)

Korea added a provision on additional punishment for serious cases.

Table V-2 Change in North Korean Criminal Law on Crimes of Bribery

<p>2012 Criminal Law</p>	<p>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.</p>
<p>2015 Criminal Law</p>	<p>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.</p>

Article 163 of the Administrative Penalty Law states that those who receive or offer bribes or engage in brokerage of bribes may be subject to admonitions, stern warnings, three months or less of unpaid labor and reeducational labor, and in serious cases, three months or more of unpaid labor, reeducational labor or demotion, dismissal, or loss of employment. However, in spite of such legal restrictions, corruption such as bribery has become even more prevalent in North Korean society. Also, in the 2016 survey, there were many testimonies on bribery in the investigation or preliminary examination process and in detention facilities including prison camps (*kyohwaso*), which shows that corruption within North Korean judicial institutions and bureaucratic society is serious. Bribery is also general practice in the daily lives of the North Korean people, for example, in issuing travel permits, buying and

selling houses, and job assignments, etc.

B. Corruption in the Control of People and the Punishment Process

(1) Corruption in Crackdowns

Control of the people by the North Korean authorities has been consistent, although the degree has varied over time. This control most often takes place in economic and market activities, and is mostly aimed at preventing relaxation of social order due to marketization. Meanwhile, as the control of and punishment for anti-socialist activities, as defined by the North Korean authorities, is strengthened, the practice of offering bribes to avoid punishment has become ever more widespread in overall society. In the 2016 survey, there were also many testimonies on cases of those who were caught using mobile phones, watching recordings and owning electronic products such as memory sticks avoiding punishment or receiving only light punishment by paying bribes.

Table V-3 Cases of Payment of Bribes in Crackdown

Testimonies	Testifier ID
In 2013, a man in his 20s residing in Hyesan, Yanggang Province, was caught by Group 109 while watching American films and Korean dramas at home but avoided punishment by paying a bribe of 1,000 Chinese yuan.	NKHR2015000027 2015-02-10
In April 2014, a man in his 30s residing in Hyesan, Yanggang Province, was arrested for making phone calls to a relative in China, as a cousin of his second wife informed on him, but he was released after paying a bribe to the MSS.	NKHR2015000070 2015-04-07
In July 2015, a woman in her 40s residing in Hyesan, Yanggang Province, was caught using a mobile phone and avoided punishment after paying 1,500 Chinese yuan to an MSS agent.	NKHR2016000139 2016-08-23
In August 2016, a woman in her 60s residing in Rason Special City, North Hamgyeong Province, was caught owning an electronic memory device through a house search by the MPS but avoided punishment after paying a bribe (100 Chinese yuan).	BHGR2016000186 2016-12-13

Crackdowns on mobile phones are mostly carried out by geuruppa (Anti-Socialism Group).⁶⁷⁷ Those who are caught usually receive labor training punishment, but the level of punishment and amount of bribes varies by the source and content of the mobile phone calls.⁶⁷⁸ North Korean defector ○○○ testified that in 2013, the required bribe was around 5,000~6,000 Chinese yuan for relatively minor violations related to mobile phones, while around 20,000 Chinese yuan was required for serious violations.⁶⁷⁹ It is said, however, that in general, it is difficult even for security

677- NKHR2016000048 2016-04-19.

678- NKHR2016000092 2016-06-14.

679- NKHR2015000031 2015-02-10.

agents to excuse people from punishment even when offered bribes, for serious violations like those involving phone calls to South Korea.⁶⁸⁰ However, there are also testimonies that a large bribe paid to security agents allowed people to avoid punishment in such cases.⁶⁸¹ Sometimes, security agents ask directly for money. There are also cases where there are agreements with security agents to handle phone call violations with bribes when persons are caught making international phone calls to receive money from relatives or acquaintances.⁶⁸²

Broadcast materials and recordings are handled by a specialized crackdown institution (Anti-Socialism Group/geuruppa 109) which is composed of one MSS agent, one League of Socialist Working Youth agent and one MPS agent. 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 Chinese yuan is needed.⁶⁸³ North Korean defector ○○○ testified more specifically that those caught watching Korean films needed bribes of 5,000 Chinese yuan per South Korean film, 2,000 Chinese yuan per American film and 50 Chinese yuan per song, and those who are not exempted from punishment may be subject to open trials on

⁶⁸⁰- NKHR2012000139 2012-07-10.

⁶⁸¹- NKHR2012000015 2012-02-07.

⁶⁸²- NKHR2015000123 2015-09-08.

⁶⁸³- NHKR2016000092 2016-06-14.

anti-Socialist charges.⁶⁸⁴ However, there are also testimonies that those caught watching recordings related to South Korea cannot avoid punishment, even with bribes, and they receive labor training punishment.⁶⁸⁵

(2) Corruption in the Investigation Process

There are also many cases of corruption involving bribes being paid to avoid punishment or reduce a prison term during the investigation process (investigation and preliminary examination stage) after cases are established. Sometimes the preliminary examination officers reduce the applicable punishment in return for the bribe during the preliminary examination process before trials. Even for the same violation, preliminary examination officers sometimes fabricate details to reduce the penalty. For example, this can include details on 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. In extreme cases, they can fabricate the time of arrest and the duration of detention. Even for cases related to smuggling and trafficking, they will complete forms in a way that the criminal can avoid the most severe punishment such as by reducing the amount of trafficked items.⁶⁸⁶ North Korean defector ○○○, who was

⁶⁸⁴-NHHR2016000192 2016-12-27.

⁶⁸⁵-NHKR2016000038 2016-04-05.

investigated by the inspection division of the MPS town office in Onsung County, North Hamgyeong Province, in 2010 testified that based on how much money is given to the preliminary examination officer in charge, the forms can be revised.⁶⁸⁷ Some preliminary examination officers who were paid bribes did not forward the relevant files up the chain of command. For example, there was a case where the parents of a forcibly-repatriated defector bribed an investigator and obtained a diagnosis of mental illness, and the defector was released during the process of the investigation.⁶⁸⁸ Although very rare, there are testimonies that those who paid bribes were prioritized for release when directions were given to carry out pardons on special occasions such as the founding day of the Party.⁶⁸⁹ In some cases, people bribe the agents during the investigation stage and are released after completing a self-criticism form.⁶⁹⁰ However, if the timing of the arrest is not favorable, including during central Party inspections or if the offense is related to activities subject to special crackdowns, then avoiding punishment or having documents adjusted for a bribe is difficult.⁶⁹¹

⁶⁸⁶–Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, p. 95. (In Korean)

⁶⁸⁷–NKHR2016000102 2016-06-28.

⁶⁸⁸–NKHR2011000155 2011-07-05.

⁶⁸⁹–NKHR2011000186 2011-08-16.

⁶⁹⁰–NKHR2011000197 2011-06-06.

⁶⁹¹–Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, pp. 96-97. (In Korean)

There are also cases where people avoided punishment and were released on bail for illnesses or given a reduced punishment when detained at MSS detention centers (*guryujang*). For example, the mother of North Korean defector ○○○ was detained at the detention center (*guryujang*) in Onsung, North Hamgyeong Province, as she had engaged in private financing in North Korea in 2013. But she was asked to submit two EVD players, and was released on bail for illness after paying 3500 Chinese yuan and submitting the EVD players.⁶⁹² There is another example where the father of North Korean defector ○○○ was detained at a detention center (*guryujang*) in Musan County, North Hamgyeong Province, at the end of October 2014 for using a mobile phone, but was released after 25 days as a brother in South Korea sent three million South Korean won and his or her sister who was in China sent 6,000 Chinese yuan and 4,000 Chinese yuan, respectively. The testifier said that it seemed to have cost so much, despite the mother understanding such business well and maintaining good relations with the MSS agents, because the crackdown and punishment had been strengthened.⁶⁹³

Even at detention centers (*guryujang*) where visitors are not allowed in principle, they are possible when bribes with cigarettes and cash, etc., are offered. North Korean defector ○○○ testified

⁶⁹²- NHHR2015000096 2015-05-12.

⁶⁹³- NKHR2015000046 2015-02-24.

that visits were not allowed during inspections, but they were possible every other day when bribes of 100 Chinese yuan were paid per visit or 200 Chinese yuan per week for a visit every other day.⁶⁹⁴ As such, to send even food to family members in detention centers (*guryujang*) during the preliminary examination period, the families outside must bribe the guards, the preliminary examination MPS officers, or at least through 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. There are frequent cases where people received reduced punishments by paying bribes to the chief judge, other judges and prosecutors in the trial process, and it has been found that there are cases where people are released for social education or put on probation. In 2012, an elder brother of North Korean defector ○○○ was put on trial for drug (*bingdu*)-related charges, but bribed the judge and prosecutor before the trial and received answer that “the trial is only a formality.” The elder brother was sentenced to one year and six months of correctional labor punishment but another bribe resulted in him being able to avoid prison camp (*kyohwaso*) and he was released on bail for illness.⁶⁹⁵ North

⁶⁹⁴- NKHR20150000149 2015-10-20.

Korean defector ○○○ testified that his or her mother was subject to a trial as she was caught using a mobile phone in 2014, and in the process of the investigation, preliminary examination and trials, she was exempted by paying 100 Chinese yuan to the chief judge, giving items valued at around 400 Chinese yuan to other judges and offering 500 Chinese yuan to the prosecutors as bribes, but an accomplice who did not pay bribes was sent to a prison camp (*kyohwaso*).⁶⁹⁶

People are mostly informed of the term of imprisonment during the interrogation process before trials, and there are testimonies that the chief judge informed people of ways to reduce this imprisonment through bribery. North Korean defector ○○○, who had a trial in 2012, testified that he or she was able to be sentenced to a shorter term of imprisonment than expected by denying testimonies made during the investigation process and the number of kilograms stated in other testimonies regarding the amount of smuggled scrap iron were reduced.⁶⁹⁷ A testifier who was put on trial in a court in Hoeryeong, North Hamgyeong Province, for illegal border-crossing in 2012, was supposed to be sentenced to five years of correctional labor punishment as he or she stayed in China for three years or longer, but was instead

⁶⁹⁵- NKHR2015000043 2015-02-24.

⁶⁹⁶- NKHR2016000078 2016-05-31.

⁶⁹⁷- NKHR2015000149 2015-10-20.

sentenced to two years and six months based on consideration of the fact that he or she sent condolence money to the central bank when Kim Jong Il died (contributed to the Geumsusan project) and paid 1,000 Chinese yuan to the chief judge.⁶⁹⁸

The bribery practiced in North Korean society actually burdens most people there. It is said that bribes should be paid to all the related people, even if simply a small amount, instead of just one person.⁶⁹⁹ Meanwhile, there are other cases where people put together money for bribery through other illegal means. It is testified that the brother-in-law of North Korean defector ○○○ was sentenced to three years of correctional labor punishment in the first trial, as he was caught engaging in the business of making phone calls to South Korea, but his sentence was reduced to one year and six months after paying 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 make money for the bribes.⁷⁰⁰

(4) Corruption in the Execution of Sentences

After sentencing is done, there are also cases where people receive a reduced penalty in return for a bribe, being sent to labor

⁶⁹⁸- NKHR2015000123 2015-09-08.

⁶⁹⁹- NKHR2015000043 2015-02-24.

⁷⁰⁰- NKHR2015000164 2015-12-01.

training camps (*rodongdanryundae*) instead of prison camps (*kyohwaso*) or released on bail for illness. As one example, the nephew or niece of testifier ○○○, who was sentenced to three years and six months of correctional labor punishment in a trial as the family's plans to defect had been overheard through wiretaps, was imprisoned at a labor training camp (*rodongdanryundae*) instead of a prison camp (*kyohwaso*) through bribery.⁷⁰¹ North Korean defector ○○○, who was detained at a detention center (*guryujang*) in Bocheon County, Yanggang Province, after investigated at the prosecutor's office for smuggling scrap iron in December 2013, was sentenced to limited-term correctional labor punishment during trial, but delayed his or her transfer to a prison camp (*kyohwaso*), had an appendectomy at an external hospital and was released on bail for sequela of appendectomy as his or her family had sent bribe money.⁷⁰²

It also seems that the basic rights of convicted prisoners, including the right to access to family are also dependent on bribery. North Korean defector ○○○, who was imprisoned at Jeongeori *Kyohwaso* in 2012, testified that while the rule is to allow one visit every three months, it is possible to make this one visit per month by giving a bribe (one pack of cigarettes) to the agent in charge of visits.⁷⁰³ North Korean defector ○○○, who

⁷⁰¹- NKHR2015000014 2015-01-27.

⁷⁰²- NKHR2015000149 2015-02-24.

visited Jeongeori *Kyohwaso* from 2013 to 2015, testified that it is impossible to visit such camps if one does not have money, but one would be allowed to visit for a long time and the convicted prisoner could eat the food that is brought by the visitor only when the money or goods asked for by agents at the prison camps (*kyohwaso*), including the MPS officers, is also brought.⁷⁰⁴

C. Corruption Related to the Issuance of Travel Permits

North Korea maintains a travel permit system that controls the movement of people. People need to apply for the issuance of travel permits at enterprises, and they can receive travel permits only when they receive an MSS agent's inspection ticket and MPS officer's inspection ticket.⁷⁰⁵ It seems that bribery is the general practice when one wishes to expedite the issuance of a travel permit in North Korea. As a particular example, while it is difficult to obtain a travel permit to go to Pyongyang, Kaesong or the border regions, it is possible through offering a substantial cash bribe for such "districts requiring permit numbers."⁷⁰⁶ North Korean defector ○○○, who resided in Yanggang Province,

⁷⁰³_ NKHR2015000123 2015-09-08.

⁷⁰⁴_ NKHR2015000132 2015-09-22.

⁷⁰⁵_ NKHR2016000056 2016-05-03.

⁷⁰⁶_ NKHR2015000017 2015-01-27.

testified that she received a travel permit to visit her husband's family in South Pyeongan Province in 2014, and while it varies by region, one can receive a travel permit even in one day by paying a bribe of around 100 Chinese yuan in cash and cigarettes and it takes ten days or more without offering a bribe.⁷⁰⁷ North Korean defector ○○○, who received a travel permit to travel from Yanggang Province to Cheongjin, North Hamgyeong Province, in March 2015, testified that he or she received a travel permit after paying twenty North Korean won as a bribe.⁷⁰⁸ North Korean defectors who obtained travel permits to the border region through bribery in 2015 testified that people give bribes to Section 2 Office of the MPS city/county branch. Two packs of cigarettes were required to travel to Pyongyang or Raseon region, with an additional bribe to the Section 2 Office of the MPS city/county branch in the area to which they wish to travel would buy an extension of the permitted period of travel.⁷⁰⁹ At the same time, there is also a case where a travel permit was not issued even with a bribe payment. North Korean defector ○○○, who said that she had a record of being caught river-crossing with her husband in 2015, testified that she applied for the issuance of a travel permit to visit her parents but the permit was not allowed.⁷¹⁰

⁷⁰⁷- NKHR2016000097 2016-06-14.

⁷⁰⁸- NKHR2016000171 2016-11-01.

⁷⁰⁹- NKHR2015000142 2015-10-06.

⁷¹⁰- NKHR2016000164 2016-11-01.

D. Corruption Related to House Sales and Registration

As housing is also managed as state property in North Korea, it is assigned according to the job location. It is also illegal for individuals to engage in housing transactions between them. However, as the central ration system is barely working, it is the reality that the right to use housing is also included in private transactions between individuals.⁷¹¹ North Korean people pay bribes to agents of competent institutions or those involved in crackdowns to avoid punishment related to movement or residence or to expedite the process even when it is legitimate.⁷¹² North Korean defector ○○○, who engaged in sale of a house in May 2013 testified that housing sales occur without permits for housing use and one can pay bribes to agents during inspections.⁷¹³ North Korean defector ○○○, who sold a house and bought another single-story house in 2011 testified that while sales of housing are illegal as housing belongs to the State, he or she received a permit to use the house after paying 4,000 Chinese yuan to the housing agent of the city management division of the city's People's Committee.⁷¹⁴ Meanwhile, bribery is also frequent

⁷¹¹-Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, p. 111. (In Korean)

⁷¹²- *Ibid.*

⁷¹³- NKHR2015000122 2015-09-08.

⁷¹⁴- NKHR2015000140 2015-10-06.

in the process of moving-in notifications after transaction. North Korean defector ○○○, who engaged in sale of housing in 2015, testified that one can move to the border region by giving 2,000~3,000 Chinese yuan to the head of the MPS city/county branch.⁷¹⁵

E. Corruption Related to Job Assignments and Overseas Dispatch

In North Korean society, bribery related to job assignment is very common. Also in the 2016 survey, there were many testimonies of assignment to comfortable enterprises or to enterprises of acquaintances through connections and also of not going to work through bribery. Meanwhile, it also seems that there are cases where bribes are requested to avoid discrimination at the assigned workplace due to background. North Korean defector ○○○ testified that he or she was discriminated against because of a missing family member when he or she was working in the instigation group of a paper factory. To avoid that discrimination, he or she submitted a carton of cigarettes every month for one and a half years.⁷¹⁶ The situation is the same when dispatched as overseas workers. The selection as or the location of dispatch for North Korean overseas workers is also decided

⁷¹⁵- NKHR2015000142 2015-10-06.

⁷¹⁶- NKHR2015000167 2015-12-01.

through bribery. Most overseas workers are known to be paid low wages and hand over a substantial part of the wages to the North Korean authorities as part of planned quota or loyalty money. Nonetheless, North Koreans wish to be dispatched overseas because they can receive higher wages when assigned to jobs back 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 people preferred it to hotter regions such as the Middle East.

F. Evaluation

Also in the 2016 survey, it was found that corruption, including bribery, is prevalent in North Korean society. Corruption goes against the basic principles of human rights, including equality and nondiscrimination.⁷¹⁷ The fact that the ability to pay bribes decides whether a person can enjoy economic, social and cultural rights, as well as civil and political rights, undermine equal application and realization of human rights. The majority of North Korean defectors say that many things can be resolved through the use of “money” in North Korean society. Although background (*songbun*) is still an important influence in employment as a

⁷¹⁷-Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, p. x. (In Korean)

senior official or when entering central colleges, it is noteworthy that many things, including becoming a Party member or entering a general college, that used to mainly be decided by background (*songbun*), can be handled through financial means. North Korean people use the term “business” to describe bribery. This indicates that the people perceive the practice as a normal thing and do not have a negative perception of handling issues in this way. Meanwhile, it may be more difficult to establish an awareness of universal human rights if there is an overwhelming perception that bribery is just a part of life. Moreover, such practices prevent fair application of standards in punishment and may serve to aggravate the violation of human rights of the North Korean people.

The prevalent corruption in North Korean society infringes upon the right of individuals to be equal before the law and receive, without any discrimination, the equal protection of the law (Article 26 of the ICCPR). In particular, the corruption during crackdowns and the investigation stage breach the principle of nondiscrimination as the establishment of a case or punishment is decided simply by whether a bribe is paid or not.⁷¹⁸ Moreover, in cases where the crime involves victims, it violates the principle of fairness.⁷¹⁹ Corruption during the trial process influences the

⁷¹⁸- *Ibid.*, p. 97.

⁷¹⁹- *Ibid.*, pp. 99-100.

realization of judiciary justice in that one who does not give a bribe would receive unfair punishment.⁷²⁰ In people's daily lives, there were specific cases of bribery and corruption related to the issuance of travel permits, housing sales, and job assignments. This undermines the fair enjoyment of individual rights. Specifically, it can serve as an obstacle to realization of individual rights to freedom of movement and residence (Article 12 of the ICESCR) and limit realization of the right to work (Article 6 of the ICESCR). As such, this prevalent corruption can undermine fair realization of everyone's civil and political rights, as well as economic, social and cultural rights.

Given the current characteristics of the North Korean regime, there is an element of bribery providing a measure of relief from unfair or excessive enforcement of public authority over the North Korean people. However, if bribery serves as the ultimate deciding factor in exercising and enjoying rights by individuals, this may undermine the development of a rule of law and awareness of human rights.

⁷²⁰ *Ibid.*, p. 93.

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, the collection of accurate data on the exact number and details of individual conditions is impossible due to their insecure status preventing them from openly asking for help. The Duman River region is normally used as the defection route for many North Koreans because it is easier to cross than other geographical points. However, there are a variety of ways to flee, such as escaping the workplace when assigned to jobs abroad legitimately or defecting to a third country after overstaying an authorized visit to relatives.

(1) Reinforced Control of Defections and Decrease in the Number of Defectors Living in China

Since the latter years of the first decade of the 2000s, the number of defectors living in China has dropped dramatically. The reasons are following: more stringent border defense and control, continuous forced repatriations, fewer new defectors due to the increasing cost of defection, increases in the number of legal visitors with an increase in the issuance of border crossing cards, improved economic conditions in North Korea including reinvigoration of marketplaces, and increased resettlements in South Korea or other third countries. It is identified that as the MSS has reviewed the emergency measures to prevent defection since 2009, 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, it is identified that the North Korean authorities have increased punishment of residents found using cell phones in the border regions and intensified surveillance of coast guard personnel to prevent defections by sea. During the mourning period following Kim Jong Il's death on December 17, 2011, the movement of people was tightly controlled and every family along the border region was required to take turns standing guard.⁷²¹ Bed-check inspections

⁷²¹-NKHR2012000260 2012-12-04; NKHR2014000020 2014-03-18.

were reinforced and each *inminban* had to appoint a new informer.⁷²² In Onsung County, North Hamgyeong Province, it is said the authorities placed land mines along the border or wooden boards studded with 10 cm nails along the Duman River.⁷²³ Barbed wire fences and cameras were also installed, camouflaged traps set up⁷²⁴ and noise makers hung on the barbed wire fences to assist in detection⁷²⁵ along the major defection routes near Hoeryeong, Musan County, and Onsung County, North Hamgyeong Province. On the other hand, it has been found that official grain rations have partially resumed and some relief assistance offered to discourage defections. In an effort to prevent re-defection, it seems that local Party secretaries are also held responsible,⁷²⁶ and economic support is provided while there is a close watch on the activities of individuals who have attempted to defect.⁷²⁷

During this time, Hyesan, Yanggang Province, became a new defection route, and the authorities installed electronic walls and other devices to detect cell phone activities and prevent defections in the area. As a result, it became very difficult for escape brokers

⁷²²- NKHR2012000151 2012-07-24.

⁷²³- NKHR2012000182 2012-09-11. For this purpose, each enterprise was required to submit 5 nail-spike panels (30 cm x 50 cm). In January 2014, middle school students were each required to submit five regular-sized, nail-studded boards. NKHR2014000050 2014-05-13.

⁷²⁴- NKHR2014000050 2014-05-13.

⁷²⁵- NKHR2012000213 2012-10-16.

⁷²⁶- NKHR2014000207 2014-12-16.

⁷²⁷- NKHR2012000140 2012-07-10; NKHR2013000019 2013-02-05.

to contact potential defectors. Moreover, a barbed wired fence was installed along 12 km of the border region in Hyesan. Although the fence was only connected with horizontal wires as of June 2015, there are plans to add vertical wires.⁷²⁸ Two-storied posts have also been installed.⁷²⁹ North Korean defector ○○○ testified that he or she attempted to defect North Korea in 2014 but gave up because of very tight border controls and instead defected in June 2015.⁷³⁰

In January 2014, a proclamation from Kim Jong Un was communicated. It reportedly stipulated that anyone caught talking to defectors or escape brokers over mobile phones in the border areas would not be handled in his area of residence but be transferred to the MSS provincial bureau.⁷³¹ This may also be interpreted as a move to curtail the practice of North Korean defectors avoiding punishment by bribing personnel in their areas of residence. In January 2014, training sessions on this issue were held for individual *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 deported to South Hamgyeong Province and Gangwon Province. Those making phone calls to

⁷²⁸- NKHR2015000130 2015-09-22.

⁷²⁹- NKHR2015000136 2015-09-22.

⁷³⁰- NKHR2015000130 2015-09-22.

⁷³¹- NKHR2014000040 2014-04-29; NKHR2014000037 2014-04-15.

defectors or brokers or crossing the border will be dealt with by the MSS.”⁷³² The proclamation is known to include a plan to demolish private houses close to the border areas. This plan, however, is identified to have not been implemented fully in reality as such forced deportation of the families of defectors may backfire, instead triggering a mass exodus of these families.⁷³³

As there was a new and strong official warning issued to the effect that three generations (of a family) would be destroyed (punished) if anyone defected, and defectors would be executed on-site,⁷³⁴ it is assessed that the number of defections has reduced substantially.⁷³⁵ Such warnings regarding shootings were made not only during the mourning period for Kim Jong Il but also during the special vigilance period when the guidelines were communicated.⁷³⁶ There were rumors that real ammunition were provided to guards and those who cross the border would be shot to death and there were testimony that the testifier heard that the Border Security Guards were instructed to shoot those who

⁷³²- NKHR2014000050 2014-05-13.

⁷³³- NKHR2014000166 2014-10-07; NKHR2014000165 2014-10-07; NKHR2014000136 2014-09-02.

⁷³⁴- NKHR2012000151 2012-07-24; NKHR2012000183 2012-09-11; A North Korean defector from Onsung testified that she/he was found by a border guard while crossing Duman River on February 1, 2011. However, the guard just shouted at him/her without shooting. NKHR2012000165 2012-08-07.

⁷³⁵- NKHR2012000094 2012-05-29; NKHR2012000269 2012-12-11. There was an official warning that “3 generations (of a family)” would be wiped out if anyone tried to engage in peddling or other business during the mourning period.

⁷³⁶- NKHR2014000024 2014-04-01; NKHR2014000129 2014-08-29; NKHR2014000131 2014-08-26; NKHR2014000175 2014-10-21.

attempt to cross the borders to death.”⁷³⁷ And there are many testimonies that guns were actually used during defection attempts. In contrast, there are also testimonies that guns are only used as threats to prevent defection, and the guards cannot actually shoot people.⁷³⁸

Table V-4 Testimonies on the Use of Guns during Defection Attempts

Testimonies	Testifier ID
On January 16, 2012, at Wonjong Customs Office in Wonjong-ri, Rason (Sonbong County), while the testifier was crossing the river with two other people, a man believed to be an MSS agent fired at them from three meters away and followed them all the way to China.	NKHR2014000020 2014-03-18
In April 2013, a man 37 years old was caught while illegally crossing the river in Deoksan, Samjiyeon County, Yanggang Province. There were prior warnings from the border defense unit and the man died without resistance.	NKHR2013000231 2013-12-24
On August 15, 2013, a group of 12 men and women crossed the river to collect blueberries in China. The border security guards shot at them and a man in his 40s who was from Bocheon County, Yanggang Province, was injured. It is unclear whether they fired live rounds or blanks.	NKHR2014000055 2014-05-20
In July or August 2014, two men were caught in Samjiyeon County, Yanggang Province, during a crackdown 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

As anti-defection measures have tightened, the fee for “river-crossing guides” paid to defection brokers and border security

⁷³⁷- NKHR2016000028 2016-03-08; NKHR2014000131 2014-08-26.

⁷³⁸- NKHR2015000122 2015-09-08.

guards has increased.⁷³⁹ It is identified that there was an instruction in Onsung County, North Hamgyeong Province, where there are frequent defections from North Korea, that border guards who accepted money from river-crossing guides were not penalized as long as they reported it afterwards.⁷⁴⁰ As the number of brokers and soldiers who reported, after the fact, receiving money 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 significantly decreased. 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.⁷⁴¹

(2) Defector Attempts to Migrate Globally

In addition to China, defectors appear to be attempting to move to Russia, other CIS countries, Mongolia or Southeast Asia, or live in illegal settlement areas of Chinese people, including Korean-Chinese and Han Chinese. With the support of private organizations and volunteer activists, defectors are seeking asylum and safe havens around the world, including Thailand,

⁷³⁹-○○ Yoon, "Current Status and Prospect of Defectors in China," Closed Advisory Meeting of KINU (May 2, 2012); NKHR2014000037 2014-04-15.

⁷⁴⁰-NKHR2014000118 2014-08-12.

⁷⁴¹-NKHR2016000165 2016-11-01.

Japan, Canada, Australia, the United States, EU member states, and Israel. According to the UNHCR, as of the end of 2015, there are 1,103 North Korean defectors around the globe with refugee status.⁷⁴²

Table V-5 Number of Overseas Defectors with Refugee Status

Year	2009	2010	2011	2012	2013	2014	2015
Number (persons)	881	917	1,052	1,110	1,166	1,282	1,103

Source: Compiled based on the annual Global Trends of the UNHCR

Since 2004, the number of North Korean refugees illegally entering Thailand in hopes of going to South Korea or the United States has risen constantly. 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 to protest their detainment, which has resulted in a substantially shorter time for entry procedures.⁷⁴³ Moreover, an increasing number of North Koreans have also applied for political asylum (refugee status) to EU member states. However, many of these were found to be Chinese, including Korean-Chinese disguised as North Korean defectors, or North Korean defectors who had already settled in South Korea. For a North Korean citizen to cross the border and apply for political asylum with the

⁷⁴² "Global Trends: Forced Displacement in 2015, Annex Table 2," UNHCR, (www.unhcr.org).

⁷⁴³ Thailand served as a major transit country for North Korean defectors on their way to South Korea in 2015.

European Union or another Western country, a large amount of money is needed. Thus, it is very difficult for any North Korean defector to file an exile application with a Western country, except for those working overseas who left their work areas and an extremely few wealthy people. South Korea revised its Enforcement Decree to the Act on the Protection and Settlement Support of Residents Escaping from the North in 2009, which means that for any former North Korean who has obtained South Korean nationality and applies for political asylum in a third country afterwards by concealing his/her new nationality, the South Korean government has the right to suspend or terminate protection and settlement support.

B. Reality of Defectors Staying Overseas

As defections have occurred since the mid-1990s, the lives of North Koreans crossing the border into China has changed significantly. At the initial stages, most North Koreans quickly returned to North Korea after getting help from their relatives, who tried their best to protect them. However, as the food crisis persisted 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 a number of them who did not return to North Korea but instead

settled in China began to increase. Not only those who were single but also those who were married with children ended up living with Chinese men to continue their hidden life in China. In such cases, although some women married voluntarily after being introduced to these men,⁷⁴⁴ most were sold without their knowledge and forced into marriage.⁷⁴⁵ In such cases, they sometimes escaped to other regions as they could not endure the inhumane conditions of being in a forced marriage and poverty,⁷⁴⁶ but it has been found that most of them remained because of fear of forced repatriation, giving up all hope. Since most North Korean women were traded like merchandise, they were usually under the constant watchful eyes of families and neighbors of their husbands. The reality is that any North Korean woman who illegally crosses the river into China could not find ways to stay in China other than living with a Chinese man. Consequently, it is assessed that once they realized the danger of arrest and other unavoidable realities, most North Korean women accepted that they had to live with a Chinese man.⁷⁴⁷ After prolonged stays in China, there were

744. NKHR2012000090 2012-05-22 and 55 cases; NKHR2013000008 2013-01-08 and 37 cases; NKHR201400083 2014-07-01 and 47 cases.

745. NKHR2011000014 2011-01-04 and 85 cases; NKHR2012000014 2012-01-04 and 167 cases; NKHR2013000019 2013-02-05 and 66 cases; NKHR2014000086 2014-07-01 and 90 cases.

746. NKHR2011000052 2011-02-15; NKHR2011000057 2011-02-22; NKHR2011000073 2011-03-22; NKHR2011000109 2011-05-11; NKHR2011000138 2011-06-14; NKHR2011000212 2011-10-04; NKHR2011000224 2011-10-19; NKHR2014000157 2014-09-23.

747. NKHR2010000007 2010-03-16; NKHR2010000015 2010-10-05; NKHR2010000018 2010-10-05.

cases where some defectors were able to obtain resident permits (*hokou*).⁷⁴⁸ Also, some gave birth to babies with their Chinese husbands,⁷⁴⁹ and it is identified that some children born to female North Korean defectors received Chinese resident permits (*hokou*).⁷⁵⁰ In Han Chinese villages in rural areas, 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.⁷⁵¹ In some regions such as Hebei Province, it appears to be relatively easier than in other regions to obtain resident permits (*hokou*) through bribery.⁷⁵² However, since 2013, it is identified that it has become difficult to forge resident permits (*hokou*) in China.⁷⁵³ North Korean defectors find it increasingly difficult to live there as they are more often asked to present their citizen ID cards than before. When North Korean women are forcibly repatriated to North Korea, a considerable number of children are abandoned by their Chinese fathers and a

⁷⁴⁸- NKHR2012000069 2012-01-13 and 8 cases; NKHR2013000128 2013-07-09 and 6 cases; NKHR2014000192 2014-11-18 and 3 cases.

⁷⁴⁹- NKHR2011000014 2011-01-04 and 31 cases; NKHR2012000069 2012-01-13 and 48 cases; NKHR2013000036 2013-02-19 and 37 cases; NKHR2014000171 2014-10-07 and 85 cases.

⁷⁵⁰- NKHR2011000014 2011-01-04 and 21 cases; NKHR2012000069 2012-01-13 and 31 cases; NKHR2013000036 2013-02-19 and 24 cases; NKHR2014000053 2014-05-13 and 53 cases.

⁷⁵¹- NKHR2014000114 2014-08-12.

⁷⁵²- NKHR2012000172 2012-08-21. It is said that many children who were born to female North Korean defectors received resident permits (*hokou*) after paying fines in the census in early 2012. NKHR2012000208 2012-10-09.

⁷⁵³- NKHR2014000066 2014-06-03.

majority of them do not receive education or medical services.⁷⁵⁴

As more North Koreans stay in China for extended periods of time, practices have had to change. Unlike in earlier years, 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 learn the Chinese language and become familiar with the Chinese environment, there are also cases where defectors rent a room of their own. Some take jobs with South Korean businesses with an office in the area, or with families of South Koreans. Some defectors earn a living in China by engaging in vending businesses after saving money.⁷⁵⁵ Also, although only in extremely few cases, there are some female North Korean defectors who have entered South Korea with the 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 Korean-Chinese men they live with, who went to South Korea first to find jobs, found about the support grants and later advised their North Korean partners to go to South Korea. In their effort to receive these settlement support grants, some North Korean defectors go to South Korea, with their male Korean-Chinese partners, on employment visas they obtain with fake Chinese

⁷⁵⁴-Voice of America, November 5, 2011.

⁷⁵⁵-NKHR2011000030 2011-01-04.

passports and then report themselves.⁷⁵⁶ There are also continuous cases of North Korean defectors obtaining Chinese passports with forged resident permits and coming to Jeju Island (South Korea), where no visa is required, and declaring 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.⁷⁵⁷

C. Punishment of Defectors

(1) Punishment Provisions

The North Korean Criminal Law divides charges for defection into 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

⁷⁵⁶-NKHR2011000127 2011-05-31; NKHR2011000192 2011-08-23.

⁷⁵⁷-NKHR2012000186 2012-09-11.

labor training, and in serious cases, to unlimited-term correctional labor punishment or the death penalty and confiscation of property” (Article 63).

In addition to punishment for the crime of illegal border exit/entry, North Korean defectors can also be subject to punishment under a number of laws, including “Dealing in foreign currency” (Article 106), “Transgression of foreign currency management orders” (Article 107), “Illegally buying and selling merchandise in foreign currency” (Article 107), and “Smuggling and dealing in historical relics” (Article 189). In addition, any North Korean citizen violating North Korea’s Immigration Law shall be subject to fines and an administrative penalty of a ban on overseas travel, and in serious cases, a criminal penalty may be imposed (Article 45).

In addition to 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 travel law and disorderly 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 the border exit/entry law shall receive a warning be subject to confiscation, or subject to three

months or less of unpaid labor or reeducational labor. Article 194 prescribes that those who violate travel orders and engage in illegal exit/entry of restricted areas shall also receive a warning, a serious warning of fines, or three months or less of unpaid labor or reeducational labor, while in serious cases, they shall be subject to three months or more of unpaid labor, labor education, demotion, dismissal or firing from their jobs.

(2) Reality of Punishment

(A) Investigation and Transfer

North Koreans caught in China are deported to military units along the border, then to the MSS of the repatriation area for basic and personal identity checks. They will then be sent back to their hometowns. Depending on the case, deportees are sent to their hometown agencies via the border region labor training camps (*rodongdanryundae*) or to provincial holding centers (*jipkyulso*), or sometimes they are sent directly to their hometown agencies (MPS). The punishment procedure after repatriation differs by the initial detention facility to which deportees are sent. If the initial detention facility is at or near the detainee's hometown, 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 defector out and also because of the risk of flight during transfer, securing of means of transfer and lack of means to contact the families.

Those repatriated 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 the repatriated people are detained after undergoing pocket searches, unclothed searches, and health examination (for AIDS). Although men and women are known to be detained separately, there are cases where they are not due to the number of people repatriated. It is testified that repatriated North Koreans use all means possible to hide the money earned in China from the inspectors during body searches. Article 37 of the Law for the Protection of Women's Rights prohibits any inspection of female bodies. However, it is said that inspectors thoroughly examine the detainees, including their uteri, order people to take off their clothes and make them squat down and stand up repeatedly, even feeding them to examine their feces. In the early years of this practice, inspectors would confiscate all items brought from China, but it has been found that they return all personal items and possessions to the detainees upon their release from some point. Many defectors use the money they made in China to reduce the terms of their penalties in the process of interrogation or to survive inside the labor training camps

(*rodongdanryundae*). In a very rare case, a woman was able to persuade an MSS agent to accompany her to the border region, where she received financial help from the man she lived with in China, who responded favorably to her telephone call for financial help. There are also cases where the defector bribed the “law enforcement workers” to adjust the contents of their interrogation documents and therefore avoid punishment.

The border region MSS verifies personal data, home address, time and frequency of river-crossing, activities after the river-crossing (contact with South Koreans or Christians, any travel to South Korea, connections with human trafficking, possession or watching of pornography or South Korean videos). After these interrogations, the deportees are sent either to the MPS detention center (*guryujang*) or to the provincial holding centers (*jipkyulso*) in the border areas.

Under North Korean criminal procedures, there should be a preliminary examination where prosecutors establish the facts of any crime and indict or exonerate the suspect. In the preliminary examination, prosecutors ask repatriated people to describe their activities in China in detail and try to get information through other repatriated people. During this phase, investigators will use beatings and abusive language to persuade people to report on the activities of other repatriated people in China.

(B) Imposition of Punishment

As the punishment of defectors has been significantly strengthened after Kim Jong Un came to power,⁷⁵⁸ it is identified that they are sentenced more to correctional labor punishment than to labor training camps (*rodongdanryundae*) or receive labor training punishment.⁷⁵⁹ There are testimonies that until 2013, those who were repatriated to North Korea for the first time were sentenced to around six months at labor training camps (*rodongdanryundae*) while those repatriated for the second time were sentenced to correctional labor punishment. However, there are testimonies that since 2014, all defectors are sentenced to correctional labor punishment regardless of the number of times they have been repatriated.⁷⁶⁰ The term of correctional labor punishment is three to five years, with the term varying according to the number of defections and the length of stay in China.⁷⁶¹ However, it is said that for cases of simple defection, one could be sentenced to labor training punishment through bribery.⁷⁶² Most of the people sentenced to correctional labor punishment for charges of illegal border-crossing are imprisoned at Jeongeori *Kyohwaso* in North

⁷⁵⁸_NKHR2012000155 2012-07-31.

⁷⁵⁹_NKHR2012000151 2012-07-24.

⁷⁶⁰_NKHR2015000092 2015-05-12; NKHR2015000084 2015-04-21.

⁷⁶¹_NKHR2015000023 2015-01-27; NKHR2015000035 2015-02-10; NKHR2015000080 2015-04-21.

⁷⁶²_NKHR2015000031 2015-02-10.

Hamgyeong Province and Gaecheon *Kyohwaso* in South Pyeongan Province.⁷⁶³ It is found that around 70 percent of convicted prisoners at Jeongeori *Kyohwaso* are imprisoned for charges of illegal border-crossing.⁷⁶⁴ Those who attempt to escape to South Korea are identified to be punished as political criminals.⁷⁶⁵

The overall punishment of forcibly repatriated defectors has been reinforced recently. In the case of defection to China, while the defectors were imprisoned for as long as they stayed in China in the past, the punishment has been reinforced with the defectors being sentenced to prison terms that are twice as long as they stayed in China.⁷⁶⁶ During the Kim Jong Il era, there were cases where defectors received only educational measures instead of criminal punishment if they voluntarily returned after crossing the river.⁷⁶⁷ A testifier who defected from North Korea twice, in 2007 and 2014, said that he or she was not punished based on voluntary return in 2007 under Kim Jong Il. In 2014, the testifier was harshly investigated without being forgiven even though the testifier turned himself or herself in.⁷⁶⁸ In the case of forcible repatriation when the defector was clearly headed to South Korea and did not pay

⁷⁶³-Dong-ho Han *et al.*, *Prison Camps in North Korea*, pp. 13~15.

⁷⁶⁴- *Ibid.*, p. 18.

⁷⁶⁵- NKHR2015000031 2015-02-10.

⁷⁶⁶- NKHR2016000072 2016-05-17.

⁷⁶⁷- NKHR2016000131 2016-06-09.

⁷⁶⁸- NKHR2016000148 2016-09-06.

bribes, the defector was sent to a political prison camp (*kwanliso*), which is the heaviest punishment. There was a testimony that punishment is far heavier in the case of defection to South Korea than to China. As such, there are cases where people attempt to defect from North Korea with a baby in their backpack to disguise their destination as China. According to the testimony, a seven-month-old baby girl who was put in a backpack died in the process.⁷⁶⁹

Table V-6 Punishment of Defectors

Testimonies	Testifier ID
The testifier was imprisoned after being sentenced to ten months of labor training punishment in Hyesan, Yanggang Province in July 2012. While the term of imprisonment at MPS city/county branch detention center (<i>guryujang</i>) was counted in execution of the sentence, the term at an MSS detention center (<i>guryujang</i>) was not.	NKHR2013000044 2013-03-05
In November 2012, the testifier was sentenced to six months at the labor training camp (<i>rodongdanryundae</i>) in Hoeryeong, North Hamgyeong Province, but escaped one month after imprisonment and re-defected.	NKHR2013000107 2013-06-11
In 2013, the testifier was sentenced in Dancheon, South Hamgyeong Province, to three years of correctional labor punishment for charges of illegal border-crossing but was released in one year and six months through bribery.	NKHR2015000092 2015-05-12
In August 2013, the testifier returned voluntarily to Daehongdan County, Yanggang Province, and turned himself or herself in. He or she was sentenced to two months at a labor training camp (<i>rodongdanryundae</i>).	NKHR2015000045 2015-02-24

⁷⁶⁹_NKHR2016000014 2016-01-26.

In October 2013, the testifier was arrested while illegally crossing the river in Daehongdan County, Yanggang Province, and was imprisoned for two months at a labor training camp (<i>rodongdanryundae</i>).	NKHR2014000141 2014-09-02
The testifier was repatriated from China and imprisoned at a holding center (<i>jipkyulso</i>) in Yanggang Province in November 2013. While the testifier was imprisoned, he or she was released on bail for illness and re-defected after two months.	NKHR2014000074 2014-06-17
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

(C) Punishment of Defectors' Families

Since Kim Jong Un came to power, surveillance of the families of defectors has tightened, with reinforced punishment for defection. However, it seems that families of defectors are not deported unless it is confirmed that the family member actually went to South Korea.⁷⁷⁰ If the majority of a family defected, the remaining family members would be sentenced to labor training punishment for “use of a mobile phone.”⁷⁷¹ Moreover, when it is confirmed that there is contact with families in South Korea such as through phone calls, the remaining family members are forcibly deported.⁷⁷² There are also cases where any family members of a forcibly-repatriated defector would be discharged from military

770- NKHR2013000036 2013-02-19; NKHR2013000033 2013-02-19; NKHR2013000039 2013-03-05; NKHR2013000121 2013-06-25; NKHR2013000117 2013-06-25; NKHR2013000123 2013-06-25; NKHR2013000180 2013-10-01.

771- NKHR2013000104 2013-05-28.

772- NKHR2013000179 2013-10-01.

service on account of the “crime of poor family environment.”⁷⁷³ There are also cases where defector families are punished for receiving remittances from abroad.⁷⁷⁴

In December 2012, Kim Jong Un issued instructions to “bring back defectors and give them stable living conditions.” Ever since, MSS agents began lectures at *inminban* on the importance of embracing the returning defectors and worked on persuading the families of defectors to bring their family members back to North Korea.⁷⁷⁵ It is found that deportation of defector families have decreased since 2012, with MSS informers and MPS city/county branch informers conducting surveillance on them instead.⁷⁷⁶ Since 2013, there have been threats to forcibly deport defector families, but it has been found that deportation has not actually been carried out considering the concern that the remaining members of these families may also choose to escape and of the potential that local residents may strongly resist the deportation as there is a large number of affected families in the border region.⁷⁷⁷ The authorities also refrain from deportations as this action in itself draws attention to the fact that defections have occurred.⁷⁷⁸ A correctional labor punishment imposed on family

⁷⁷³_NKHR2013000098 2013-05-14.

⁷⁷⁴_NKHR2013000218 2013-11-26.

⁷⁷⁵_NKHR2013000127 2013-07-19.

⁷⁷⁶_NKHR2015000031 2015-02-10; NKHR2015000167 2015-12-01.

⁷⁷⁷_NKHR2014000050 2014-05-13.

members of defectors negatively affects their family backgrounds. Those who are serving in the military are forcibly discharged,⁷⁷⁹ and when defection is discovered, the relatives are deprived of their positions.⁷⁸⁰

Table V-7 Punishment of Defector Families

Testimonies	Testifier ID
In 2012, the house of a man in the neighborhood of the testifier in Hyesan, Yanggang Province, was confiscated due to illegal border-crossing of a family member.	NKHR2013000006 2013-01-08
In February 2012, after the testifier was repatriated after defection from Onsung, North Hamgyeong Province, all of the testifier's family was forcibly deported after the testifier received a criminal penalty (correctional labor punishment).	NKHR2014000048 2014-05-13
In July 2012, the testifier's brother-in-law, a platoon leader, was forcibly discharged due to defection of the testifier's uncle in Pyeongseong, South Pyeongan Province.	NKHR2013000153 2013-08-20
In July 2013, a family (two males who were neighbors) was sentenced to Three months at a labor training camp due to illegal border-crossing in Musan County, North Hamgyeong Province.	NKHR2014000205 2014-12-02
The testifier, who was a military officer was discharged due to defection of the testifier's sister in Hyesan, Yanggang Province in 2014.	NKHR2015000072 2015-04-07
In June 2014, as there was a missing person among the family, who is from Hyesan, Yanggang Province, and the testifier's younger brother is under surveillance.	NKHR2014000209 2014-12-16

D. Human Trafficking

International laws and national laws prohibit human trafficking,

⁷⁷⁸-NKHR2015000130 2015-09-22.

⁷⁷⁹-NKHR2015000072 2015-04-07.

⁷⁸⁰-NKHR2014000141 2015-10-06.

stressing its inhumane nature. Moreover, a substantial number of human rights organizations engage in surveillance of human trafficking, launching international 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), states that human trafficking means “the recruitment, transportation, transfer, harbouring 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, servitude or removal of organs.” The main difference between human trafficking and human smuggling is that traffickers continue to exploit people on an on-going basis after the illegal border crossing has concluded.⁷⁸¹

⁷⁸¹–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 border crossings increased, organized rings of human traffickers began to appear to make money by handing North Korean defectors on to others. There were many incidents in which these ring members sought to capture North Koreans found around train stations or marketplaces and then sell them. This type of human trafficking went through several stages and involved many people. There were people who lured women across the river and people who received women on the Chinese side. There were brokers involved in the deals while hiding the women at certain places, and the cost of transaction increased at every stage. Organized human traffickers employed violent means to kidnap North Korean women, regardless of their marital status, and sold them for profit. As these organized human traffickers became more involved, the practice of selling North Koreans spread to inner areas of China's three northeastern provinces. In most cases, transactions were to trade North Korean women, but North Korean men were also traded to remote areas of China where there was a dire need for manpower.

As more human trafficking incidents and cases of human rights violations were reported, the Chinese authorities launched a massive roundup campaign targeting human trafficking rings. Subsequently, most organized human trafficking rings have disappeared. However, as North Koreans stay in China for longer periods of time, some illegal North Korean residents become involved in trafficking of

fellow North Koreans. For example, some North Korean women living with a Korean-Chinese or a Chinese man engaged in human trafficking introduce or trade other North Korean women to Chinese men or an entertainment establishment for a fee. The brokers, who include Korean-Chinese, trade the female defectors to Chinese men, telling each woman that she can contact him again if she does not like or has difficulties with the man or the work. If the female defector contacts the broker, he/she is moved to another area for a fee.

Human trafficking is illegal in China, and if detected, those involved are fined. Since those who transfer the women usually receive money for their services, others around them keep their distance when they learn of their human trafficking activities. It was reported that the border patrol battalions conducted intensive investigations on North Korean defectors arrested in China, focusing on human trafficking and the narcotics trade.

(2) Human Rights of Women Victims

As China industrialized, many women in the rural areas began to move to cities or foreign countries such as South Korea to make more money. In turn, the demand for marriage partners or women simply for sexual act increased. Due to such demand for North Korean women in China, North Korean women who cross borders are often traded as live-in partners for Chinese men. It seems that while some North Korean women were aware of this before being

sold to Chinese men, most were taken to Chinese men without knowing to whom they had been sold. Even if they know that they are destined to be sold to Chinese men, some North Korean women ask for help in river-crossing to cover the cost of crossing the border.⁷⁸² In the process of moving from the border region to the inner regions, Chinese brokers sometimes sexually assaulted these women.⁷⁸³

When a North Korean woman is forcibly married to a Chinese man, the marriage sometimes lasts for a long period. However, if the marriage encounters trouble due to sexual abuse, violence, gambling or drinking by the husband, the woman will often try to run away to another region or will be forcibly deported back to North Korea, and the relationship would end as the wife does not look for the husband. When a North Korean woman becomes pregnant after living with a Chinese man, it is usually the Chinese man who decides whether or not to have the fetus aborted. If the man living with the North Korean woman wants to continue the marriage, he is likely to keep the child, so will try to obtain a resident permit (*hokou*) so she can gain legal status. This requires that he has significant financial wherewithal as the cost of buying a resident permit (*hokou*) is substantial.⁷⁸⁴ Even in forced marriages,

⁷⁸²- NKHR2014000066 2014-06-03.

⁷⁸³-She was pregnant from a broker who raped her while on her way to South Korea. NKHR2011000003 2010-03-16.

⁷⁸⁴- The testifier paid 2000 Chinese yuan to obtain a resident permit around 2000. NKHR2011000067 2011-03-15.

it has been found that a husband desiring to continue the relationship with the North Korean woman usually assumes various expenses, such as for the river-crossing, not only for the woman but also for her family members. Even if a North Korean woman voluntarily decides to “live” with a Chinese man after she illegally crosses the border, her life is no different from a forced marriage. Unable to speak Chinese, it is impossible for her to work at any public place, such as a restaurant, and they realize that there is no choice but to have a de facto relationship with a Chinese man to avoid security checks. Therefore, they often choose to live with Chinese men for a relatively safer stay.

As North Korean women remain in China for an extended period of time, they gradually learn simple Chinese expressions and adjust to life in China, which may lead to a reduction in the ratio of forced marriages. Even if the women are forced into a marriage, it seems that they find ways to escape the situation. However, if a child is born, a high rate of the mothers stay in their forced marriages, and this is also true for those in forced marriages with Han Chinese men, when there is a child. Therefore, it is found that many Han Chinese men push their spouses to have children, so they can more likely maintain the relationship. However, as their stay in China is prolonged, it is identified that many North Korean women choose to move to another location in China or a third country even if they give birth to a child in China. Also, if a local man suggests they live together, the North Korean

woman increasingly selectively accepts the proposal. There are a substantial number of testimonies that North Korean women have restarted “live-in” relationships with Korean-Chinese or South Korean men they befriend as they work in local restaurants. Moreover, in some cases, they actively ask their partners for monetary compensation, including remittances to their families back in North Korea or to cover their expenses for the border crossing. In such de facto relationships, if they are forcibly repatriated to North Korea, the North Korean women are likely to defect again and look for a male companion. If a repatriated woman has given birth to a child in China, she is more likely to re-defect.

Many North Korean women sold in China are forced to provide sexual services at karaoke bars and adult entertainment establishments.⁷⁸⁵ There are cases where, in order to prevent them from fleeing, the business owners withhold their pay, stating that they are saving money for them instead of paying them regularly. It is also identified that there is an increasing number of organizations operating pornographic computer chatting businesses in China, using female North Korean defectors.⁷⁸⁶ There are also cases where they are involved in telephone scams (voice phishing) that target South Korea.⁷⁸⁷ With the recent increase in demand for

⁷⁸⁵- NKHR2011000030 2011-01-04; NKHR2014000183 2014-11-04.

⁷⁸⁶- NKHR2012000148 2012-07-17; NKHR2013000138 2013-07-23; NKHR2015000125 2015-09-08.

human trafficking in China, cases are increasing where Chinese smugglers are also involved in human trafficking.⁷⁸⁸ On the other side, it has become more difficult to find human trafficking partners in North Korea as the crackdown against them has strengthened. While human trafficking is still active in Hoeryeong and Musan County, North Hamgyeong Province, it has decreased substantially in Onsung due to the strength of the crackdown.⁷⁸⁹

E. Evaluation

The right to family unification is infringed upon in defection as defectors have to be separated from their families. Moreover, the use of guns in border control and river-crossing in border regions during the defection process goes against the right to life (Article 6 of the ICCPR) and the right to liberty and security of person (Article 9 of the ICCPR). Above all, the forced repatriation of defectors involves many human rights issues. It cannot be said that North Korea's punishment of acts involving violation of border regulations through its Immigration Law and Criminal Law is illegal in itself as the terms of entering and exiting a country is at the discretion of that country. However, after repatriation, there is serious infringement on the right to not be tortured or

⁷⁸⁷- NKHR2011000029 2011-01-18.

⁷⁸⁸- NKHR2015000170 2015-12-01.

⁷⁸⁹- NKHR2015000171 2015-12-01.

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 the North Korean holding centers (*jipkyulso*), detention centers (*guryujang*), labor training camps (*rodongdanryundae*) 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*), and this constitutes 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 female defectors who get pregnant 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).

Since around 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 is assessed that the success rate of re-defection has decreased dramatically. To resolve the defector issue, the North Korean regime needs to ultimately change, and the North Korean judicial, trial and correctional systems improved to comply with international standards. Moreover, it should be communicated to China that the forced repatriation of defectors is unjust and provisions prohibiting

forced repatriation 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.

Chapter I

Chapter II

Chapter III

Chapter IV

Chapter V
Major Issues

4

Overseas Workers

A. Overview of the Dispatch of North Korean Workers Overseas

(1) Destination Countries and Scale

It is not possible to identify accurate information on the destination countries and the scale of overseas dispatch of workers from North Korea. The Ministry of Foreign Affairs reported to the Foreign Affairs and Unification Committee of the National Assembly in October 2013 that North Korea sent around 46,000 workers to around 40 countries.⁷⁹⁰ It is not possible to identify accurate information on the destination countries and the scale of overseas dispatch of workers from North Korea. The Asan Institute for Policy Studies published research that there are 52,000~53,000 North Korean workers dispatched to 16 countries⁷⁹¹

⁷⁹⁰- "Around 46,000 North Korean workers are estimated to be dispatched overseas to earn foreign currency," Yonhap News Agency, October 13, 2013.

⁷⁹¹- Algeria, Angola, China, Equatorial Guinea, Ethiopia, Kuwait, Libya, Malaysia, Mongolia, Myanmar, Nigeria, Oman, Poland, Qatar, Russia and the UAE.

as of January 2013.⁷⁹² Specifically, it is identified that there are around 20,000 in Russia, 19,000 in China, 1,300~2,000 in Mongolia and 12,000~13,000 in other countries. In the field research of the reality of North Korean workers, focusing on those in the Maritime Province of Siberia, it is estimated that the number of North Korean workers dispatched to Russia had already exceeded 30,000 in 2013.⁷⁹³ It actually seems that the number of North Korean workers dispatched overseas has expanded in recent years. A North Korean defector, ○○○, testified that there was an instruction to send 10,000 persons a year to increase Party funds, and workers were sent to 27 countries.⁷⁹⁴ In addition, although there are multiple reports on overseas workers from North Korea,⁷⁹⁵ it is difficult to accurately identify the number of dispatched workers and destination countries as most of the reports combine

⁷⁹² Chang-hoon Shin and Myung-hyun Go, *The report of the Commission of Inquiry on Human Rights in North Korea of the UN and North Korean Human Rights after the report* (Seoul: The Asan Institute for Policy Studies 2014), p. 30. (In Korean) The research of the Asan Institute for Policy Studies was also cited in the report of the US Congressional Research Service in July 2015. Emma Chanlett-Avery *et al.*, "North Korea: U.S. Relations, Nuclear Diplomacy, and Internal Situation," *CRS Report* (July 2015), pp. 23~24.

⁷⁹³ 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. 33.

⁷⁹⁴ NKHR2014000112 2014-08-12.

⁷⁹⁵ North Korea Strategy Center-Korea Policy Research Center, "The Conditions of North Korean Overseas Labor," (December, 2012) (In Korean); Database Center for North Korean Human Rights, "Current Status and Reality of Overseas North Korean Workers," (2015) (In Korean); Seung-joo Lee and Yeo-sang Yoon, "North Korea Outside of North Korea - Current Status and Reality of Human Rights of Overseas North Korean Workers in Poland and Mongolia," (December 23, 2015) (In Korean); PSCORE, "Multinational Abuse and Exploitation - Overseas North Korean Workers," (2015) (In Korean); Saeme Kim and James Burt, "The Will of the State: North Korean Forced Labour," *EAHRNK Research Paper* (September, 2015).

figures from piecemeal reports.⁷⁹⁶ Quoting the above research, the report submitted by the UN Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea to the 70th UN General Assembly in September 2015 also stated that there are 50,000 or more overseas workers dispatched.⁷⁹⁷

In the KINU surveys from 2013 to 2016, there were specific testimonies of overseas North Korean workers dispatched to Qatar, the UAE, Kuwait, Libya, Russia and China, and it was found that they mostly worked in logging and construction. Gender, age, physical examinations, class (soldier or civilian) and whether bribes were paid influence the decision on the destination countries. It is said that young people are mostly dispatched to the Middle East where the climate is hot, and those who are older are dispatched to Mongolia or Russia.⁷⁹⁸ It is said that only civilians (mostly those who belong to social organizations) are dispatched, and never soldiers.⁷⁹⁹ There were also testimonies of women observed who had been dispatched to Middle Eastern countries as nurses or doctors.⁸⁰⁰ Other testimonies were that the State recruited workers for restaurants in China, and that unmarried women, mostly younger than 23, are selected according to their family

⁷⁹⁶-Suk-jin Kim, *Trend and Outlook of North Korea's Earning of Foreign Currency* (Seoul: KINU, 2015). (In Korean)

⁷⁹⁷- UN Doc. A/70/362 (2015), para. 26.

⁷⁹⁸- NKHR2013000196 2013-10-29.

⁷⁹⁹- Above testimony.

⁸⁰⁰- NKHR2013000206 2013-11-12.

background, beauty and physique, and are dispatched for three years after six months of training.⁸⁰¹ Testimonies also included information that 12 residents of Hoeryeong, North Hamgyeong Province, were dispatched to China to work in restaurants or to work in sewing in April 2015.⁸⁰²

(2) Status of Dispatched Workers and Dispatching Organizations

The workers that North Korea sends overseas can be divided into two categories that reflect their class. Some are soldiers dispatched as labor workers while others are civilians sent through enterprises or social organizations. North Korean defector ○○○, who worked at the construction site of a royal palace in the UAE from December 2012 to August 2013, testified that when he or she was dispatched that around 1,000 soldiers from No. 7 Bureau only were dispatched overseas.⁸⁰³ Other than No. 7 Bureau, it is said that the Ministry of Political Security and Railroad Operation Bureau are dispatching workers.⁸⁰⁴

There are diverse institutions dispatching general overseas workers including the Forestry Management Bureau under the Ministry of Forestry, the Ministry of Urban Management, the

801_ NKHR2015000164 2015-12-01.

802_ NKHR2015000172 2015-12-01.

803_ NKHR2013000196 2013-10-29.

804_ NKHR2016000163 2016-11-01.

Ministry of Trade, the Overseas Construction Bureau and the Trade Management Bureau under the Ministry of Light Industry, etc.⁸⁰⁵ North Korean defector ○○○, who was dispatched to Russia from June 2006 to 2010 as a logger, testified that the Forestry Management Bureau of Yanggang Province selected workers to dispatch to Russia every year.⁸⁰⁶ As such, the institution in charge of dispatching overseas workers differs by area and it is said that the Overseas Construction Bureau is in charge of the construction industry and the Forestry Management Bureau is in charge of logging.⁸⁰⁷

North Korean workers dispatched overseas work for enterprises belong to the North Korean authority. North Korean defector ○○○, who was dispatched to a Russian construction site to work for Botonggang Corporation in 1998, testified that when he or she was dispatched to Russia, there were around ten companies that dispatched workers to Russia, including Daedonggang Corporation, Neungra Corporation, Cheolsan Corporation, and Soonbong Corporation. His testimony also included that around 120~150 workers belong to each company, and that around 250 workers belong to Neugra Corporation which was an international trading

⁸⁰⁵- As such, the Overseas Construction Bureau of each Ministry used to be in charge of overseas dispatch until 2009 when each bureau was integrated into the Chosun Overseas Construction Control Bureau. Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean Workers in the Maritime Province of Russia*, pp. 62-63.

⁸⁰⁶- NKHR2014000063 2014-06-03.

⁸⁰⁷- NKHR2016000163 2016-11-01.

company.⁸⁰⁸ North Korean defector ○○○, who was dispatched as a construction worker to Sakhalin, Russia, from 2006 to August 2013, testified that there were five companies there where North Koreans work as of August 2013, with around 2,000~3,000 workers.⁸⁰⁹ North Korean defector ○○○ who was dispatched to a construction site in Kuwait from 2011 to 2014 explained that there were eight large enterprises from North Korea and they were operated by △△ work site of construction Company 1 being established and △△ work site of construction Company 3 being established in each region.⁸¹⁰

North Korean enterprises enter other countries mostly in the form of supplying labor to local companies. Therefore, workers are not directly employed by local companies through individual contracts. Instead, the enterprises (mostly international trading companies) they belong to sign labor supply contracts with local companies. For construction, subcontracts aimed at completion of a construction project are signed, and work is performed under the management and control of North Korean enterprises, instead of the local companies. Meanwhile, besides local companies, sometimes a state or local government signs a contract with a North Korean enterprise.⁸¹¹

⁸⁰⁸_NKHR2015000158 2015-11-17.

⁸⁰⁹_NKHR2015000001 2015-01-13.

⁸¹⁰_North Korean defector ○○○, October 12, 2016, interviewed in Seoul.

⁸¹¹_Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean*

(3) Selection Process and Requirements for Dispatch

The selection process for dispatch consists of document and physical examinations and interviews. There are six stages of screening process for soldiers being dispatched overseas. Once applications are filled out, they are examined by the Brigade Senior Officers Section and then the General Bureau Senior Officers Section, which is followed by physical examinations and MSS interviews and interviews with the central Party before selection.⁸¹² When selection is made at the provincial level, individuals file applications with enterprises that dispatch workers overseas, and the decision is made through conversation with the Construction Management Bureau and the Provincial Party Senior Officers Section.⁸¹³ Physical examinations include a blood test, oral examination, ophthalmologic treatment and X-rays, etc.,⁸¹⁴ and for those dispatched to hot regions like the Middle East, physical examinations influence the chances for selection.⁸¹⁵

In general, one needs to have a good background (*songbun*) to be dispatched overseas.⁸¹⁶ Family all the way to third cousins are

Workers in the Maritime Province of Russia, pp. 62-63.

⁸¹²-NKHR2013000196 2013-10-29.

⁸¹³-NKHR2013000170 2013-09-17.

⁸¹⁴-NKHR2013000196 2013-10-29.

⁸¹⁵-NKHR2014000219 2014-12-30.

⁸¹⁶- There are also testimonies that those who were dispatched as loggers in the 1980s were dispatched because of unfavorable family background. NKHR2014000122 2014-08-12.

included in the family background check,⁸¹⁷ and the family background of the wives' side is also examined for married people.⁸¹⁸ One also needs to be a Party member to be dispatched overseas.⁸¹⁹ Although there were also testimonies that one does not need to be a Party member,⁸²⁰ most testifiers said that Party members are most often selected.⁸²¹ Actually, every defector interviewed by KINU who had also worked overseas was a Party member, except for one soldier who had been dispatched. Moreover, in many cases, their workplaces prior to dispatch had been in Pyongyang. Based on this, it is identified that those who are middle class or above in North Korea, in terms of class or financial capabilities, are given the opportunity to be dispatched abroad.

To work overseas, one must not have relatives in a third country.⁸²² There were cases where people applying for overseas dispatch were not selected as they had relatives in China.⁸²³ Moreover, it is said that to be selected, one should have family members (children) in North Korea to prevent flight.⁸²⁴ Meanwhile,

⁸¹⁷- NKHR2013000196 2013-10-29.

⁸¹⁸- NHKR2014000020 2014-03-18.

⁸¹⁹- NKHR2014000112 2014-08-12.

⁸²⁰- NKHR2013000196 2013-10-29.

⁸²¹- NKHR2014000080 2014-07-01.

⁸²²- NKHR2014000063 2014-06-03.

⁸²³- NKHR2013000170 2013-09-17; NKHR2013000195 2013-10-29.

⁸²⁴- NKHR2013000231 2013-12-24; NKHR2015000158 2015-11-17 and many others.

those who are discharged military officers or who worked for the Bureau of Protective Force could not be dispatched due to flight concerns.⁸²⁵ Those who worked for the central Party or the MSS, and as special forces snipers, light infantrymen, workers for construction of vacation houses in seven cheong-gu, anti-South Korea and anti-Japan spies are also excluded.⁸²⁶ There were also specific testimonies that many overseas women workers from Pyongyang Yulgok Middle School are dispatched to restaurants in China. North Korean defector ○○○ testified that women workers should be single, those who are tall, talented and from a good family are selected and they need to know how to play the guitar, accordion and piano and play sports.⁸²⁷

All testimony on overseas workers included statements that bribery was essential in the selection process, and they actually paid a substantial amount in bribes. Moreover, as one needs to give bribes to many levels of people, sometimes such efforts take more than a year. North Korean defector ○○○, who was dispatched to Kuwait from 2006 to 2008, testified that he or she paid 1.5 million North Korean won (before the currency reform) in bribes, and that such “business” takes at least one year as one needs to give bribes to each organization including the enterprise

⁸²⁵- NKHR2013000170 2013-09-17.

⁸²⁶- NKHR2014000112 2014-08-12.

⁸²⁷- NHKR2016000117 2016-07-26.

manager and the Physical Examination Office in Pyongyang.⁸²⁸ North Korean defector ○○○, who was dispatched as a logger to Russia from June 2006 to 2010, also testified that he or she gave bribes several times in the process of selection as an overseas worker. The testifier said that he or she gave 100~200 US dollars to the agent in charge in the Forestry Management Bureau, 100 dollars in the physical examination, and another 100 dollars to be dispatched to a favorable workplace in Russia.⁸²⁹ North Korean defector ○○○, who was dispatched to construction sites in the 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. The testifier was able to be dispatched without paying bribes because he or she was friends with a senior agent of enterprises.⁸³⁰

The situation is the same for soldiers who are dispatched. North Korean defector ○○○, who worked at the construction site of a royal palace in the UAE for No. 7 Bureau from December 2012 to August 2013, testified that he or she gave 300 US dollars to the brigade senior officer and agents, and 50 dollars to the section head in charge during the physical examination to be dispatched overseas.⁸³¹ Sometimes, the destination is decided by the amount

⁸²⁸_ NKHR2015000144 2015-10-06.

⁸²⁹_ NKHR2014000063 2014-06-03.

⁸³⁰_ NKHR2016000163 2016-11-01.

⁸³¹_ NKHR2013000196 2013-10-29.

of bribe. As most people prefer dispatch to Russia than to hot regions like the Middle East, it is said that the value of bribes required for dispatch to Russia is the highest. North Korean defector ○○○ said that he or she prepared for three years to be dispatched overseas, moving from one enterprise to another, also testifying that he or she was dispatched to St. Petersburg as a construction worker by investing a total of about 1,000 US dollars in bribes.⁸³²

Those who are selected for dispatch receive pre-education including ideology sessions. North Korean defector ○○○ testified that he or she went on a field trip to the Anti-Spy Fight Exhibition Center and Three Revolution Exhibition Center in Bocheon County and received Central Party interview education and pre-education on how South Korea buys off North Koreans to turn them into spies when he or she was dispatched in 2010.⁸³³

(4) Period of Dispatch and Re-dispatching

It was found that the period of dispatch is mostly three to five years. Basically, the term of validity of the general North Korean passport issued to those dispatched overseas is five years, and workers are required to renew their passports by returning to North Korea. However, it is sometimes possible to renew

⁸³²- NKHR2014000112 2014-08-12.

⁸³³- NKHR2016000163 2016-11-01.

passports locally.⁸³⁴ While dispatch to China without a visa is possible, visas are required for Russia. The period of the Russian visa issued to North Korean workers is mostly one year and it is said that workers renew their visas every year or, in many cases, stay in Russia without renewing them.⁸³⁵ It is said that those dispatched to countries in the Middle East receive three-year work visas, and in some cases, the workers go to the Middle East with three years as the basic period and extend their stay locally.⁸³⁶ Meanwhile, those dispatched based on such skills as the ability to operate heavy equipment (cranes) are sometimes dispatched for more than ten years.⁸³⁷

There are also many cases where the workers are re-dispatched after returning to North Korea and it is said that this is due to the trust that they will not leave the workplace and have the financial wherewithal to pay bribes. One testifier said that to be re-dispatched to Russia after returning to North Korea upon expiry of the term of stay, one needed to pay around 1,000 US dollars in bribes.⁸³⁸ Meanwhile, as senior officials also know that workers who are dispatched overseas two times or more hold dollars, they sometimes ask directly for money during the selection process.⁸³⁹ One needs

834_ NKHR2015000001 2015-01-13.

835_ NKHR2015000158 2015-11-17.

836_ NKHR2013000206 2013-11-12.

837_ NKHR2014000103 2014-07-29.

838_ NKHR2015000001 2015-01-13.

to stay in North Korea for two to three years in general before re-dispatch, but some workers are re-dispatched after one year.⁸⁴⁰ North Korean defector ○○○, who was dispatched four times to construction sites in Kuwait and Russia from 2005 to 2014, testified that “overseas dispatch is like a drug,” explaining that he or she realized the difference of North Korean society after overseas dispatch and therefore applied for re-dispatch.⁸⁴¹

B. Human Rights Situation of Overseas North Korean Workers

(1) The State-Level Labor Supply Plan and Dispatch

Every individual has the right to work, allowing him/her to live in dignity. The right to work contributes at the same time to the survival of the individual and to that of his/her family, is essential to realizing other human rights, and forms an inseparable and inherent part of human dignity.⁸⁴² Article 6, paragraph 1 of the ICESCR stipulates that State 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

⁸³⁹- NKHR2015000145 2015-10-06.

⁸⁴⁰- NKHR2015000179 2015-12-15.

⁸⁴¹- North Korean defector ○○○, September 29, 2016, interviewed in Seoul.

⁸⁴²- UN CESCR, General Comment, no. 18 (2005), para. 1.

Party to the ICESCR, North Korea has the duty to protect the rights prescribed in the Covenant. However, as labor is assigned in principle, according to the State labor supply plan in North Korea, the freedom to choose jobs is inherently restricted.⁸⁴³ Even for overseas workers who voluntarily apply for dispatch, the freedom to choose their jobs can be partially restricted. In general, overseas North Korean workers are dispatched by manner of individual transfers to enterprises that dispatch workers overseas or by applying directly for dispatch. However, in deciding the destination, personal preferences are not reflected. While reasonable standards including physical examinations and climate conditions are sometimes considered, it seems that bribery is the decisive factor in such decisions. North Korean defector ○○○ testified that the country of dispatch can be decided according to the size of bribe, with Russia being the most expensive, and Kuwait being the least due to the dire living conditions.⁸⁴⁴ Moreover, the prevalent bribery and corruption in the selection procedures for overseas workers deprive people from fair opportunity to seek a livelihood by working overseas. Moreover, the qualifications based on background (*songbun*) and party membership in the selection process violate the right to equality, which prohibits all kinds of discrimination based on social

⁸⁴³- Seong-jae Yoo, "Studies on the North Korean Socialist Labor Law," *2009 Report on Studies of the Legislation of South and North Korea (II)* (2009), p. 4. (In Korean)

⁸⁴⁴- NKHR2014000112 2014-08-12.

background, birth, property or class. The freedom to choose jobs is not guaranteed in practical terms due to such requirements. Moreover, factors considered in the selection criteria to prevent flight by the dispatched workers, such as the existence of close family members in North Korea can also serve as obstacles to choosing jobs with fair opportunity guaranteed according to one's abilities.

(2) Excessive Imposition of Payments and Wage Exploitation

It is identified that overseas North Korean workers work longer hours for less pay than other workers.⁸⁴⁵ North Korean defector ○○○, who was dispatched to a logging site in Khabarovsk, Russia, from 2002 to 2004, testified that he or she realized that the wages and treatment were different from that of other workers about one month after he or she was dispatched overseas. The testifier said that while workers from other countries rested when temperatures peaked, North Korean workers continued working, and worked around 16 hours a day. However, they were paid less and he or she started to have questions and complaints, and eventually decided to leave the workplace.⁸⁴⁶ North Korean defector ○○○, who was dispatched to St. Petersburg, Russia

⁸⁴⁵- NKHR2015000001 2015-01-13.

⁸⁴⁶- NKHR2013000196 2013-10-29.

from 2010 to 2014, testified that although the site he worked at was where North Koreans were paid the most, they received, in actuality, only 1,000~1,500 US dollars a year which was equivalent to the monthly wage of the average Russian worker.⁸⁴⁷ 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 workers from Tajikistan, Ukraine and Chechnya who worked together.⁸⁴⁸

Meanwhile, North Korean workers overseas are required to pay a substantial part of their wages to the Party as a planned quota and loyalty money. When a local company signs a contract with a North Korean enterprise that supplies labor, that North Korean enterprise pays the North Korean workers what remains of their wages after deducting payments submitted to the North Korean authorities, tax and social security fees. North Korean defector ○○○ testified that overseas North Korean workers are paid very little because even from the remaining amount, accommodations, meals, Loyal Foreign Currency Payments (which is a certain amount paid as an expression of loyalty to the Party), convenient services fees and publication fees are also deducted.⁸⁴⁹ There are also testimonies of individual workers receiving their wages

⁸⁴⁷- NKHR2014000202 2014-12-02.

⁸⁴⁸- North Korean defector ○○○, October 12, 2016, interviewed in Seoul.

⁸⁴⁹- NKHR2014000136 2014-09-02.

directly. Even in such cases, however, they must submit a substantial part of the received wages as loyalty payments, Party payments and as part of the State planned quota. North Korean defector ○○○, who worked at a construction site on Sakhalin Island from 2006 to August 2013, testified that he or she earned 60,000~70,000 rubles a month and submitted 25,000 of them to the State until 2013. This is equivalent to 700~800 US dollars, and after the testifier fled, it is said that the amount required to be submitted every month was raised to 30,000 rubles.⁸⁵⁰ North Korean defector ○○○, who was dispatched to a construction site in Russia, testified that he or she had to pay 800~850 dollars per month to the enterprise and as the value of the ruble declined due to the Russian financial crisis in 2013, there were cases where it was not possible to make the payment after exchanging the wages to dollars for remittance.⁸⁵¹ North Korean defector ○○○, who was dispatched as a construction worker to the UAE from December 2012 to August 2013, testified that he or she was paid 400~500 US dollars per month, including labor payment and commuting expenses and after deducting the amount submitted to the North Korean authorities, he had around 100~200 US dollars per month. However, even the remaining amount was paid to an account (UAE Capital), and he or she never directly received

⁸⁵⁰- NKHR2015000001 2015-01-13.

⁸⁵¹- NKHR2016000163 2016-11-01.

cash.⁸⁵² As such, it seems that there are cases where payment is made to the personal accounts of North Korean workers. However, it has been found that such personal accounts are also managed by the North Korean enterprises.

Table V-8 Wage Exploitation (Ratio of Monthly Salary and Amount Submitted)

Testimonies	Testifier ID
North Korean defector ○○○, who was dispatched to Russia from 2004 to 2007, testified that 80% of the wage is taken by the State directly, and he or she received only 20%.	NKHR2014000168 2014-10-07
North Korean defector ○○○, who was dispatched to Kuwait from 2006 to 2008, testified that while the Kuwaiti company paid salaries, 60% was taken by the State and only 40% was given to the workers.	NKHR2014000144 2015-10-06
North Korean defector ○○○, who was dispatched to Qatar from 2007 to August 2013, testified that only 10% of the wages was given.	NKHR2013000167 2013-09-17
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 towards the State Party fund.	NKHR2014000112 2014-08-12

As the contracts are signed between the heads of the sites and the local companies in most cases, the majority of North Korean overseas workers do not accurately know the ratio of the payment to their actual salaries. The amount they earn through dispatch work also varies with the local situation, their personal ability and the planned quota amount required by North Korean companies.

⁸⁵²_NKHR2013000196 2013-10-29.

For example, it is said that the labor cost for dispatch to Kuwait is 1.5 times higher than that of Russia. North Korean defector ○○○, who was dispatched to a construction site in Kuwait from 2008 to 2011, testified that he or she earned around 1,000 dollars per year and 2,400 dollars over the three years.⁸⁵³ North Korean defector ○○○, who was dispatched to a construction site in Kuwait from 2011 to 2014, testified that he or she earned 3,000 Kuwaiti dinar (around 10,000 dollars).⁸⁵⁴ The wages of North Korean overseas workers who are paid in rubles seem to have decreased after the Russian financial crisis. North Korean defector ○○○, who was dispatched to a construction site in Russia from 2011 to 2015, testified that the first month's wage was 3,000 rubles (around 100 dollars) and the testifier saved around 2,000 dollars through private contracts and group work (basic dispatch work).⁸⁵⁵ In contrast, North Korean defector ○○○, who was dispatched to a construction site in Russia from 2012 to 2014, testified that he or she received around 60~70 dollars in cash per month.⁸⁵⁶ North Korean defector ○○○, who was dispatched to a construction site in Russia from 2014 to 2015, said that those who earned 800 dollars per year earned relatively more than others and around 30 percent of workers were not able to earn a single penny.⁸⁵⁷

⁸⁵³- North Korean defector ○○○, October 12, 2016, interviewed in Seoul.

⁸⁵⁴- North Korean defector ○○○, October 12, 2016, interviewed in Seoul.

⁸⁵⁵- North Korean defector ○○○, October 10, 2016, interviewed in Seoul.

⁸⁵⁶- North Korean defector ○○○, September 5, 2016, interviewed in Seoul.

Overseas North Korean workers receive ideology education that they are being dispatched to earn money for the Party, not for personal wealth.⁸⁵⁷ North Korean workers dispatched overseas understand that a combined amount is deducted from wages as part of the “planned quota” without knowledge about specific amounts including company operating costs and taxes.⁸⁵⁹ However, not all of the money deducted for the State planned fund is sent to the North Korean authority. Instead, most is taken by middle managers and officials. North Korean defector ○○○ testified that a greater part of the wages go to middle officials than to the State.⁸⁶⁰ Moreover, it seems that there are often cases where the local companies employing North Korean workers have their wage payments in arrears.⁸⁶¹ North Korean defector ○○○, who was dispatched to a construction site in Russia from 2011 to 2015, testified that the work site he or she belonged to did not pay wages for six months.⁸⁶² However, it seems that the North Korean company he or she belonged to did not appropriately respond to such a situation.

⁸⁵⁷– North Korean defector ○○○, October 12, 2016, interviewed in Seoul.

⁸⁵⁸– NKHR2014000112 2014–08–12.

⁸⁵⁹– Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean Workers in the Maritime Province of Russia*, pp. 69–76.

⁸⁶⁰– NKHR2015000158 2015–11–17.

⁸⁶¹– North Korean defector ○○○, September 29, 2016, interviewed in Seoul.

⁸⁶²– North Korean defector ○○○, October 10, 2016, interviewed in Seoul.

(3) Excessive Working Hours

It is found that overseas North Korean workers work long hours without reasonable limitations on working hours. At construction sites, North Korean enterprises sign subcontracts aimed at 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 most cases. In these cases, work frequently proceeds at an excessive pace, in violation of local labor regulations. North Korean defector ○○○, who worked at the construction site of a university from 1998 to 2003 in Russia, testified that while Russian law regulated that work hours should be from 9 am to 5 pm, such regulations were not applied to North Korean workers, who worked at Daebang from 5 am to midnight.⁸⁶³ North Korean defector ○○○, who worked for a North Korean enterprise that had a contract with a Russian company, testified that he or she had to work while there was daylight, without pre-decided working hours, and sometimes worked until 3 or 4 am on “white nights.”⁸⁶⁴ It is also identified that North Korean workers mostly work beyond the legal hours in other regions.

⁸⁶³- NKHR2015000158 2015-11-17.

⁸⁶⁴- NKHR2014000202 2014-12-02.

Table V-9 Working Hours

Testimonies	Testifier ID
The testifier was dispatched to a construction site in Kuwait from 2006 to 2008. He or she worked from 5 am to noon, had lunch and rested until 4 pm, then worked again from 4 pm to 7 pm.	NKHR2015000144 2015-10-06
The testifier was dispatched to the construction site of a royal palace in the UAE from December 2012 to August 2013. While workers from other countries rested when the temperature peaked, North Korean workers continued working, and worked around 16 hours a day.	NKHR2013000196 2013-10-29
The testifier was dispatched as a construction worker to St. Petersburg, Russia in 2013, and worked for 15~16 hours a day.	NKHR2014000112 2014-08-12

Meanwhile, North Korean workers sometimes face situations where they need to do “personal contract work” on top of the basic working hours to have the required amount to be paid to the State, and this infringes upon the basic rights of workers to safe and healthy working conditions. North Korean defector ○○○, who was dispatched to Kuwait from 2006 to 2008, testified that although the company paid workers salaries, it was difficult to have enough to make the required amount to be paid to the State of 900 US dollars per month even if he or she worked very hard. The testifier said that he or she could work freely outside and earn additional money and after two days of this outside full time work he or she was able to pay the rest of the required amount to be paid to the State with this money earned through private contracts.⁸⁶⁵

⁸⁶⁵_ NKHR2015000144 2015-10-06.

(4) Management and Control by the North Korean Authorities

Workers dispatched from North Korea live under North Korean management company that signed a contract with a local company. The local North Korean companies provide workers with interpreting services and accommodations. Overseas North Korean workers live in groups in areas close to work sites, and their living conditions are mostly identified to be poor. North Korean defector ○○○, who was dispatched to St. Petersburg, Russia in 2013, testified that containers and bedding are provided for sleeping, with the container divided into three sections with about 10 people in one section. The testifier said that the sanitary conditions were very poor with bathrooms used by hundreds of people, and he or she could not wash clothes or take any breaks.⁸⁶⁶ It is identified that there are cases where the workers live in dormitories provided by the local companies,⁸⁶⁷ and depending on the work site, there are also cases where workers live and eat in temporary accommodations at the work site.⁸⁶⁸ Of course, given the characteristics of the work sites, one cannot conclude that such cases mean that group life is forced or arbitrary or represent an illegal intervention in individuals' housing. However, it is true

⁸⁶⁶_ NKHR2014000112 2014-08-12.

⁸⁶⁷_ North Korean defector ○○○, October 6, 2016, interviewed in Seoul.

⁸⁶⁸_ North Korean defector ○○○, October 20, 2016, interviewed in Seoul; North Korean defector ○○○, October 12, 2016, interviewed in Seoul, etc.

that the space for personal activities is limited as people basically move in work groups.

What is more of an issue of concern than this form of accommodation is the daily life surveillance and mutual surveillance system by the officials dispatched from the North Korean authority. The North Korean authorities also operate a centralized and controlled regime at overseas workplaces. For this, the North Korean authority is identified to send around one Party Secretary and one MSS agent.⁸⁶⁹ Given the testimonies of those who were dispatched to Russia and Kuwait, the MSS agents are dispatched in the official position of “Labor Safety Officer.”⁸⁷⁰ The North Korean overseas workers are actually under surveillance by the managers from the MSS or the North Korean enterprise they belong to, and those who engage in deviant behaviors can be punished or forcibly repatriated. North Korean defector ○○○, who was dispatched to Russia from 1998 to 2003, testified that when he or she complained that the manager was continuously raising the planned fund submitted to the State (from 100 US dollars to 180 US dollars in five months), he or she had to participate in Life Review Session (*saenghwalchonghwa*) and learning sessions, while the manager tried to forcibly repatriate him or her on the grounds that he or she had complained.⁸⁷¹ The

⁸⁶⁹-North Korean defector ○○○, September 29, 2016, interviewed in Seoul.

⁸⁷⁰-North Korean defector ○○○, October 12, 2016, interviewed in Seoul; North Korean defector ○○○, October 30, 2016, interviewed in Seoul.

acts of listening to South Korean radio or watching South Korean TV were punished the most severely.⁸⁷² North Korean defector ○○○, who was dispatched to Sakhalin Island, Russia from 2006 to 2013, testified that while the workers might be punished when caught watching South Korean TV, as the goal of the dispatched MSS staff was also to earn money, the agents have the workers fill out self-criticism forms and ask for bribes.⁸⁷³ Overseas North Korean workers who live in groups must participate in sessions held in the dormitories of the companies to which they belong.⁸⁷⁴ It is said that there are two to three inspections of worker possessions each week, and they are not allowed to carry mobile phones.⁸⁷⁵

The workers dispatched overseas are known to be limited in going outside the work sites.⁸⁷⁶ North Korean defector ○○○, who was dispatched to a construction site from 2012 to 2014, testified that they had to move in groups and around ten to fifteen people moved together.⁸⁷⁷ North Korean defector ○○○, who was dispatched to a construction site in Russia from 2006 to 2013,

⁸⁷¹_ NKHR2015000158 2015-11-17.

⁸⁷²_ NKHR2015000068 2015-04-07.

⁸⁷³_ NKHR2015000001 2015-01-13.

⁸⁷⁴ - Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean Workers in the Maritime Province of Russia*, p. 39.

⁸⁷⁵_ NKHR2013000196 2013-10-29.

⁸⁷⁶_ North Korean defector ○○○, October 4, 2016, interviewed in Seoul.

⁸⁷⁷_ North Korean defector ○○○, September 5, 2016, interviewed in Seoul.

testified that when going outside, they needed to move in groups of three or more.⁸⁷⁸ North Korean defector ○○○, who was dispatched as a soldier to the construction site of a royal palace in the UAE, testified that he or she had to receive the approval of the head of the workplace and Vice secretary of the County People’s committee to go outside, and could not go outside alone.⁸⁷⁹ North Korean workers are prohibited from contacting outside people, with only the on-site manager and interpreters having the right to do so.⁸⁸⁰ However, there are also testimonies that the testifier moved alone in some cases or when supervisors approved,⁸⁸¹ and some testimonies revealed that such limitations on personal outings are due to external factors such as linguistic barriers and the risks that may arise when going out alone.⁸⁸²

(5) 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

⁸⁷⁸_ NKHR2015000001 2015-01-13.

⁸⁷⁹_ NKHR2013000196 2013-10-29.

⁸⁸⁰_ Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean Workers in the Maritime Province of Russia*, p. 39.

⁸⁸¹_ North Korean defector ○○○, October 30, 2016, interviewed in Seoul; North Korean defector ○○○, October 7, 2016, interviewed in Seoul; North Korean defector ○○○, October 10, 2016, interviewed in Seoul.

⁸⁸²_ North Korean defector ○○○, October 6, 2016, interviewed in Seoul.

person has not offered himself voluntarily.”⁸⁸³ The “penalty” in the provision includes deprivation of rights or privileges and is not limited to criminal penalties.⁸⁸⁴

It is necessary to examine several contexts to decide whether the labor of overseas North Korean workers constitutes “forced labor.” 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 not voluntarily provided, and forced under the threats of punishment. As mentioned above, as most workers moved to other enterprises to be dispatched overseas or applied for overseas dispatch directly, and it is testified that they gave bribes to be selected. To the question of the motivation for applying for dispatch, most answered that they had the expectation that they could earn money if they went overseas, even if it would be hard, regardless of the time when they were dispatched.⁸⁸⁵ There are some North Korean defectors who answered that they applied out of curiosity about the outside world, thinking “let’s just see what the world is like.”⁸⁸⁶ To the question of the autonomy on

⁸⁸³–Convention Concerning Forced or Compulsory Labour, no. 29 (1930), Article 2, paras. 1 and 2.

⁸⁸⁴–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.

⁸⁸⁵–North Korean defector ○○○, October 4, 2016, interviewed in Seoul; North Korean defector ○○○, October 7, 2016, interviewed in Seoul; North Korean defector ○○○, October 23, 2016, interviewed in Seoul etc.

suspending and terminating work, it has been found that while the requests to rest due to the excessive intensity of the work are not accepted,⁸⁸⁷ ending the overseas dispatch is allowed in the case where the worker wants to return to North Korea based on health reasons.⁸⁸⁸ There is also a testimony that the ending of overseas dispatch is allowed even when it is not based on health reasons because continued dispatch may lead to deviation.⁸⁸⁹ Given such contexts, they were not forced into overseas dispatch and then into work after being dispatched. However, the International Labour Organization (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, retention of identity documents and abuse of vulnerability, etc.⁸⁹⁰

⁸⁸⁶–North Korean defector ○○○, October 17, 2016, interviewed in Seoul; North Korean defector ○○○, September 5, 2016, interviewed in Seoul.

⁸⁸⁷–“No, it is not possible. Unless you are dead or broke your legs, you need to keep going to work.” North Korean defector ○○○, October 4, 2016, interviewed in Seoul.

⁸⁸⁸–North Korean defector ○○○, September 29, 2016, interviewed in Seoul; North Korean defector ○○○, October 7, 2016, interviewed in Seoul.

⁸⁸⁹–North Korean defector ○○○, September 5, 2016, interviewed in Seoul.

⁸⁹⁰–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.

As described above, overseas North Korean workers live in groups with external contact prohibited, and their identity documents (including passports, etc.) are retained by the manager dispatched from the North Korean authorities. As in <Table V-10>, there were testimonies that it is the Security Department (police), officer and Party committee that confiscate the identity documents. There is also a testimony that the local company, not the North Korean authority, confiscated the identity documents.⁸⁹¹

Table V-10 Who Confiscated Identity Documents

Testimonies	Testifier ID
"(Immediately after dispatch) We need to give it all to the Security Department."	North Korean defector ○○○, October 4, 2016, interviewed in Seoul.
"Our officer collected and took them all my identity documents and the passport."	North Korean defector ○○○, October 5, 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 ○○○, October 6, 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 police take them all."	North Korean defector ○○○, October 17, 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 ○○○, October 12, 2016, interviewed in Seoul.

⁸⁹¹-North Korean defector ○○○, October 10, 2016, interviewed in Seoul; North Korean defector ○○○, October 12, 2016, interviewed in Seoul.

When dispatched to the Middle East, it is testified that all migrant workers are required to carry their passports when going outside the work site, and they received their passports and go outside once a month. But since a worker fled a workplace in Qatar in May 2013, workers dispatched to the UAE have been unable to receive their passports.⁸⁹² Moreover, most overseas North Korean workers start their overseas life with debts from flight costs and visa commissions. They must work for several months to repay the costs involved in their dispatch after they arrive. North Korean defector ○○○, who was dispatched as a construction worker to St. Petersburg, Russia in 2013, testified that he or 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 or she remained unpaid to cover the cost of airfare, housing, and other expenses.⁸⁹³ These debts can lead to forced labor. As such, the control of life by the manager from the North Korean authorities, retention of identity documents and the automatically-incurred debt from being dispatched, are factors that put workers, even though they voluntarily applied to be dispatched overseas, in the situation where they have no choice but to work against their will.

⁸⁹²- NKHR2013000196 2013-10-29.

⁸⁹³- NKHR2014000112 2014-08-12.

C. Evaluation

In the KINU surveys from 2013 to 2016, there were specific testimonies of overseas North Korean workers dispatched to Qatar, the UAE, Kuwait, Libya, Russia and China, and it was found that they mostly work in logging and construction. Through their testimonies, one can divide human rights violations of overseas North Korean workers into violations that occurred in the territory of North Korea and those that occurred outside. For those that occur in the territory of North Korea, there is potential for infringement of the right to choose jobs (Article 6, paragraph 1 of the ICESCR) in the process of worker dispatch and the right to equality (Article 26 of the ICCPR) due to dispatch location being decided through bribery and discrimination regarding social class, etc. As a State party to both Covenants, North Korea must ensure all individuals within its territory have those rights. For those that take place outside of North Korea's territory, some should be resolved by North Korea based on its obligations as a State party, while others that are issues in the destination countries that accepted overseas North Korean workers as migrant workers, should be resolved by those destination countries. First, under the precondition that the North Korean authorities manage, in practical terms, overseas workers through managers including MSS agents, dispatched to enforce group living conditions and to limit liberty, carries the potential of infringement on the right to

privacy (Article 17 of the ICCPR). Moreover, this control of life, retention of identity documents and automatic incursion of debt through the process of dispatch, indicate that even though workers voluntarily applied to be dispatched overseas, they face compulsory or forced labor (Article 8, paragraph 3 of the ICCPR) in continuing to work. Regarding this issue, there may be questions about extra-territorial application of the ICCPR. However, the UN Human Rights Committee views that the Covenant is applicable to those within the power or effective control of a State party even if not-situated within the territory of the state party.⁸⁹⁴ In such cases, North Korea has the duty to respect and ensure the rights of individuals stipulated in the Covenant as a State party to the ICCPR. Meanwhile, with regard to the prohibition against forced labor in Article 8, paragraph 3 of the ICCPR, the ILO has declared that this is a fundamental principle that all ILO member countries need to comply with.⁸⁹⁵ Although North Korea is currently not a member of the ILO, most of the countries that accept overseas North Korean workers are ILO members, and Russia, in particular, has ratified all the key conventions on the prohibition against forced labor (No. 29 and No. 105). Therefore, these destination countries have the obligation to take action when it suspects that the situation of overseas North Korean workers

⁸⁹⁴- UN HRC, General Comment, no. 31 (2004), para. 10.

⁸⁹⁵- ILO Declaration on Fundamental Principles and Rights at Work, 37 I.L.M. 133 (1998); ILO General Conference Doc. CIT/1998/PR20A.

constitutes forced labor.

Meanwhile, overseas North Korean workers can receive legal protection through the labor laws or laws on the protection of migrant workers of the destination countries as migrant workers in those countries. The basic rights of overseas North Korean workers, including the right to work in a safe environment, are not guaranteed, and the local companies that use the labor supplied by the North Korean enterprises have the responsibility to establish an environment that is safe for the workers they directly or indirectly hire, and to enjoy their other labor rights. These destination countries have the responsibility to ensure that the basic human rights of migrant workers within their borders are respected, protected and realized.

5

Separated Families, Abductees and Korean War POWs

The issues surrounding separated families, abductees and Korean War POWs are among the humanitarian issues in international humanitarian laws. At the same time, they are human rights issues on which international human rights laws apply. We will now examine the issues surrounding separated families, abductees and Korean War POWs as human rights issues, and their current status.

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. Many Korean

families have been forced to live separately since General Douglas MacArthur, Supreme Commander of the Allied Powers, issued General Order No. 1 on September 2, 1945, 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 continues today. There are various causes for this family separation, including this division of the Korean Peninsula, voluntary defection to the South or North, abduction or joining the Korean Voluntary Army (KVA) during the Korean War, repatriation to the North from Japan, the failure or inability to return after the armistice, being kidnapped to North Korea and defection from North Korea. According to a population and housing census conducted in 1955 by Statistics Korea (South Korea), a total of 735,501 North Koreans have come to South Korea (283,313 before the Korean War and 452,188 after the war). Moreover, in surveys also conducted by Statistics Korea (South Korea), a total of 418,000 persons said in 1990 that they had been born in North Korea, 403,000 persons in 1995 and 355,000 in 2000.⁸⁹⁶ In the survey conducted in 2005, the number was 161,605.⁸⁹⁷ The reason the number of North Korea-born

⁸⁹⁶- Korean Red Cross, *60 Years of Reunions of Separated Families* (Seoul: Korean Red Cross, 2005), pp. 6-7. (In Korean)

persons decreased dramatically after 2000 is because many of them died of old age.

The Ministry of Unification and the Korean Red Cross, along with the Committee of Five North Korean Provinces, jointly established and operate an Integrated Information System for Separated Families. As of December 31, 2016, there were a total of 131,143 registered members of “separated families,” with 62,631 surviving and 68,512 deceased. Every year, the separated family population grows older. As of the end of 2016, 83.4 percent of the surviving members are 70 years old or older. In 2013, the proportion of those aged 80 or above exceeded 50 percent of the surviving separated family members for the first time. As of the end of 2016, this has increased to almost 60 percent.

Table V-11 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

Source: Separated Families Division, Ministry of Unification (as of December 31, 2016)

⁸⁹⁷–See, Korean Statistical Information Service, “Population Census,” <<http://kosis.kr>>.

Table V-12 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	10,001	27,258	15,234	5,725	4,413	62,631
Percent(%)	16.0	43.5	24.3	9.1	7.1	100

Source: Separated Families Division, Ministry of Unification (as of December 31, 2016)

Table V-13 Surviving Members of Separated Families: Those Aged 80 or Above

Year	2011	2012	2013	2014	2015	2016
Survivors (persons)	78,892	74,836	71,480	68,264	65,674	62,631
80 years or older (persons)	37,524	34,225	37,769	37,717	37,442	37,259
Percent(%)	47.6	45.7	52.8	55.3	57.0	59.5

Source: Separated Families Division, Ministry of Unification (as of December 31, 2016)

Table V-14 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	13,795	31,243	18,253	4,355	866	68,512
Percent(%)	20.1	45.6	26.6	6.4	1.3	100

Source: Separated Families Division, Ministry of Unification (as of December 31, 2016)

(2) Human Rights Issues

(A) Infringement on the Right to Family Unification

As separated families are living without the knowledge of whether their family members are alive or dead, without the ability to exchange letters or freedom to meet their family members. In other words, their right to family unification in international

humanitarian laws is infringed upon. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, (Geneva Convention (IV)) specifically protects family rights.⁸⁹⁸

Table V-15 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)

At the time of the Korean War, South and North Korea were not parties to Geneva Convention (IV). South Korea signed the Convention on August 16, 1966, and North Korea signed the Convention on August 27, 1957. Soon after the outbreak of the Korean War, the President of the International Committee of the Red Cross (ICRC) stated that both South and North Korea are entitled to the benefits of the Convention even if they are not signatories. On July 5, 1950, South Korean President Syng-man Rhee pledged that his government would observe all provisions of the Geneva Convention. On July 13, 1950, North Korea also sent an official cable 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

⁸⁹⁸ International Committee of the Red Cross, "Geneva Convention Relative to the Protection of Civilian Persons in Time of War," (August 12, 1949).

since the Korean War.⁸⁹⁹

Moreover, the right of separated family members to family unification, recognized by international human rights laws, is infringed upon. Among family rights, the right of a family to live together is “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 build a family, and the family is entitled to protection by society and the State.⁹⁰⁰ Moreover, a family expands when a couple have children, and Article 9 of the CRC stipulates that a child shall not be separated from his/her parents against his/her will. The right to family unification derives from the right to marry and build a family, and the right of the child to not be separated from his/her parents.

Family rights and the right to family unification are stipulated in the Constitution of both South and North Korea. The Constitution of the Republic of Korea 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

⁸⁹⁹- 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)

⁹⁰⁰- 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).

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 Government of the Republic of Korea has made efforts to resolve the issues surrounding separated families through inter-Korean Red Cross meetings and ministerial meetings, etc. As of 2016, there has been confirmation of survival or death in 7,970 cases (57,567 persons), 679 cases of letter exchanges (679 persons), 331 reunion meetings in South Korea (2,700 persons), 3,855 reunion meetings in North Korea (17,230 persons) and 557 on-screen meetings (3,748 persons).

Table V-16 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)	-
2010	302 (2,176)	-	-	191 (886)	-
2011~2012	-	-	-	-	-
2013	316 (2,342)	-	-	-	-
2014	-	-	-	170 (813)	-
2015	317 (2,155)	-	-	186 (972)	-
2016	-	-	-	1 (2)	-
Total	7,970 (57,567)	679 (679)	331 (2,700)	3,855 (17,230)	557 (3,748)

Source: Separated Families Division, Ministry of Unification (as of December 31, 2016)

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 on a later date when the inter-Korean exchanges re-open or even after the death of these individuals. From August 6 to September 28, 2012, the South Korean government has identified a total of 16,823 individuals who wished to participate in this video project. In 2012, 815 video messages from South Korean members of separated families were produced, followed by 2,007 in 2013, 1,202 in 2014 and 10,003 in 2015, totaling 14,027. The government is exploring ways to deliver these messages to the North.⁹⁰¹

⁹⁰¹ Ministry of Unification, *2016 Unification White Paper* (Seoul: Ministry of Unification, 2016), p. 109. (In Korean)

In addition to government-level exchanges, the South Korean Government has extended support for separated family exchanges at the civilian level. From February 2009, in an effort to promote these civilian level exchanges, the government has increased the amount given in individual grants for the expenses related to the reunion project from 800,000 to 1 million Korean won for confirmation of survival or death, from 1.8 to 3 million Korean won in the event of a personal reunion for separated family members, and from 400,000 to 500,000 Korean won for continued contact after confirmation of status. However, the number of separated family contacts at the civilian level has decreased every year.

Table V-17 Separated Family Exchanges at the Civilian Level

(Unit: Cases)

Year/Category	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
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	2
Total	3,876	11,515	1,753

Source: Separated Families Division, Ministry of Unification (as of December 31, 2016)

(B) Social Discrimination Against Families of Those Who Fled to South Korea

Separated family members left behind in North Korea are socially discriminated against. In particular, it is identified that they cannot gain Party membership or join the military, and are discriminated against in college admissions and marriage. However, people's perceptions sometimes change towards persons who had someone in the family that fled to South Korea during the Korean War, provided that he or she worked hard. People with negative opinions often viewed such people positively if they were diligent.⁹⁰² For example, North Korean

⁹⁰²- NKHR2010000072 2010-10-19.

defector ○○○ testified that while his grandfather's brothers had fled to South Korea during the Korean War and his grandfather had been discriminated against in terms of Party membership and education, such discrimination was not really a serious issue anymore.⁹⁰³

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-18 Cases of Discrimination against Separated Families in North Korea

Testimonies	Testifier ID
North Koreans regarded families of those who had fled to South Korea during the Korean War as "families of reactionaries." It was impossible for these children to gain Party membership or be admitted into colleges.	NKHR2012000062 2012-04-17
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 or she was in elementary school. This was because his or 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 or her grandfather had defected to South Korea.	NKHR2014000150 2014-09-23

⁹⁰³ NKHR2012000046 2012-03-23.

The testifier could not join the military because his or 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 a school for military officers.	NKHR2016000041 2016-04-05

(3) Investigation of the Current Situation

On March 25, 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). This Act went into force September 26, 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 on all survivors of the registered 128,000 persons (as of March 2011, 81,800 were surviving) through the Matrix Corporation.

The Inter-Korean Separated Families Act requires revision and implementation of the basic plan for promotion of inter-Korean

separated family exchanges every three years (Article 5, paragraph 1). Accordingly on July 30, 2012, the government revised and released its Basic Plan for the Promotion of Separated Family Exchanges.

The Inter-Korean Separated Families Act was partially revised on May 22, 2013. The revisions included a new section on DNA testing to confirm family relationship between separated family members (Article 8, paragraph 2).

(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 February 10, 2012. This law stipulates exceptions to regulations on marriage and inheritance property 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 later 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 to effectively protect and manage it and to limit the loss to North Korea of property in South Korea owned by North Koreans (Article 13). If a North Korean who owns property in South Korea intends to bring the property in South Korea to North Korea to use directly or manage property, he or she shall obtain permission therefore 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 at this time. The seven lists of abducted persons identified thus far show significant differences. It is possible to make only a partial estimation on the number of abducted persons based on a list of abducted Seoul citizens by the Statistics Bureau of South Korea's Ministry of Public Information (2,438) in 1950, a list of the Family Association for the Korean War Abducted Persons published (2,514) in 1951, a list from the South Korean government on abducted persons during the Korean War published in October 1952 (82,959), the 1953 Statistical Almanac (84,532), a list of abducted persons by the Police Headquarters of the Ministry of Internal Affairs (17,940) 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). It is easier to confirm an abduction when the same names appear on different lists, but there are many others who are not listed on any of them, and 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-19 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	17,940	○
List of citizens registered as missing	Korean Red Cross /Statistical Office, 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/report/2012_report02.asp>.

Based on the lists available thus far, the Association of Families of Korean War Abducted Persons has analyzed a list of 96,013 persons. The age distribution at the time of abduction can be seen in <Table V-20> below. An overwhelming majority (98.1%) of them were male.

Table V-20 Age Distribution of South Koreans Abducted during the Korean War

Age	Number of Persons	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 usefulness, physical condition, and educational background.⁹⁰⁴ A total of 3,310 of them (86.5 percent) returned to South Korea after being held for six months to a year. Nine of them defected from North Korea and returned to South Korea after 2000. As of the end of 2015, one of the nine returning abductees passed away, leaving eight currently living. Also as of the end of 2015, the total number of abducted South Koreans still detained in North Korea is estimated to be 516 individuals.

⁹⁰⁴ ○○○ 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 Cheongjin. The North released the rest of the crew back to South Korea.

Table V-21 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 December 31, 2016).

Table V-22 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 December 31, 2016).

Table V-23 Current Status of Abducted Persons Who Have Returned to South Korea

Name	Date of Abduction	Occupation	Date of Return
○○ Lee	April 29, 1970	Crew, the Bongsan No. 22 (fishing boat)	July 26, 2000
○○ Jin	April 12, 1967	Crew, the Cheondaeh No. 11	October 30, 2001
○○ Kim	November 24, 1973	Chief engineer, the Daeyounggho	June 23, 2003
○○ Go	August 17, 1975	Crew, the Chunwanggho	July 12, 2005
○○ Choi	August 17, 1975	Crew, the Cheonwanggho	January 16, 2007
○○ Lee	August 17, 1975	Crew, the Cheonwanggho	September 10, 2007
○○ Yoon	July 2, 1968	Crew, the Geumyunggho	January 9, 2008
○○ Yoon	August 17, 1975	Crew, the Cheonnwanggho	February 26, 2009
○○ Jeon	December 28, 1972	Crew, the Odaeyang No. 61	September 5, 2013

Source: Separated Families Division, Ministry of Unification (As of December 31, 2016).

(2) Human Rights Issues

(A) Infringement on the Right to Family Unification

As with separated families, abductees also suffer 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.

North Korea treats the reunion of separated families and Korean War POWs and abducted South Koreans separately. North Korea has never acknowledged the existence of South

Korean abductees and POWs, which the South has consistently raised, seeking to avoid these issues from being separately highlighted. 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, but North Korea refused to discuss these issues.⁹⁰⁵ 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 August 23, 2013. At the 19th reunion for separated families held in February 2014 at Mountain Kumgang 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.⁹⁰⁶

⁹⁰⁵- Ministry of Unification, *2013 Unification White Paper* (Seoul: Ministry of Unification 2013), p. 135. (In Korean)

⁹⁰⁶- Yonhap News Agency, October 24, 2015.

(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. Even then, this prohibition was the norm that had been established as a customary part of international laws.⁹⁰⁷ Moreover, Geneva Convention (IV), on protection of civilians during wars, prohibits detention of civilians in principle (Article 79).

Table V-24 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 the North Korean authorities is closely related to enforced disappearances. The latter is also serious in that it violates many human rights at the same time. In other words, carrying out of enforced disappearances in itself

⁹⁰⁷-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 Studies (Seoul: KINU, 2015), p. 93. (In Korean)

infringe upon the right of individuals to be protected from enforced disappearances. Moreover, the act of enforced disappearance violates diverse civil, political, economic, social and cultural rights due to the possibility of inhumane treatment, including torture, and deprivation of the right to health and education.⁹⁰⁸

North Korea has abducted nationals of other countries in an organized way as part of State policy and has not repatriated them since 1950. The COI estimates that based on the definition of the Declaration on the Protection of All Persons from Enforced or Involuntary Disappearance, the victims of enforced disappearances number far over 200,000 persons, including children.⁹⁰⁹ The majority of the enforced disappearances were carried out to secure labor and technology for the North Korean authorities, and some victims were deployed for espionage and terror activities. Women abducted in Europe, the Middle East and Asia were forcibly married to men from other countries.⁹¹⁰

North Korea denies these enforced disappearances. The “Korean Air Abductees’ Families Committee” (hereinafter “the Families Committee”) filed, with the UN HRC’s Working Group on

⁹⁰⁸- OHCHR, Enforced or Involuntary Disappearance, Fact Sheet No. 6/Rev.3. (2009); Kuyoun 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 Studies (Seoul: KINU, 2015), p. 7. (In Korean)

⁹⁰⁹- OHCHR, “Report of Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea,” (2014), para. 6.

⁹¹⁰- *Ibid.*, para. 67.

Enforced or Involuntary Disappearance (hereinafter WGEID), cases of abductees who have not returned⁹¹¹ including Won Hwang (June 17, 2010), Dong-gi Lee (October 8, 2010), and Jeong-woong Choi (November 8, 2010). The Families Committee also filed letters requesting confirmation of life or death and repatriation of “the 11 abductees from KAL who have not returned” with the Chosun Red Cross and head of the United Front Department on March 10, 2011. Upon request of the Families Committee, the Ministry of Unification sought to send the letters through Panmunjeom on the 30th of the same month, but they were refused by North Korea.⁹¹² Regarding this filing of the cases by the Families Committee, 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 which constitutes enforced or involuntary disappearances and none are interned against their will.” Moreover, North Korea asserted 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, and driven by hostile power,”

⁹¹¹-In 1969, when an airplane operated by Korean Air was hijacked, 50 persons (4 flight assistants and 46 passengers) were abducted. North Korea returned only 39 passengers on February 14, 1970 but did not return 11 others (4 flight attendants and 7 passengers).

⁹¹²-In-cheol Hwang, “The Past and Present Tragedy of Korean Air Abductees’ Families,” Citizens’ Alliance for North Korean Human Rights etc., *The 11th International Conference on North Korean Human Rights and Refugees* (November 23, 2011). (In Korean)

responding that “It is impossible to confirm life or death” to the request for repatriation sent through the 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 2006.⁹¹³

The UN HRC held a panel discussion on North Korean human rights on September 21, 2015. In the discussion, the UN HRC listened to the testimonies of a son of a Japanese abductee (Koichiro Iizuka). According to the testifier, North Korea admitted to abducting the mother of the testifier in the bilateral summit between North Korea and Japan in 2002, and that the testifier’s mother had passed away in a traffic accident. The panel discussion on North Korean human rights in September 2015 was the first panel discussion that the UN HRC had held on a certain country.⁹¹⁴

Among the forcibly disappeared people are some who voluntarily moved to North Korea and others who were abducted through physical force or persuasion with false information. In both cases, their rights to leave North Korea were infringed upon. Moreover, they were deprived of the right to freely move within North Korea and the right to not receive brutal, inhumane or degrading treatment. All who were forcibly disappeared, are managed under strict surveillance and are refused opportunities for education or jobs.⁹¹⁵ In the 2014 resolutions on North Korean

⁹¹³-Yonhap News Agency, September 18, 2012.

⁹¹⁴-International Service for Human Rights (ISHR), “The UN Human Rights Council’s Panel on North Korea and the Way Forward,” (2015).

Human Rights adopted after publication of the COI report, the UN HRC criticized the organized abduction, refusal to repatriate and enforced disappearances by North Korea,⁹¹⁶ and urged the North Korean authorities to immediately allow such people to return home.⁹¹⁷ Also, in many following resolutions on North Korean human rights by the UN HRC, the international community's concerns over enforced disappearances have been expressed.⁹¹⁸

(D) Use of Abductees by the North Korean Authorities

Some of the abducted South Koreans are used in broadcasts to South Korea or in espionage training. Two Korean Airlines flight attendants, Kyung-Hee Sung and Kyung-sook Chung, have been used in broadcasts to South Korea, while other detainees are used as instructors for North Korean espionage agents sent to the South. According to the testimonies of defectors who came to South Korea in 1993, about twenty unidentified abductees from South Korea are working as spy instructors at the “Enter 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 Political

⁹¹⁵_OHCHR, “Report of Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea,” para. 68.

⁹¹⁶_UN Doc. A/HRC/RES/25/25, para. 2(f).

⁹¹⁷_UN Doc. A/HRC/RES/25/25, para. 3(f).

⁹¹⁸_UN Doc. A/HRC/RES/28/22, paras. 1(f), 2(f).

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 formerly kidnapped fisherman ○○○, who defected from North Korea in June of 2000, some of his colleagues were also engaged in anti-South Korea operations after undergoing a period of special training. ○○○ himself admitted to having some espionage training.⁹¹⁹

The remainder of the abducted, whom North Korea presumably did not find useful, are likely to be detained in various political prison camps (*kwanliso*). Some of these abducted individuals from South Korea detained in political prison camps (*kwanliso*) can be identified from the Amnesty International (AI) special report, entitled “New Information on Political Prisoners in North Korea” published in 1994 by AI. In it, the names of abducted individuals, who seemed to be detained in the now defunct prison camp at Seungho-ri until 1990, are included. 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 (*kwanliso*).

⁹¹⁹- North Korean defector ○○○, January 7, 2004, interviewed in Seoul.

(3) Truth of Abduction during the Korean War and Restoring the Honor of Abductees

In April 2004 and again in July 2008, the National Human Rights Commission of Korea called for studies and special legislation for abductee relief and compensation. On March 26, 2010, South Korea enacted 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 December 13, 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 the President and the National Assembly and publish the document, which is planned to be carried out in 2017.⁹²⁰

⁹²⁰ Article 14 of the Enforcement Decree of the 6·25 Abductee Law stipulates the following to be included in the truth discovery report on abductions during the Korean War

1. Truth about the abductions during the Korean War
2. The number and list of abductees
3. Reasons for delay in the truth discovery of abductions during the Korean War
4. Efforts to discover the truth of abductions during the Korean War by the families of abductees and related organizations and achievements
5. Description of the abduction cases where the truth was not found based on fact-finding investigations and reasons
6. Matters related to the methodology, investigated literature and investigated regions, etc., to discover the truth
7. Investigation contents by the Committee and matters related to the treatment and preservation of the data obtained as the results of the investigation
8. Matters evaluated/decided by the Committee to be included in the truth discovery report other than the above 1~7.

Meanwhile, the Committee planned the construction of the National Memorial for Abductees during the Korean War as part of the efforts to discover the truth and restore the honor of abductees, and it held the groundbreaking ceremony in *Imjingak* Pavilion on October 20, 2016. The memorial is planned to open in October 2017.

The Committee received information on 5,505 abduction cases from January 3, 2011, to December 2015. It evaluated 5,381 cases among them, as 124 cases were not evaluated due to overlapping application and withdrawal of the case by the applicant. Among the 5,381 cases that the Committee evaluated, 4,783 cases were decided as abductions. 138 cases were decided as non-abductions and 460 cases were decided to be impossible to determine.

Table V-25 Decisions on the Status of Cases as Abductions or Not

(Unit: cases)

Decision as Abductions	Decision as Non-Abductions	Impossible to Determine	Total
4,783	138	460	5,381

Source: The Secretariat of the Committee on Fact-Finding of Korean War Abductions and Restoration of the Reputation of Victims (As of December 31, 2016).

(4) Grants and Assistance for Post-War Abducted Victims to North Korea

On April 27, 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, and his family is also entitled to assistance and 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 amount of grants 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 14.8 billion won in consolation payments.

Table V-26 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 December 31, 2016).

Table V-27 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	68
Total	451	428	14,799

Source: Separated Families Division, Ministry of Unification (As of December 31, 2016).

Table V-28 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 December 31, 2016).

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 82,000 members of the Korean Armed Forces were missing, but only 8,343 POWs were returned during prisoner exchanges between April 1953 and January 1954. Accordingly, it is estimated that many more South Koreans remain detained in North Korea.⁹²¹

The Ministry of Defense estimates that there were around 500 Korean War POWs living in North Korea as of the end of 2015, based on testimonies of returning Korean War POWs and defectors.⁹²² All Korean POWs who have not returned were

⁹²¹- Ministry of Defense of the Republic of Korea, *2012 Defense White Paper* (Seoul: Ministry of Defense, 2012), p. 110. (In Korean)

⁹²²- Ministry of Unification, *2016 Unification White Paper*, p. 110. (In Korean)

classified as Killed in Action based on the Military Personnel Management Act that requires all persons Missing in Action (herinafter referred to as MIAs) be re-classified as Killed In Action after a certain period has elapsed, so that their families may benefit from compensation and consolation payments. Since the late Lt. Chang-ho Cho, a former Korean War POW, returned to South Korea in 1994, few other POWs have returned. As of December 2015, a total of 80 Korean War POWs have returned home to South Korea, and have 430 members of their families surviving. An absolute majority of these former POWs returning home came from North Hamgyeong Province, as they had been forcibly assigned to work at coal mines there.

Since 2011, there have been no former POWs returning home to South Korea, seemingly because the patrols and surveillance along the border regions have strengthened since Kim Jong Un came to power, and the POWs themselves are growing old, which makes it physically difficult for them to try to cross borders on their own.

Table V-29 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	2011~2015	-	80
2003	5	34	Total		80
2004	14	48			

Source: Ministry of Defense (As of December 31, 2016)

Table V-30 Origin of POWs in North Korea (including the deceased)

Province/Category	North Hamgyeong Province	South Hamgyeong Province	South Pyeongan Province	North 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(%)	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 December 31, 2016)

(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 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.⁹²³

Korean War POW reunions should be carried out quickly for humanitarian reasons and realization of the right to family unification. As of the end of 2016, 45 of the 80 returning Korean War POWs had passed away. The 39 surviving returning Korean War POWs are 80 years old or more, with six of them age 90 or older.

Table V-31 Status of Surviving POWs by Age

Age (years)/ Category	83	84	85	86	87	88	89	90	91	92	93	Total
Number of persons	2	5	6	3	6	4	2	1	2	3	1	35
Percent(%)	5.7	14.3	17.1	8.6	17.1	11.4	5.7	2.9	5.7	8.6	2.9	100

Source: Ministry of Defense (As of December 31, 2016)

Table V-32 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	22	7	45
Percent(%)	2.2	8.9	24.4	48.9	15.6	100

Source: Ministry of Defense (As of December 31, 2016)

923. Ministry of Defense of the Republic of Korea, *2012 Defense White Paper*, p. 110. (In Korean)

(B) Forcible Detention

The Geneva Convention Relating to the Treatment of Prisoners of War of August 12, 1949 (Geneva Convention (III))⁹²⁴ stipulates that prisoners of war must be released or returned without delay after the cessation of hostilities (Article 118). North Korea joined the Geneva Convention on August 27, 1957. Its denial of the existence of Korean War POWs and refusal to repatriate them violates 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.⁹²⁵ This was an established norm at that time.⁹²⁶

(C) Forced Labor

According to the testimonies of defectors and returned POWs, many POWs were forced to join the KPA during the War and after the War between 1954 and 1956. During this time, they were group-assigned to coal mines, factories, and farm villages to

⁹²⁴-International Committee of the Red Cross, "Geneva Convention Relating to the Treatment of Prisoners of War," (August 12, 1949).

⁹²⁵-International Committee of the Red Cross, *Customary International Humanitarian Law* (Cambridge: Cambridge Univ. Press, 2005), p. 451; 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 Studies, p. 63. (In Korean)

⁹²⁶-OHCHR, "Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea," para. 114, footnote 1626.

participate in rehabilitation projects. According to a U.S. Department of Defense document declassified on April 12, 2007, A Report on the “Transfer of Korean War POWs to the Soviet Region,”⁹²⁷ 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.⁹²⁸ The number of POWs transferred to the Chukotsi 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 December 18, 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 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 Russia, and

⁹²⁷– This report was written by the U.S. and Russia on August 26, 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.

⁹²⁸– Yonhap News Agency, April 13, 2007.

visited Russian military labs, etc.

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 in them. It was also easy to control and conduct surveillance on those living in coal mine communities. North Korean defectors testified that many South Korean POWs were assigned to work and live 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),⁹²⁹ Musan Coal Mine (Gap-do Lee, Young-ho Kang, and Hee-keun Lee),⁹³⁰ and Hakpo Coal Mine in Sechon County, Hoeryeong (Yong-yeon Jang, Tae-in Ryu, ○○ Oh, Jeung-ho Lee, and Soo-hwan Jeong).⁹³¹ The POWs assigned to work as miners had to work 12-hour shifts with up to 1,100~1,200 of them assigned to coal mines in North Hamgyeong Province.⁹³²

After the Korean War, Korean War POWs were apparently detained in No. 25 *Kwanliso* in Cheongjin. This *Kwanliso* was

⁹²⁹- NKHR2008000021 2008-09-23.

⁹³⁰- NKHR2008000016 2008-09-02.

⁹³¹- NKHR2008000011 2008-08-12.

⁹³²- The Chosun Ilbo, April 30, 2013.

used as a POW camp, and later transformed into a political prison camp (*kwanliso*).⁹³³ Korean War POWs were given People's registration cards and released to society from political prison camps (*kwanliso*) 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.

⁹³³North Korean defector ○○○, September 27, 2012, interviewed in Seoul.

Table V-33 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)

(D) Social Discrimination against Korean War POWs and Their Families

Korean War POWs and their families face social discrimination in North Korea. It seems that they are constantly subjected to oppression and discrimination, in terms of their choice of jobs and residence, because of their background as former POWs. Since their personal background is certain to impact the lives of their children, many POWs chose not to tell their children about their past. Notwithstanding that fact, the children of former POWs are discriminated against in their careers, as well as in Party membership, and college admission. A defector testified that North Koreans called the Korean War POWs “puppet soldiers” (captured soldiers).⁹³⁴

North Korean defector ○○○ testified that her husband’s

.....
⁹³⁴- NKHR2008000011 2008-08-12.

colleague was the son of a former POW, and he could not join the Party even though he had served ten years in the military.⁹³⁵ While there are exceptional testimonies that even former POWs joined the Party or do not experience significant discrimination, it is identified that discrimination against former POWs is 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.

Table V-34 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 low because the testifier's grandfather was a POW and other family members faced discrimination in joining the Party, employment as a senior official and promotion.	NKHR2016000099 2016-06-14

⁹³⁵_NKHR2011000044 2011-02-08.

(3) Treatment and Support for Korean War POWs

The South Korean Government has set standards and detailed rules about treatment of and assistance for former POWs who have returned, and on January 29, 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 March 24, 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 other 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 December 31, 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.⁹³⁶

The Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War as revised on March 22, 2013, improved the 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 15-3) and Support for Admission to Ancient Palaces, etc. (Article 15-4).

Table V-35 Residence of Returning POWs (including deceased)

Region/ Category	Seoul	Incheon	Gyeonggi	Gangwon	Daejeon	S. Chung cheong	N. Chung cheong	Daegu	N. Gyeong sang
Persons	21	1	20	5	2	0	1	4	6
Percent(%)	26.3	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	4	2	0	80
Percent(%)	6.3	2.5	7.5	1.3	5.0	2.5	0.0	100

Source: Ministry of Defense (As of December 31, 2016).

⁹³⁶ Ministry of Defense of the Republic of Korea, *2012 Defense White Paper*, p. 112. (In Korean)

Table V-36 Residence of Surviving POWs

Region	Seoul	Incheon	Gyeonggi	Gangwon	Daejeon	S. Chung cheong	N. Chung cheong	Daegu	N. Gyeong sang
Persons	10	1	11	3	0	0	1	2	0
Percent(%)	28.5	2.9	31.3	8.6	0.0	0.0	2.9	5.7	0.0

Region	Busan	Ulsan	S. Gyeongsang	Gwangju	S. Jeolla	N. Jeolla	Jeju	Total
Persons	1	1	2	0	3	0	0	35
Percent(%)	2.9	2.9	5.7	0.0	8.6	0.0	0.0	100

Source: Ministry of Defense (As of December 31, 2016)

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 stipulated in international humanitarian laws (Article 27 of Geneva Convention (IV)). Moreover, the right to family unification 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), are infringed upon.

South Korea and North Korea held a reunion for separated families in October 2015 at Mt. Geumgang. At this event, a South Korean fisherman abducted to North Korea was able to meet his

mother. However, the two Koreas are not making 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, 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 constitutes violation of Article 49 and 79 of Geneva Convention (IV), which prohibits forced transfer and detention of civilians. Moreover, North Korea's denial of the existence of Korean War POWs and its refusal to repatriate 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 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 2016 survey, there were few testimonies on the specific realities and human rights violations of families of those who fled to South Korea, or abductees and Korean War POWs and their families. To make progress in resolving the issues for these people, they should be handled separate to the political situation between South Korea and North Korea.

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