

## Legislation related to Violence against Women in North Korea

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This article examines the legislation of the Democratic People's Republic of Korea (DPRK) related to violence against women to identify the sufficiency of its protection according to international standards, as well as the adequacy of implementation. The DPRK criminalizes violence against women through national laws, including the *Law on the Protection and Promotion of the Rights of Women* adopted in 2010. However, domestic violence remains inadequately regulated, and a comprehensive definition of sexual violence including marital rape has not been introduced. This fundamentally derives from the customs of the DPRK's patriarchal society where the notion of dominance of men over women prevails. Violence against women is a violation of human rights which has generally resulted from the inequality of power between the sexes. Based on recognition of the root causes, the DPRK needs to improve legislation for the protection and support of victims of violence against women.

**Keywords:** Violence against women, North Korean women, legal protection, patriarchy, CEDAW

## I. Introduction

Violence against women is one of the oldest forms of discrimination and the most prolonged manifestations of inequality.<sup>1</sup> Violence against women is not the result of random, individual acts of misconduct, but rather is deeply rooted in structural relationships of inequality between the sexes.<sup>2</sup> Violence against women is neither the result of a misfortune of an individual woman nor an instance of deviant or pathological misconduct of an individual man, but is rather deeply rooted in, and reinforced through, structural relationships of inequality between women and men embedded in society.<sup>3</sup> Thus all forms of violence against women, including sexual violence, domestic violence, and forced prostitution, should be considered as crimes derived from a social problem, and the measures to be taken need to be legally institutionalized.

For decades, the international community has been deeply concerned about the human rights situation of the Democratic People's Republic of Korea (hereinafter, DPRK or North Korea).<sup>4</sup> Among vulnerable groups in North Korea, the human rights situation of women in the country is also raising concern in the international community in regard to discrimination against women with fixed gender roles, limited

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1. Alice Edwards, *Violence against Women under International Human Rights Law* (Cambridge: Cambridge University Press, 2006), p. 179.
  2. United Nations, *Ending Violence Against Women: From Words to Action, Study of the Secretary-General* (New York: United Nations, 2006), p. 7.
  3. Na Young Lee and Min Sook Heo, "Gendered Violence and Gender Regime in the Neo-Liberal State of South Korea: Reconceptualization and Reconstruction of Violence Against Women," *Family and Culture*, vol. 26 (2014), p. 59.
  4. The Special Rapporteur on the situation of human rights in the DPRK was appointed by the UN Commission on Human Rights in 2004 (resolution 2004/13) and has been renewed on an annual basis by the UN Human Rights Council. In 2013, the Human Rights Council established a Commission of Inquiry to investigate systematic, widespread and grave violations of human rights in the DPRK (A/HRC/RES/22/13). The Commission of Inquiry on Human Rights in the DPRK submitted its report in 2014 with findings that systematic, widespread and grave human rights violations which amount to crimes against humanity have been and are being committed by the DPRK (A/HRC/25/63).

political participation and social entry, prevalent violence against women, treatment of women repatriated after defecting from North Korea, and poor women's health and maternal health conditions.<sup>5</sup> Among those issues, this article will focus on violence against women, examining the relevant North Korean legislation to identify whether there is a legal vacuum concerning the protection of women and the country's consistency with international standards and norms. This evaluation will be based on criteria embodied in international human rights treaties as well as the standards discussed in the United Nations. North Korea, as a State party to the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter, CEDAW), ratified on February 27, 2001, must comply with the obligations and international standards imposed by the CEDAW. The CEDAW requires a State party to take active measures to suppress all forms of violence against women. This includes not only action taken by or on behalf of the Government, but also measures to prevent violence against women by private persons.<sup>6</sup> A State party may also be responsible for private acts if it fails to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.<sup>7</sup> To comply with obligations imposed on the State party, a State party shall take all appropriate measures, including legislation (Article 3 of the CEDAW). In other words, a State party needs to institutionalize a legal framework to eradicate violence against women and to develop an effective policy for practical implementation. Therefore, legislation related to suppressing violence against women is the primary responsibility of the State to implement. Of course, having legislation per se does not ensure the protection of rights, but it still provides the minimum level

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5. Kyung-ok Do et. al., *White Paper on Human Rights in North Korea* (Seoul: KINU, 2017), pp. 350-393; Sungho Je, "The Present Situation of North Korean Women's Human Rights and Tasks for their Improvement," *The Korean Journal of Unification Affairs*, vol. 47 (2007), pp. 185-195.

6. CEDAW, General Recommendation No. 28: Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (2010), paras 9-10.

7. CEDAW, General Recommendation No. 19: Violence against women (1992), para 9.

of standards for protection. Meanwhile, such legislation reflects how a country recognizes and perceives violence against women. Thus, this article examines whether North Korean women are adequately protected from the perspective of the law, and if not, what and where the problem is.

In April 2016, the DPRK submitted the combined second to fourth periodic report to the Committee on the Elimination of Discrimination against Women (hereinafter, the Committee) in accordance with Article 18 of the CEDAW, which obliged State parties to submit a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the Convention. The DPRK had postponed its submission of reports since it submitted the first report in September 2002. The Pre-Sessional Working Group of the Committee reviewed the report in March 2017 and drew up a list of questions. Among a number of issues listed in relation to violence against women, the major issues to be dealt with include the definition of rape, the legal measures taken to criminalize violence against women such as marital rape and harassment, the present conditions and measures to prohibit and prevent domestic violence, the remedies available to women who are survivors of domestic violence, and the sanctions against perpetrators according to the law.<sup>8</sup> The Committee considered the combined second to fourth periodic report of the DPRK at its 1554<sup>th</sup> and 1555<sup>th</sup> meetings held on November 8, 2017 and presented the concluding observations on November 17, 2017.<sup>9</sup>

Hereinafter, this article first examines the definition of violence against women and the State's obligation to eliminate violence against women. It will then review the international community's concerns and recommendations over violence against women in the DPRK (II). This article then examines and evaluates the DPRK's legislation on violence against women in accordance with the international community's recommendations and standards to find out where a legal loophole exists and possible measures to improve the protection of North Korean women from violence (III). In the conclusion, based on the Committee's

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8. UN Doc. CEDAW/C/PRK/Q/2-4 (15 March 2017), para 10.

9. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017).

discussion for its combined report in November 2017, this article will address the direction of the Committee's discussion for suppressing violence against women in the DPRK.

## II. The State's Obligation to Suppress Violence against Women

### 1. Definition and Cause of Violence against Women

Violence against women gained international attention at the World Conference on Women held in Nairobi, Kenya in July 1985. The Conference provided a blueprint for action until 2000 that linked the promotion and maintenance of peace to the eradication of violence against women throughout the broad spectrum of society. The Nairobi Forward-looking Strategies for the Advancement of Women, adopted by the World Conference, identified violence against women as a major obstacle to the achievement of peace and the other objectives for the decade, and, as such, should be given special attention.<sup>10</sup> They also acknowledged the need for public awareness of violence against women as a societal problem.<sup>11</sup> However, this Conference delimited the problem of violence against women as an issue concerning a particular group of young and abused women, and did not go further to set the agenda for fighting against violence as a universal issue for women.

In the 1990s, efforts by the women's movement led to raised awareness that violence against women is a human rights problem.<sup>12</sup> Since the Vienna Declaration and Programme of Action of the World

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10. The Nairobi Forward-looking Strategies for the Advancement of Women, adopted by the World Conference to review and appraise the achievements of the UN Decade for Women: Equality, Development and Peace, held in Nairobi, Kenya, 15-26 July 1985, para 258.

11. United Nations, *Ending Violence Against Women*, *supra* note 2, p. 9.

12. Sally Eagle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006), p. 2; Jane Roberts Chapman, "Violence against Women as a Violation of Human Rights," *Social Justice*, vol. 17 (1990); Report of the Secretary-General, In-Depth Study on All Forms of Violence Against Women, UN Doc. A/61/122/Add.1 (2006), paras 23-54.

Conference on Human Rights, adopted in Vienna in June 1993, violence against women has been regarded as a severe infringement of human rights, which is also a cause and consequence of discrimination against women. The Declaration on the Elimination of Violence against Women, adopted at the UN General Assembly on December 20, 1993, defined the term “violence against women” to include any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.<sup>13</sup> This Declaration affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms while recognizing that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and further, that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. As the international document which first defines violence against women as a gender-based act, this Declaration promoted an agenda to fight against violence against women in the 1990s.

Violence against women can be divided into violence within the family, violence in the society, and violence by the State authorities. Violence within the family is one of the most insidious forms of violence against women. This includes battering, marital rape, other forms of sexual assault, and mental and other forms of violence that are related to harms based on traditional customs and perpetuated by traditional attitudes. Violence in society includes physical, sexual, and psychological violence such as rape, sexual abuse, sexual harassment and threats, human trafficking, and forced prostitution that may occur in work places or on the streets. Violence by the State authorities includes physical, sexual, and psychological violence committed or tolerated by the State authorities, wherever it happens. Those are all gender-based forms of violence, which women all over the world may experience just “because

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13. Article 1 of the Declaration on the Elimination of Violence against Women, GA Res. 48/104 (1993), UN Doc. A/RES/48/104 (20 December 1993).

they are women.”<sup>14</sup> Indeed, violence against women is rooted in power imbalances and structural inequality between men and women and, because of this, is not a simple individual problem.

## 2. Measures to Suppress Violence against Women

In its General Recommendation No. 19 (1992), the Committee recognized that “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.”<sup>15</sup> The definition of discrimination of women can be found in Article 1 of the CEDAW. 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 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.”<sup>16</sup> It includes gender-based violence—that is, violence that is directed against women because they are women, or that affects women disproportionately—and considers as violence acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.<sup>17</sup> Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.<sup>18</sup>

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14. Deuk-Kyoung Yoon et. al., *Study on the Legislative Adjustment for the Integrative Operation of Protection and Support of Female Victims of Violence* (Seoul: Korean Women’s Development Institute, 2015), p. 15.

15. CEDAW, General Recommendation No. 19: Violence against women (1992), para 1.

16. Article 1 of the CEDAW.

17. See Rikki Holtmaat, “The CEDAW: a holistic approach to women’s equality and freedom,” in Anne Hellum & Henriette S. Aasen (eds), *Women’s Human Rights: CEDAW in International, Regional and National Law* (Cambridge: Cambridge University Press, 2013), pp. 99-102.

18. CEDAW, General Recommendation No. 19: Violence against women (1992), para 6.

In order to eradicate all forms of violence against women, the Convention calls on State parties to take all appropriate and active measures. This includes not only to prohibit and prevent violence against women committed by the State authorities, but to prevent, prosecute, and punish violence perpetrated by private actors and take responsibility to remedy victims if the State authorities fail to act with due diligence to prevent violence.

The Committee provides specific recommendations to State parties. Above all, the Committee recommends that State parties take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private acts, through prevention, active response, including prosecution and punishment, as well as preparing remedies for victims and doing research and reporting on the extent, cause and effects of violence.<sup>19</sup> Specifically, the Committee asks State parties to ensure that legislations against family violence, abuse, rape, sexual assault, and other gender-based violence give adequate protection to all women and respect their integrity and dignity through providing victims with appropriate protective and supportive services.<sup>20</sup> While encouraging State parties to compile statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and delay violence, the Committee recommends that State parties identify the nature and extent of attitudes, customs, and practices that perpetuate violence against women in their report.<sup>21</sup> State parties are also recommended to provide effective complaint procedures and remedies, including compensation.<sup>22</sup> General Recommendation No. 35 (2017), which updates the General Recommendation No. 19 (1992), adopted by the Committee on July 14, 2017, further recognizes that the prohibition of gender-based violence has become a norm of international customary law.<sup>23</sup>

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19. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (a).

20. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (b).

21. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (c), (e).

22. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (i).

23. General Recommendation No. 35 (2017), which updates the General

The Declaration on the Elimination of Violence against Women also requires States not only to refrain from engaging in violence against women, but to exercise due diligence to prevent, investigate, and punish acts of violence against women perpetrated by private persons (Article 4 (b) and (c)).<sup>24</sup> It also notes that States should develop penal, civil, labor, and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subject to violence (Article 4 (d)) and impose State responsibility to take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate, and punish violence against women receive training to sensitize them to the needs of women (Article 4 (i)). Furthermore, the 1995 Beijing Declaration and Platform for Action, adopted at the fourth World Conference on Women, extends the scope of violence against women<sup>25</sup> and designates the strategic objective to study the causes and consequences of violence against women and the effectiveness of preventative measures. These responsibilities of the State to take effective measures to prohibit, prevent, and protect women from violence are specified as State parties' obligations through the CEDAW.

The CEDAW obliges State parties to take effective measures to protect women from all forms of violence that could occur in the family, workplaces, or various fields of social life. Article 2 stipulates that State parties condemn discrimination against women in all its forms and pursue a policy of eliminating such discrimination. And to this end,

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Recommendation No. 19 (1992), expands the understanding of violence to include violation of sexual and reproductive health rights, defines different levels of liability of the State for acts and omissions committed by its agents or those acting under its authority and for failing to act with due diligence to prevent violence at the hands of private individuals and companies, protects women and girls from such violence, and ensures access to remedies for survivors.

24. The Declaration on the Elimination of Violence against Women, GA Res. 48/104 (1993), UN Doc. A/RES/48/104 (20 December 1993).
25. For instance, to include forced sterilization and forced abortion, coercive/forced use of contraceptives, female infanticide and prenatal sex selection. Beijing Declaration and Platform for Action, para 115, available at: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

section (f) of Article 2, to which the DPRK withdrew its reservation in November 2015, specifies taking all appropriate measures, including legislation, to modify or abolish existing laws and regulations as well as customs and practices which constitute discrimination against women. State parties are also required to repeal all national penal provisions which constitute discrimination against women. Article 2 and Article 3 create comprehensive obligations upon State parties to eliminate all forms of discrimination, together with specific obligations imposed by Article 5 and Article 6 of the CEDAW. Further, Article 5 requires State parties to take all appropriate measures “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” Meanwhile, for the effective implementation of the Convention, gender-sensitive training of judicial and law enforcement officers and other public officials was seen to be crucial.<sup>26</sup> In accordance with Article 6, “States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” To overcome trafficking and sexual exploitation, specific preventive and punitive measures should be taken.<sup>27</sup>

### **III. Analysis of North Korean Legislation Related to Violence against Women**

#### ***1. Laws on Women’s Rights in General***

The DPRK adopted the Decree on Gender Equality in July 30, 1946 through the decision of the Provisional People’s Council No. 45 before the establishment of the Government in September of the same year.

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26. CEDAW, General Recommendation No. 19: Violence against women (1992) para 24 (b).

27. CEDAW, General Recommendation No. 19: Violence against women (1992) para 24 (g).

This Decree aims to ensure equal political freedom and rights of women and men with respect to the right to vote, the right to be elected, the right to education, and the right to work, while prohibiting forced marriage, polygamy, prostitution and the *gisaeng* system.<sup>28</sup> The major contents of the Decree were incorporated in the DPRK's Constitution in 1948. Article 77 of the DPRK's Constitution (amended in 2016) also prescribes ensuring gender equality and protection of maternity by stipulating that: "Women are accorded equal social status and rights with men. The State shall afford special protection to mothers and children by providing maternity leave, reduced working hours for mothers with several children, a wide network of maternity hospitals, nurseries and kindergartens, and other measures. The State shall provide all conditions for women to play their full roles in society."

The Family Law<sup>29</sup> and Labor Law<sup>30</sup> also stipulate gender equality as

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28. Korean Bar Association, *2016 White Paper on Human Rights in North Korea* (Korean Bar Association, 2016), p. 243. *Gisaeng* refers to a person who works to entertain others, while providing sexual services. It first appears in the 10th century in *Goryeo* as the government's legal entertainers, and spread nationwide in the 14th century, in the *Joseon* dynasty. They were carefully trained and frequently accomplished in the fine arts, poetry, and prose, although their talents were often ignored due to their inferior social status.
29. The DPRK had regulated family relations through individual legislations such as the 1946 Decree on Gender Equality, and the 1986 Civil Code. In 1990, an independent and systematic Family Law was adopted. Relevant provisions related to women include special protection of mothers and children, regulations on marital property, monogamy, gender equality in family life, ranking among legal heirs, etc. See Eui-Jeong Hwang & Dae-Seok Choi, "The Prospects of Change in the Legal Status of Women Seen through the Newly Women-related Legislation in North Korea," *Northeast Asian Law Journal*, vol. 9 (2015), pp. 8-9.
30. The DPRK legislated the Socialist Labor Law in 1978. Provisions related to women's rights include shortened working hours for motherhood, equal pay for equal work, special protections for pregnant women such as not to engage in hazardous and dangerous work, overtime work, maternity leave, and so on. By regulating the special protection of female workers, this law contributes to increasing the status of women in the DPRK. Sunwook Kim et. al., *A Study on the Status of North Korean Women – with Special Reference to the Legal Systems and Policies concerning North Korean Women* (Seoul: Korea Women's Development Institute, 1992), pp. 45-46.

well as protection of women within the family and society. However, such legislation in relation to women's rights did not result from achievements of the women's movement towards establishing gender equality, but from the need of the national ideology.<sup>31</sup>

In its combined second to fourth periodic report, the DPRK contends that gender equality has been guaranteed both by law and in practice since the promulgation of the 1946 Decree on Gender Equality, and the Socialist Constitution as well as other relevant laws explicitly provide that women shall be accorded equal political and social status and rights with men.<sup>32</sup> Furthermore, by adopting the Law on the Protection and Promotion of the Rights of Women (hereinafter 'LPPRW') in 2010, the DPRK stressed that the status and role of women have been elevated in all fields of social life.<sup>33</sup> The DPRK emphasized that Article 2 of the LPPRW has incorporated the definition of "all forms of discrimination" set by the CEDAW, which includes both direct and indirect discrimination.<sup>34</sup> In accordance with the LPPRW, the DPRK also maintains that the authorities have pursued a consistent policy to ensure gender equality while prohibiting all forms of discrimination.<sup>35</sup>

Socialist States typically enshrined gender equality in legislation before Capitalist States, although socialist emancipation has often created a double burden upon women as they are called on to enter the workforce while simultaneously bearing the traditional burden of homemaker.<sup>36</sup> In fact, in the 1950s, in the early stage of the regime, the DPRK regarded the male chauvinism and authoritative Confucianism embodied in the traditional family system as hindering socialist revolution while suppressing the role of women in economic and political life. Because of this, they emphasized the emancipation of women from colonial and

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31. Young-Hee Shim, "Human Rights of Women in North Korea: Present State and Factors," *The Journal of Asian Women*, vol. 45 (2006), p. 173.

32. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), paras 9-11.

33. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), paras 9-11.

34. *Ibid.*

35. *Ibid.*

36. Haggard S. & Noland, M., "Gender in Transition: The Case of North Korea," *World Development*, vol. 41 (2013), p. 51.

feudal pressures through identifying their equal status alongside men in social life as an essential step to be taken during the revolutionary stage of anti-imperialism.<sup>37</sup> However, regardless of legislative and institutional measures, people's daily lives maintain a traditional patriarchal order. Since the 1970s, with the consolidation of the monolithic ideology system and the Kim family's transmission by heredity, the premodern tradition of family relationships has been emphasized.<sup>38</sup> As such, regardless of legislation ensuring the social participation of women and the rights of women, the male-dominant ideology fundamentally embedded within social and family life has not been eliminated.<sup>39</sup> The DPRK authorities themselves recognize that the practice of male superiority has lingered in society and families even after the enactment of the LPPRW, due to the general public's lack of understanding of the State's policy and laws as well as the incomplete elimination of traditional assumptions and attitudes.<sup>40</sup>

## 2. Laws on the Prohibition of Violence against Women

Violence against women takes multiple forms, including acts or omissions intended or likely to cause or result in physical, sexual, psychological or economic harm or suffering to women. Threats of such acts, harassment, coercion and arbitrary deprivation of liberty may also constitute violence against women.<sup>41</sup> The most representative forms are sexual violence, domestic violence, prostitution, and sexual harassment. Criminal law

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37. Do et. al., *supra* note 5, p. 293. Kyounghee Kim et. al., "A Study on Reproduction of the North Korean State Patriarchy under Kim Jung Eun Regime," *The Journal of Asian Women*, vol. 55 (2016), pp. 132-33.

38. *Ibid.* Mi-kyung Lee, "The Issue of North Korean women by examining gender awareness of female defectors," *The Korean Journal of International Relations* 155, vol. 45 (2005), pp. 165-66.

39. Keong-Suk Park, "An Analysis of the Relationship among State, Patriarchy, and Women in North Korea," *Society and Theory*, vol. 21 (2012), p. 329.

40. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), para 53.

41. CEDAW, General Recommendation No. 19: Violence against women (1992), para 14.

is the most relevant (and perhaps the most effective) legislation dealing with these crimes. CEDAW stipulated that State parties are “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women (f)” and “to repeal all national penal provisions which constitute discrimination against women (g).” If a State does not criminalize violence against women, or allows legislation constituting discrimination against women, such violence will continue to occur. Thus, enhancing accountability and stopping immunity through imposing adequate penalties are essential to prevent and reduce violence against women. Legislation should encompass punishment, regulation and prevention, as well as protection and support of the victim.<sup>42</sup> The Committee also emphasizes ensuring that all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual, or psychological integrity, be criminalized. Additionally, legal sanctions commensurate with the gravity of the offense as well as civil remedies should be introduced without delay, or strengthened (in case they are already in place).<sup>43</sup>

The adoption of the LPPRW in 2010 is among the positive aspects of women’s rights in the DPRK.<sup>44</sup> This Law stipulates that the DPRK shall ensure the full equality of women with men and that the State shall prohibit all forms of discrimination against women. In relation to violence against women, the LPPRW contains several provisions concerning women and crimes relevant to them, including Article 37 (Inviolable Right of Human Body (corpus)), Article 38 (Inviolable Rights of Health and Life), Article 39 (Prohibition of Abduction and Trafficking), Article 40 (Prohibition of Prostitution), and Article 41 (Respecting Women’s Dignity). Article 46 (Prohibition of Domestic Violence) explicitly legislates against domestic violence, which was one of the recommendations of

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42. Sang Min Yoon, “Overcoming of Discrimination against Women in the Criminal Law,” *Joong-Ang Law Review*, vol. 13 (2011), p. 87.

43. CEDAW, General Recommendation No. 19: Violence against women (1992), para 29.

44. Hwang and Choi, *supra* note 29, pp. 1-31.

the Committee in 2005.<sup>45</sup> Article 55 of the LPPRW sets out general provisions regarding criminal or administrative liability derived from violation of the Law. However, it does not specifically articulate the provision of punishment. Accordingly, these crimes may be prosecuted as Assault (Article 275) or as infliction of injury (Articles 271 to 274)<sup>46</sup> under Criminal Law, depending on the act committed and the consequence of the act and are otherwise punishable as “mistreatment contempt offense” (*hackdae-gwalsi* offense) in Article 260 of the Criminal Law when they fall short of requirements under the aforementioned articles. Gender based/sexual crimes may be charged as Rape (Article 279 of the Criminal Law)<sup>47</sup> or Forcing Subordinate Women to have Sexual Intercourse (Article 280 of the Criminal Law)<sup>48</sup> or dissipated conduct (*buhwa-bangtang* conduct) regulated in Article 221 of the Administrative Punishment

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45. In 2005, after reviewing the first periodic report of the DPRK in implementing the CEDAW, the Committee expressed concern that the DPRK was not aware of the existence of domestic violence and lacked specific legislation to deal with all forms of violence against women, including domestic violence, as well as lacking prevention and protection measures for victims, and thereupon urged the DPRK to adopt specific legislation on domestic violence and to ensure that violence against women constitutes a criminal offense. UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), paras 37-38.

46. Article 271 (Intentional Infliction of Grave Injury); Article 272 (Infliction of Grave Injury Induced by Fit of Rage); Article 273 (Infliction of Grave Injury by Accident); Article 274 (Intentional Infliction of Light Injury).

47. Article 279 (Rape): A man who rapes a woman by using violence or threats or by taking advantage of her helpless status shall be punished by reform through a labor sentence of less than five years. In cases where the person commits a grave offense, he shall be punished by reform through labor sentence for more than five years and less than ten years. In cases where the foregoing act is committed multiple times or in cases of inflicting a severe injury or resulting in death by the aforementioned conduct, he shall be punished by reform through labor sentence for more than 10 years.

48. Article 280 (Forcing Subordinate Women to have Sexual Intercourse): A man who forces a woman who is his subordinate to have sexual intercourse with him shall be punished by short-term labor for less than one year. In cases where the aforementioned act is committed against multiple women or when the woman concerned becomes depraved or commits suicide as a result of the aforementioned act, the offender shall be punished by reform through labor sentence for less than three years.

Act. However, due to the lack of specific regulation regarding domestic violence, and depending on the type of conduct and its consequences, it may be treated as general assault. In short, the Law leaves much to be desired for the full protection and promotion of women's rights.

Meanwhile, such criminal law provisions may impose aggravated punishment in accordance with Supplementary Provisions to the Criminal Law adopted in 2007. Amendment of Criminal Law may proceed into strengthening the protection of human rights but may also proceed into enforcing repressive control measures. The 2007 Supplementary Provisions to the Criminal Law are generally evaluated as reinforcing control over people in order to smooth the succession of power and to protect the system.<sup>49</sup> These Supplementary Provisions extend the category of crimes punishable by death and forfeiture of property through imposing aggravated punishment for crimes in general, in cases of grave offense.<sup>50</sup> Crimes relevant to gender-based violence against women include Acts of Delinquency prescribed in Article 17 and Aggravated Rape prescribed in Article 21. However, these Supplementary Provisions contain abstract prescriptions such as "aggravating circumstances"; in falling short of clarity, they leave scope for arbitral interpretation, as already enhanced through the 2004 Amendment of Criminal Law in the DPRK.<sup>51</sup> Through the 2007 Supplementary Provisions to the Criminal Law, in cases of grave circumstances, rape and acts of delinquency relevant to gender-based violence against women may be punished either by the death penalty or by a life sentence. Meanwhile, the administrative penalty law may also be imposed in relation to violence against women. In the DPRK, there are no specific provisions regulating sexual harassment and assault, apart from rape.

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49. Jung Won Park, "A Study on the Normative Control for the Security of Kim Jong-il's Regime: with Emphasis on the Addenda of the North Korean Criminal Law in 2007," *The Korea Journal of Unification Affairs*, vol. 53 (2010), p. 234.

50. Ye Joon Rim et. al., *A Study on the Changing Trend of Human Rights Institutions and Situation in North Korea* (Seoul: Korea Institute for National Unification, 2016), p. 44.

51. *Ibid.*

### **3. Evaluating the North Korean Legislation Related to Violence against Women**

As examined, the DPRK provides legislation in the LPPRW and Criminal Law, which regulate gender-based violence against women. However, the existing legislation needs to be improved in accordance with international standards to enhance the protection of women.

#### **a. Relaxing of Penalties**

First of all, the relaxing of penalties should be noted. The DPRK stated in its combined report that “Some immoral persons who arranged for or forced women to commit prostitution, or committed rape were duly punished in accordance with the relevant provisions of the Criminal Law. In such cases the convicted persons were put on public trials, where, in the presence of a large number of people, they were sentenced to heavy penalties, alerting others not to commit such crimes.”<sup>52</sup> The Committee has consistently emphasized and further recommends State parties to ensure that all forms of violence against women are criminalized and to strengthen legal sanctions commensurate with the gravity of the offense as well as civil remedies.<sup>53</sup> By contrast, the provisions in the DPRK relevant to gender-based violence against women have been relaxed.

Most punishments under the Criminal Law were lessened through the 2012 Amendment. In the course of the amendment, provisions regulating gender-based violence against women were also relaxed. For instance, Article 294 of the 2009 Criminal Law, regarding Section 1 on Forcing Subordinate Women to have Sexual Intercourse, imposed less than 2 years of disciplinary labor, or less than 2 years of a labor reform sentence in the case of grave circumstances, while Section 2 imposed a labor reform sentence of 2 to 5 years in cases where such an act is committed against multiple women or when the woman concerned becomes

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52. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), para 70.

53. CEDAW, General Recommendation No. 35: Gender-Based Violence against women (2017), para 29.

depraved or commits suicide as a result of the act; Article 280 of the 2012 Amendment Criminal Law shortened the period to less than 1 year of disciplinary labor or less than 3 years of labor reform in cases of perpetration against multiple women, or causing “suicide or corruption of women.”<sup>54</sup> This provision is in direct opposition to the strengthening of punishments for gender-based violence against women. Moreover, it is far from gender-sensitive, in assuming or considering that such crimes would lead to ‘corruption of women.’

After the growth of the informal economy through the spread of *Jangmadang*, which refers to the local black market in North Korea, it is reported that sexual violence against women in the country has become more widespread.<sup>55</sup> At the same time, punishment regulating these crimes has lightened, decreasing the protection afforded to women against gender-based violence. Although this may be viewed in light of decreasing punishments under Criminal Law in general, it can also be compared to the concurrent strengthening of provisions relating to Anti-State crimes, or other crimes disrupting the socioeconomic system which entail heavy penalties. In this context, gender-based violence against women in the DPRK is not subject to adequate penalties. The UN requires consistency of sentencing with the gravity of the crime committed. Furthermore, the removal of exceptions and reductions in sentencing is required. Thus, enhanced sanctions for repeated or aggravated domestic violence offenses might be needed.<sup>56</sup> Indeed, during the review of its combined second to fourth report, the Committee was also concerned that the 2012 revision of the Criminal Code lowered the penalties for some forms of rape, including the rape of children, rape by a work supervisor, and repeated rape.<sup>57</sup>

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54. These terms of punishment continued until the 2015 Amendment.

55. Young-kyu Kim, “Changing legislations regarding women and children in the context of marketization of North Korea,” in Center for North Korean Human Rights Studies at KINU (ed), *Marketization and Human Rights in the DPRK* (Seoul: KINU, 2014), pp. 204-205.

56. United Nations, *Handbook for Legislation on Violence Against Women* (New York: United Nations, 2010), pp. 50-51.

57. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 25 (c).

## b. Inadequate Regulation for Domestic Violence

Second, there remains inadequate regulation for domestic violence. Domestic violence violates the inherent dignity and worth of women, of all members of the family, and of society. It represents a breach of human rights including the inalienable right to freedom from fear and want and is interlinked with structured gender inequality.<sup>58</sup> The Committee enumerates measures that are necessary to eliminate domestic violence. These include criminal penalties and civil remedies, services to ensure the safety and security of victims of family violence, rehabilitation programs for perpetrators, and support services for families where incest or sexual abuse has occurred.<sup>59</sup>

The international community has consistently requested the DPRK to legislate and regulate domestic violence. In 2005, after reviewing the initial National Report for the implementation of the CEDAW, the Committee specifically expressed concern in its concluding observation that the DPRK appeared unaware of the existence of domestic violence and lacked specific legislation to deal with it.<sup>60</sup> The Committee called on the DPRK to conduct research on the incidence, causes and consequences of domestic violence, while urging it to find ways to make visible the existence of domestic violence.<sup>61</sup> It further recommended the adoption of specific legislation on domestic violence, ensuring that violence against women constitutes a criminal offense and urged the DPRK to ensure that victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished.<sup>62</sup> In the first cycle of the Universal Periodic Review (UPR) of the UN Human Rights Council held in 2009, several States recommended that the DPRK “pass legislation specifically dealing with violence

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58. Dorothy Q. Thomas & Michele E. Beasley, “Domestic Violence as a Human Rights Issue,” *Human Rights Quarterly*, Vol. 15 (1993), p. 37.

59. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (r).

60. UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), para 37.

61. *Ibid.*

62. *Ibid.*, para 38.

against women, including domestic violence, providing for prosecution of individuals committing acts of violence against women (United States)”; and that it “enact specific legislation to punish violence against women and establish structures for the protection of victims (Chile).”<sup>63</sup> These recommendations have been accepted by the DPRK, and partially realized through the enactment of LPPRK, Article 46 of which deals with “domestic violence.” However, this Article does not provide a clear definition of “domestic violence” nor does it stipulate any specific provision to prosecute perpetrators and to protect victims.<sup>64</sup> Although Article 46 of the LPPRW regarding the prohibition of domestic violence prescribes “all forms of violence,” the notion of violence in the understanding of the DPRK authority remains limited to physical violence only, and does not specify emotional, psychological, and patrimonial, and economic violence that could occur through omission. Moreover, as will be discussed, measures to protect victims of domestic violence are still inadequate and recognition of marital rape has not been legislated.

It is recommended that legislation provide a comprehensive definition of domestic violence, including physical, sexual, psychological, and economic violence.<sup>65</sup> As recommended by the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea in 2014, the DPRK authorities need to “take measures to address all forms of violence against women, including domestic violence, sexual and gender-based violence by State agents and/or within State institutions.”<sup>66</sup> Furthermore, as recommended by the Committee in reviewing the second to fourth combined report, the provisions concerning reconciliation between spouses in the LPPRW should not be used as a basis for dismissal of prosecution in cases of domestic violence.<sup>67</sup>

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63. UN Doc. A/HRC/WG.6/6/L.12 (9 December 2009), para 90.

64. Jina Yang, “Women’s Rights in the DPRK: Discrepancies Between International and Domestic Legal Instruments in Promoting Women’s Rights and the Reality Reflected by North Korean Defectors,” *Cornell International Law Journal*, vol. 51 (2019), p. 233.

65. United Nations, *Handbook for Legislation*, *supra* note 56, p. 24.

66. UN Doc. A/HRC/25/63 (7 February 2014), para 89 (i).

67. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 12 (c)

### c. Inadequate Protection of Victims

The third factor is inadequate protection of victims of violence against women. According to the Committee, “State parties should establish or support services for victims of family violence, rape, sexual assault, and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counseling.”<sup>68</sup> For this purpose, legislation should oblige the State to provide funding for comprehensive and integrated support services to assist survivors of violence.<sup>69</sup> However, the DPRK still lacks legislation for the protection of victims of gender-based violence, nor does it seem to recognize the importance of such measures.

In 2005, the Committee specifically expressed concern that the DPRK lacks prevention and protective measures for victims.<sup>70</sup> During the second cycle of the UPR process in 2014, States also urged the DPRK to take effective measures, including adequate support measures for victims of human trafficking. For instance, together with recommending that the DPRK establish measures to combat discrimination and violence against women (France), it was recommended that violence against women be punished under law, and that adequate measures be established to protect victims (Chile).<sup>71</sup> In response to these concerns on the part of the international community, the DPRK stated in its combined report that the identities of victims of sexual exploitation-related crimes be kept in strict confidence, and that these victims were compensated in accordance with the Law on Compensation for Damages, which provides that a person who did harm to another’s health shall be liable to pay him/her the expenses for medical treatment or the amount of money equal to the wages he/she lost while staying away from work.<sup>72</sup> As stated, according to Articles 7, 9 and Article 40 of the Law on Compensation

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68. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (k).

69. United Nations, *Handbook for Legislation*, *supra* note 56, p. 31.

70. UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), para 37.

71. UN Doc. A/HRC/27/10 (2 July 2014) paras 124.105, 124.107.

72. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), para 71.

for Damages (last amended in 2005), a person who committed damages to another person is responsible for compensating damages in addition to criminal liability. This includes harms to the personality and honor of the person, citing psychological harms as well as violations against the human body (physical harm). However, it is still hard to assess actual implementation of the provision, and whether this legislation fits the requirement of protection of victims stipulated in the CEDAW. As a result, in its concluding observations, the Committee specifically expressed concern that the LPPRW does not provide for victim protection and support measures or for criminal liability of perpetrators.<sup>73</sup> Moreover, the lack of protection measures, including legal services, psycho-social support and shelters available to women victims/survivors of domestic violence was also noted.<sup>74</sup>

#### d. Absence of a Comprehensive Definition of Sexual Assault

Fourth, legislation should define a broad offense of sexual assault incorporating rape, including marital rape, through specifically criminalizing sexual assault within a relationship, either by providing that relevant provisions apply “irrespective of the nature of the relationship” between the perpetrator and complainant; or stating that “no marriage or other relationship shall constitute a defense to a charge of sexual assault under the legislation.”<sup>75</sup>

In the DPRK, there is a lack of awareness of marital rape. This was specifically noted in the second cycle of the UPR process, and States recommended the enactment of national legislation to combat violence against women, including a definition of rape that applies to domestic rape and rape in detention centers (Canada).<sup>76</sup> In 2017, in its concluding observations, the Committee was also concerned about the fact that marital rape is not criminalized, and that the penalties for rape are not

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73. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 25.

74. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 25 (d).

75. United Nations, *Handbook for Legislation*, *supra* note 56, p. 26.

76. UN Doc. A/HRC/27/10 (2 July 2014), para 124.106.

commensurate with the severity of the crime.<sup>77</sup> In the third cycle of the UPR process in 2019, States continued to raise the issue, for instance making a recommendation to “take measures to criminalize marital rape and to prevent and punish domestic violence against women, including awareness campaigns, legal services, support and shelter for survivors (Israel).”<sup>78</sup>

Moreover, legislation should criminalize sexual harassment and recognize sexual harassment as a form of discrimination and a violation of women’s human rights with health and safety consequences.<sup>79</sup> Sexual harassment has traditionally been associated with labor-related offenses that occur in the context of unequal power relations. In the DPRK, although Article 246 of the Criminal Law regarding Acts of Misdemeanor may be broadly interpreted to be applicable in the circumstance of sexual harassment, the current legislation has no specific provision regulating sexual harassment when it does not constitute a crime of rape. According to the *Reference for Law Enforcement Personnel (Beobilgun Jichinseo)* published in North Korea, this Article regulating acts of misdemeanor applies to situations when “a person removes their clothing in front of other people or commits shameful acts against women,” and when “a person pursues perverted sexual desire without having a sexual relationship or commits any obscene act against women.”<sup>80</sup> However, the Article also refers to the case of homosexuality and in so doing falls far short of a human rights standard—which shows that such standards are too arbitrary. In its concluding observation regarding the combined national report of the DPRK, the Committee recommends that the State party adopt legislation to specifically define and criminalize sexual harassment in the workplace and develop a confidential, independent, and safe system for the filing of complaints relating to sexual harassment and sex-based discrimination in the workplace and ensure that victims have effective access to means

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77. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 25 (c).

78. UN Doc. A/HRC/WG.6/33/L.8 (14 May 2019), paras 6.184.

79. United Nations, *Handbook for Legislation*, *supra* note 56, p. 27.

80. Ministry of People’s Security, *Reference for Law Enforcement Personnel* (Pyongyang: Ministry of People’s Security Publication, 2009).

of redress, including adequate punishment of perpetrators.<sup>81</sup>

#### **4. Consideration of Root Causes, and Ways to Reform Legislation**

Generally, factors that perpetuate violence against women may involve cultural, economic, legal, and political aspects.<sup>82</sup> As noted by the Committee, violence against women is rooted in the ideology of men's entitlement and privilege over women and the social norms regarding masculinity, while enforced by the need to assert male control or power, based on the stereotype of gender roles.<sup>83</sup> These factors contribute to explicit or implicit social acceptance of gender-based violence against women, often still considered as a private matter, and to reinforcing the widespread impunity for such violence.<sup>84</sup> As such, in the DPRK the root cause for the prevalence of violence against women may be found in patriarchal authoritarianism and predominance of men over women intertwined with Confucian feudalism in society.<sup>85</sup> Although the DPRK proclaimed the revolution of feudalistic family relations, gender equality, and the special protection of women as guiding principles in Family Law adopted in 1990, actual family life has not changed under a male-dominated society founded by patriarchal socialism.<sup>86</sup> Moreover, under the rule of State patriarchy where the supreme ruler is idolized as a father and head of household caring for all of society, North Korean women are suppressed under both State power and the patriarchal order, a position which is inevitably unequal due to the structural

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81. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 38.

82. UNODC, *Handbook on Effective Police Response to Violence against Women* (New York: United Nations, 2010), p. 35.

83. CEDAW, General Recommendation No. 35: Gender-Based Violence against women (2017), para 19.

84. *Ibid.*

85. Shim, *supra* note 31, pp. 176-78.

86. Kim, *supra* note 55, p. 202.

imbalance.<sup>87</sup> Although changes are appearing with the spread of an informal economy through *Jangmadang*, which is strengthening the economic power of women within the family, stereotypes of male dominance and fixed gender roles are generally maintained in North Korean society.<sup>88</sup>

Domestic violence is still regarded as a family matter occurring in the private sector, leading to a lack of protection for victims. Alongside the inadequacy of specific provisions for punishment, society's response to domestic violence in North Korea remains weak, and it appears there have not been significant changes in actual circumstances. In an interview survey carried out on North Korean defectors, domestic violence seems to be common, and its victims are still not able to seek an appropriate response or protection.<sup>89</sup> Although theoretically they could report such incidents to the police, most of them do not do so as they have no expectation that specific measures will be taken. Even when cases of domestic violence are reported to the authorities, it is common for them to behave as if it is too much trouble to take action, implying that family affairs should be handled within the family. This attitude is part of what prevents victims of domestic violence from reporting the abuse to authorities. There is a low level of awareness of criminal punishment for domestic violence. Moreover, the notion that women provide the cause of domestic violence seems to be deeply rooted in North Korean society.<sup>90</sup>

Overall, awareness and education regarding women's rights fall short of improving the situation, along with the inadequacy of legal, institutional, and social sanctions concerning violence against women. As examined, current legislation in North Korea regarding violence against women, although much improved by the 2010 LPPRW, still illustrates the lack of gender-sensitivity on the part of legislators regarding the human rights of women. The absence of an independent and active

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87. Hwang and Choi, *supra* note 29, pp. 2-3.

88. Do et. al., *White Paper*, *supra* note 5, p. 358.

89. *Ibid.*, pp. 371-72.

90. Kyung-ok Do et al., *Human Rights Situation of Women and Children in North Korea* (Seoul: KINU, 2016), pp. 20-21.

civil society in North Korea is a further factor in making it difficult to improve legislation. The DPRK postponed submission of its national report on implementation of CEDAW from 2005 until the recent combined report submitted in 2016. Accordingly, it forfeited the opportunity to review its national legislation in accordance with international standards. The DPRK's extraordinary situation regarding communication and international exchange with other worlds (countries) could be yet another factor preventing advancement, as it does not provide an easy opportunity for comparison with other States in respect to women's rights. Likewise, its lack of capacity to take measures that require financial investment might also be counted among the reasons underlying insufficient protection of women's rights, along with policy makers' lack of awareness on this issue.

Comprehensive legislation regarding gender-based violence against women would be the fundamental step for effective prevention and a coordinated response. As has been examined, States are obliged to legislate and to enforce implementation of such legislation. Even though legislation exists in the DPRK regarding gender-based violence against women, it is limited in scope and coverage, and much improvement is needed in order to comply with international standards. Moreover, such legislation should mandate a specific implementation plan and institutional framework for training and capacity-building for public officials on violence against women, with an allocated budget for implementation. The adoption of specialized laws and procedures on violence against women is promising in that such laws and procedures aim to enhance the effectiveness of the State's response to violence against women.<sup>91</sup> Along with these measures, vigorous arrest and prosecution policies may suggest that the society as a whole regards violence against women as a serious crime that is not condoned by the authorities. Appropriate sentencing can be achieved by the introduction of minimum sentences for certain offenses and monitoring of sentencing practices.<sup>92</sup> Fundamentally, State parties should take effective measures

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91. United Nations, *Ending Violence Against Women*, *supra* note 2, p. 110.

92. *Ibid.*, 108.

to overcome attitudes and practices that perpetuate violence against women. This could be done by introducing education and public information programs to help eliminate prejudices which hinder women's equality.<sup>93</sup>

#### IV. Conclusion

Violence against women is a violation of human rights and prevents women from enjoying their human rights and fundamental freedoms. It infringes the rights to life and security of the person and prevents women from enjoying the highest attainable standard of physical and mental health, education, work and housing, and further, participation in public life. Such violence perpetuates the subordination of women and the unequal distribution of power between women and men. It has consequences for women's health and well-being, carries a heavy human and economic cost, hinders development, and can also lead to displacement.<sup>94</sup> Gender-based violence against women is a critical obstacle to achieving substantive equality between women and men as well as to women's enjoyment of human rights and fundamental freedoms.

States have an obligation regarding the formation of legal norms, as well as the design of public policies, programs, institutional frameworks, and monitoring mechanisms aimed at eliminating all forms of gender-based violence against women.<sup>95</sup> States are also required to reinforce laws, reform institutions, and promote norms and practices that eliminate the discrimination causing violence. State parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including effective legal measures and penal sanctions, civil remedies, and compensatory provisions to protect women against all kinds of violence. Such measures comprise both preventive measures, including public information and education

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93. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (f).

94. United Nations, *Ending Violence Against Women*, *supra* note 2, p. 57.

95. CEDAW, General Recommendation No. 35: Gender-Based Violence against women (2017), para 26.

programs to change attitudes concerning the roles and status of men and women as well as protective measures, including counseling and rehabilitation and support services for women who are the victims of violence.<sup>96</sup>

This article examined the current legislative status of violence against women in the DPRK. As a State party to the CEDAW, the DPRK is failing to implement in full the international standards on violence against women. Although the enactment of the LPPRW in 2010 did incorporate domestic violence, such legislation still falls short of international standards, first in that penalties applicable to gender-based violence against women in criminal law have been relaxed; second, due to inadequate regulation concerning domestic violence; third, due to inadequate protection of the victims; and fourth, in that it lacks a comprehensive definition of sexual harassment. Indeed, similar concerns have also been noted in the third cycle of the UPR process, recently done in May 2019, where States recommended to review the LPPRW to ensure that all forms of gender-based violence against women in all spheres are criminalized (Belgium); and to review laws, including the LPPRW, to include definitions of violence against women (Iceland).<sup>97</sup>

Moreover, notwithstanding the implementation of LPPRW, practices regarding violence against women continue to fall far short of CEDAW requirements due to the entrenched notion of male dominance over women supported by the patriarchal system. The DPRK authorities' recent efforts to engage in dialogue regarding the rights of vulnerable groups by submitting the postponed national reports to the Committee and a review of the current status of women's rights do provide momentum to improve the situation. Such efforts are significant indicators of movement towards improving women's rights in the DPRK and should include amending national legislation. Indeed, amongst many recommendations, in its concluding observation, the Committee also emphasized the crucial role of legislative power in ensuring the full

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96. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (t).

97. UN Doc. A/HRC/WG.6/33/L.8 (14 May 2019), paras 6.181, 6.183.

implementation of the CEDAW.<sup>98</sup> In adherence to the recommendations of the Committee, the DPRK needs to modify relevant legislation to prevent and eliminate violence against women vis-à-vis ensuring women's status and human rights in daily life.

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98. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 9.

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