

White

Paper

on

Human

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White Paper on Human Rights in North Korea 2021

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



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Summary

Part I

Purpose of Publication and Research Methodology

The *White Paper on Human Rights in North Korea*, that the Korea Institute for National Unification has published annually since 1996, aims to raise awareness on North Korean human rights issues at home and abroad and to provide related basic materials by objectively surveying and analyzing the North Korean human rights situation. The *White Paper on Human Rights in North Korea 2021* incorporates information from in-depth interviews with 50 North Korean defectors who had lived in North Korea most recently before entering South Korea. These interviewees were selected with consideration of their demographic and social backgrounds. This *White Paper 2021* classifies and analyzes the human rights situation in the North under the following chapters: The Reality of Civil and Political Rights; The Reality of Economic, Social and Cultural Rights; Vulnerable Groups; and Major Issues.

Part II

The Reality of Civil and Political Rights

The people's right to life is still threatened in North Korea. In the 2020 survey, testimony that is contradictory to the results of the 2019 survey has not been collected. In the 2020 survey, many cases have been documented where executions were carried out for narcotics trading, watching or distributing South Korean video recordings, and violent crimes such as murder and rape. Although specific grounds for executing the sentences have not been identified, there were many cases where the death penalty was carried out for carrying a Bible, distributing propaganda leaflets and engaging in acts of superstition. While it is difficult to determine whether such collected cases fall under the category of extrajudicial, summary or arbitrary execution, the broad scope of crimes subject to capital punishment in North Korean Criminal Law and frequent executions may constitute violations of the duties of the States Parties stipulated in the International Covenant on Civil and Political Rights (hereinafter ICCPR). However, there are testimonies where the frequency of public executions is on the decline and the number of cases where residents are mobilized at public executions is also decreasing. Still, it is not clear whether the actual number of public executions has decreased or the number of non-public executions or secret summary executions has increased.

The North Korean authorities appear to be using torture and inhuman treatment in the process of handling criminal cases to force confessions. There were testimonies from North Korean defectors that violence and cruel treatments are used in detention facilities during imprisonment. It was found that in North Korea, inconsistent with the provisions of its Criminal Law and Criminal Procedure Law, torture and inhuman treatment still occur in the process of handling a case. Moreover, there were many testimonies indicating that highly intensive labor is imposed on prisoners in holding centers (*jipkyulso*) in border regions. The imposition of labor training punishment for misdemeanors, the imposition of re-educational labor discipline based on the Administrative Penalty Law and the People's Security Enforcement Law and the forcing of labor on prisoners in holding centers (*jipkyulso*) may constitute forced labor.

Moreover, arbitrary or unlawful arrests and detentions are still carried out in North Korea, and the North Korean Criminal Procedure Law does not have any provision related to informing the suspect of the reasons for his/her arrest and the facts of the charge in the investigation stage. It also does not include a system to review the validity of a warrant by a judge. In the 2020 survey, there was no testimony on meaningful changes in this regard.

According to defector testimonies, violence and cruel treatment still take place in detention facilities such as prison camps

(*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*), and detention centers (*guryujang*), and their nutritional, sanitary and medical conditions are very poor.

The freedom of movement and residence of the North Korean people is also seriously restricted: the travel permit system, crackdowns by zone, forced deportation and the restriction of access to certain areas are the most typical examples. It seems that the forced deportation of those who are involved in defection is decreasing, but this decline is likely due to the North Korean authorities having limited space to accommodate deportees. Such a situation is leading the North Korean government to reinforce border control to prevent and discourage North Korean people from defecting.

In North Korea, the right to a fair trial is not guaranteed due to the denial of judicial independence and the implementation of unfair and perfunctory trials as well as quasi-judicial systems. The violations of the right to have legal assistance by a defense counsel and the right to appeal as well as the limited rights for foreigners detained in North Korea to consult with a consul have also continued. Some North Korean defectors testified that they have received assistance from a private attorney.

The violation of privacy continues through routinely monitoring residents via the People's Unit (*inminban*) and Life Review Sessions (*saenghwalchonghwa*); monitoring and wiretapping residents whose

family members are missing, have defected to or reside in South Korea, residents who smuggle goods and family members of individuals dispatched to foreign countries; conducting illegal home investigations and interfering with communication. Cases have been occasionally reported where people protested or raised complaints against illegal home investigations without a warrant or prior notice. Although somewhat limited, this trend shows that the overall awareness of rights among North Koreans has grown. Moreover, many testifiers perceived that the increase in illegal home searches under the Kim Jong Un regime has degenerated into a means for public security authorities to swindle money and goods and thus have increased distrust of government authorities.

Violations of the right to freedom of thought, conscience and religion; the right to freedom of expression; and the right to freedom of assembly and association have continued. In fact, considering that controlling and denying the abovementioned rights are the core pillars supporting the North Korean system, it is difficult to expect fundamental change. In the 2020 survey, there were many testimonies claiming that people were sent to political prison camps (*kwanliso*) or executed for simply carrying a Bible as the regime carried out severe suppression of Christianity and heavy punishment of those accused of acts of superstition including fortunetellers and shamans. However, it seems that emphasis and education on the Ten Principles for the Establishment of the Party's Unitary Leadership System, which can be seen as

the governing rules of the Kim Jong Un regime, have somewhat weakened.

As the distribution rate of computers and mobile phones has increased significantly, external cultural content is also being introduced through digital devices. Censorship and crackdowns by the authorities on video and audio recordings, international calls and text messages are widely carried out in everyday life, and relevant punishments are intensifying. With a growing number of students possessing a mobile phone, cases of cracking down on the students' mobile phones were reported. There were many testimonies claiming that when caught in a crackdown, the testifier had his/her sentence reduced or avoided punishment altogether through bribery. Since the outset of the Kim Jong Un regime, it seems that crackdowns on and punishments for possessing recordings or using mobile phones have continued to strengthen. North Korea amended its Criminal Law in 2015 to add the Crime of Illegal International Communications (Article 222), strengthening the crackdown and punishment for using mobile phones around border areas. In the 2019 survey, testimonies were collected indicating that being caught with South Korean recordings or calling South Korea leads to actual punishment and cannot be resolved through paying bribes.

There was no meaningful testimony on freedom of assembly and association, and there seems to be little chance that the North

Korean people's awareness of the right to freedom of assembly and association will spread in the short term.

Many recent cases discussed the right to political participation in the 2020 survey as many North Korean defectors experienced the election of deputies for the Supreme People's Assembly (hereinafter SPA) and the Regional People's Assembly held in 2019. It was found that the majority of the testifiers have participated in elections without sufficiently knowing who the candidates were. Since autonomous participation in elections and a liberal environment to vote for or against candidates is not guaranteed and it is not possible to run for candidacy on one's free will, it cannot be said that the right to political participation is sufficiently guaranteed in North Korea.

In North Korea, the right to equality is seriously violated through discrimination based on background (*songbun*) and class. The majority of North Korean people are discriminated against based on their background (*songbun*) and family background (*todae*) in their joining of the Party, entering into society, job assignment, appointment and promotion to become an official, school entrance, joining of the military and residence assignment. After Kim Jong Un came to power, discrimination based on background (*songbun*) and family background (*todae*) has been partially mitigated due to the influence of economic power. However, it is difficult to say that the existing discrimination based on

background (*songbun*) and family background (*todae*) has been improved, and rather, the discriminatory structure has intensified as new forms of discrimination and inequality based on economic power overlap with the old.

Part III

The Reality of Economic, Social and Cultural Rights

The general evaluation is that the food situation in North Korea has slightly improved. However, North Korea still suffers from chronic food shortages. The North Korean authorities are making policy efforts to increase food production through the introduction of the “paddy unit responsibility” system, but such efforts have not contributed much to increasing agricultural production and improving the right to food of farm members due to the unfair operation of the system, shortage of farming materials and excessive production plans by the government. Although some privileged classes, such as Party officials, are receiving normal rations, the majority of workers, including professional workers such as teachers and doctors, either rarely receive rations or receive an amount that falls substantially short of their actual needs. Moreover, due to strengthened sanctions against North Korea, situations have been increasing whereby residents who

used to receive normal amounts experience a suspension or decrease in rations. In turn, a substantial number of residents supplement the insufficient food supply by carrying out personal economic activities, including the vending, peddling and cultivation of small paddies. The crisis in the right to food is also leading to corruption with some professional workers maintaining their sustenance through bribes.

Although North Korea claims to adopt a free medical care system, in the actual process of medical service provision, patients bear most of the costs. In addition, discrimination in access to medical services exists based on class. Testimonies were collected stating that there are separate medical facilities used by officials of the Party. Residents tend to go to private doctors or buy and take medicines rather than go to a hospital when they are sick, which is a concern because this practice could lead to misdiagnosis or medical errors. It seems that preventive medical measures, including vaccination, are carried out to a certain extent, but North Korea is still considered vulnerable to infectious diseases such as tuberculosis.

It appears that North Korean people's right to work is also not sufficiently guaranteed. As clearly evident in group allocations, freedom to choose an occupation is not guaranteed. In addition, the rights of workers to work in favorable working conditions and to receive fair compensation are also not guaranteed. As the freedom

to form, join or withdraw from a labor union is also not given, workers are faced with a situation where it is difficult to demand improvements to the unreasonable treatment imposed on them.

Moreover, North Korean authorities laid a legal and institutional foundation to normalize and improve the quality of public education. Some North Korean defectors testified that North Korea's educational conditions have improved. However, it is difficult to view that actual educational conditions and the environment have improved equally by region or school type. This inconsistency is due to the fact that, despite North Korea's claims to have institutionalized a free education system, the state has failed to provide the necessary resources for improving the educational environment. As a result, students and parents bear the burden of paying the costs of school operation and teachers' remuneration. In addition, the authorities should pay attention to vulnerable students as school disruptions occur as a result of financial difficulties.

From a legal perspective, North Korea's social security system is well established. In reality, however, it fails to fulfill its functions. Elderly pension is provided in only meager amounts, offering no help for the elderly in sustaining their lives. If the breadwinner of a family suddenly fell ill or died and is no longer able to conduct economic activities, the family becomes vulnerable to economic hardship. In addition, support for residents who are unable to

engage in economic activities due to illness or disability is highly insufficient, and injured workers and their families are struggling to sustain themselves.

Part IV

Vulnerable Groups

It appears that North Korea's maternal health status requires substantial improvements. The health status of women of childbearing age does not seem to have improved significantly, and the health of women of childbearing age is threatened in the course of contraception or abortion. In addition, it was found that many women still do not receive adequate tests throughout their pregnancy. Despite the legislation stipulating that the cost of childbirth is free, in actual cases, payments are made for the care in childbirth, and this reality is a factor based on which some women give birth at home instead of in a safe environment such as a hospital.

It has been identified that the human rights situation of children in North Korea has been partially improved under the continued attention of the authorities in the areas of nutrition and health care, which are necessary for the growth and development of children. After Kim Jong Un came to power, North Korea sought to promote children's right to development by expanding cultural,

leisure and sports facilities. However, political ideology education and military training that are inconsistent with the proclaimed educational objectives are included in the mandatory school curriculum, and excessive labor mobilization of children continues. Meanwhile, children who had received humanitarian aid are now in a vulnerable state as external aid and cooperation with international organizations were halted in 2020 due to the 2019 coronavirus pandemic (hereinafter COVID-19).

In 2019, North Korea adopted several measures to improve the human rights of persons with disabilities, including barrier-free architectural standards to improve accessibility by persons with disabilities. Moreover, it accepted the recommendation made by UN member states during the third cycle of the Universal Periodic Review (hereinafter UPR) in 2019 regarding the improvement of the rights of persons with disabilities. Despite such efforts, however, it appears that the overall human rights situation of persons with disabilities is still poor in North Korea.

Part V

Major Issues

In the 2020 survey, cases have been documented where people were imprisoned in political prison camps (*kwanliso*) for similar reasons as the past, such as calling South Korea, watching South

Korean movies, narcotics, being involved in human trafficking or distributing recordings of the reality of North Korea to foreign countries. In addition, it was found that there are various perceptions about political prison camps (*kwanliso*): some testifiers said that they have only heard about such places, and other testifiers had a specific image about the place as being “a place where you cannot come out once you enter.” However, there has been no testimony collected regarding the actual lives of prisoners in political prison camps (*kwanliso*). Assuming that the situation has not significantly changed, it is presumed that diverse rights and freedoms of prisoners recognized under the ICCPR are being violated.

With regard to defection, North Korean authorities have continuously strengthened border control and crackdowns. Therefore, there is a concern that the violation of the human rights of North Korean residents caught attempting to defect or forcibly repatriated might intensify. As was the case in the 2018 survey, the 2019 survey collected many testimonies where residents who were caught while defecting from North Korea paid an enormous amount of money to avoid punishment. In the 2020 survey, it was also noted that punishment for overseas workers who attempted to defect was intensified, and it was found that monitoring of and crackdowns upon the families of defectors are still carried out.

In general, opportunities to be dispatched overseas are reserved for those with good family backgrounds (*todae*) and the ability to

offer bribes. It was found that overseas dispatched workers often suffer from excessive labor for a long period of time and a substantial amount of their wages earned through such labor is submitted to the state. In addition, it was found that some of the wages are embezzled by middle managers. Meanwhile, it was identified that there are risks of a substantial number of overseas workers being subjected to forced labor due to debts incurred during their dispatch period.

The issues of separated families, abductees and Korean War POWs are humanitarian issues to which international humanitarian law applies, as well as human rights issues to which international human rights law applies. There were no government-level exchanges or reunions between separated families in 2020, and only some cases of letter exchanges took place at the private level. Today, most of the applicants for family reunions are extremely old. If holding a family reunion is difficult due to COVID-19, the two Koreas must actively reach an agreement and take measures so that video reunions or letter exchanges can take place on humanitarian grounds.



White Paper on Human Rights
in North Korea 2021



Part I

Purpose of Publication and Research Methodology

1. Purpose of Publication
 2. Research Methodology
-

1

Purpose of Publication

North Korea has one of the worst human rights records in the world. The international community has been expressing concerns and urging North Korea to address its serious human rights violations. The former United Nations Commission on Human Rights (hereinafter UNCHR) adopted resolutions on North Korean human rights between 2003 and 2005, and the United Nations Human Rights Council (hereinafter UNHRC), the successor to the UNCHR, has adopted resolutions on North Korean human rights between 2008 and 2020.¹ The United Nations (hereinafter UN) General Assembly has also adopted resolutions on North Korean human rights every year since 2005, expressing grave concerns regarding the human rights situation in North Korea.² In accordance with the UNHRC resolution, the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (hereinafter COI) was established in

1_ UNHRC, 22 June 2020. UN Doc. A/HRC/RES/43/25 (2020).

2_ UN General Assembly, 28 December 2020. UN Doc. A/RES/75/90 (2020).

March 2013. After a year of investigation, the COI reported that systematic, widespread and grave human rights violations exist in North Korea, with many of them constituting crimes against humanity. In June 2015, a field office on North Korean Human Rights under the Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR) was established in Seoul as part of the follow-up measures to the COI report. Additionally, the UN Security Council discussed North Korean human rights issues for four consecutive years, from 2014 to 2017. On 11 December 2020, the UN Security Council discussed human rights in North Korea in a closed session.³ The international community's discussion on how to improve human rights conditions in North Korea will continue, and an objective investigation and analysis is crucial in supporting such endeavors.

The Korea Institute for National Unification (hereinafter KINU) has been conducting in-depth research and professionally and systematically collecting and managing data on North Korean human rights issues. Since 1996, it has annually published the *White Paper on Human Rights in North Korea* in Korean and English. This white paper aims to raise awareness of North Korean human rights issues in South Korea and abroad and provide relevant basic materials for discussion and action by

³ UN Security Council, 11 December 2020. North Korean human rights issues were discussed in a closed session.

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

2

Research Methodology

This white paper examines the human rights situation in North Korea within the framework of international human rights norms. North Korea is a State Party to the ICCPR; the International Covenant on Economic, Social, and Cultural Rights (hereinafter ICESCR); the Convention on the Rights of the Child (hereinafter CRC) and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (hereinafter CRC-OP2); the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW); and the Convention on the Rights of Persons with Disabilities (hereinafter CRPD).

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

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

According to the Vienna Convention on the Law of Treaties, State Parties have the obligation to perform a treaty in good faith (Article 26). The Universal Declaration of Human Rights (hereinafter UDHR), which sets out a minimum universal standard for dignity and rights that every human being deserves, is not legally binding as it was adopted by a resolution of the UN General Assembly. However, a substantial part of its contents is assessed to have developed into the international customary law of today.

International human rights treaties stipulate that State Parties shall take necessary measures to implement the rights listed in

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

those treaties. As public administration and the judiciary are grounded in law, legislation is considered to be the most important measure in implementing treaties. Therefore, in order to identify to what extent individual rights recognized by each treaty are respected and guaranteed, we first review the relevant laws and regulations of North Korea and then examine the actual implementation of such laws and regulations. If the laws and regulations of North Korea run counter to the treaties, it would be difficult to conclude that the treaties are being faithfully implemented. If the laws and regulations of North Korea are consistent with the treaties but in reality are not complied with, it would be difficult to view the treaties as being faithfully implemented. Such analysis is meaningful in that it allows identification of not only the extent to which North Korea is fulfilling its international obligations as a State Party but also the degree to which North Korea is observing the laws and regulations it has enacted.

The human rights situation of a particular country needs to be examined through direct visits to that country. The international community has continuously requested that the North Korean authorities allow access in order to observe the human rights conditions in North Korea. However, the North Korean authorities have refused visits by the UN Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea (hereinafter DPRK). As a result, it is impossible to monitor human

rights conditions in North Korea independently or to directly access internal information. Against this backdrop, KINU conducts its investigations of the reality of the North Korean human rights situation and publishes the *White Paper on Human Rights in North Korea* based on the following methods.

First, KINU uses in-depth interviews with North Korean defectors who have settled in South Korea as the most important tool for investigation. The *White Paper on Human Rights in North Korea 2021* is based on interviews with 50 North Korean defectors. The interviewees were selected from those who had stayed in North Korea until most recently based on their demographic and social backgrounds (e.g., area of residence, experience in detention facilities, etc.). The in-depth interviews were conducted using a structured questionnaire prepared by KINU by referring to the rights specified in the International Covenants on Human Rights and the list of human rights violations indicated in the UN resolutions on North Korean human rights.

The number of interviewees this year has decreased compared to the previous year. This decline is due to the falling number of North Korean defectors entering South Korea due to COVID-19. With respect to some of the survey items on human rights violations, only a few new testimonies were collected. For the items to which no new testimony was collected, the results of the 2019 survey are provided. The following is the demographic profile of the 50 defectors with whom we had in-depth interviews in 2020.

Table I -2 Demographic Profile of In-Depth Interviewees in 2020

Category	Details	Events (persons)	Percentage (%)
Gender	Male	16	32
	Female	34	68
Total		50	100
Year of Last Defection	Before 2014	6	12
	2015	1	2
	2017	2	4
	2018	1	2
	2019	38	76
	2020	2	4
Total		50	100
Year of Arrival in South Korea	2015	1	2
	2016	1	2
	2018	1	2
	2019	11	22
	2020	36	72
Total		50	100
Age Groups	Teens (2011–2002)	1	2
	20s (2001–1992)	18	36
	30s (1991–1982)	8	16
	40s (1981–1972)	13	26
	50s (1971–1962)	9	18
	60s or older (–1961)	1	2
Total		50	100
Number of River Crossings	One	46	92
	Two	4	8
Total		50	100
Place of Last Residence	Gangwon Province	1	2
	Nampo	1	2
	Yanggang Province	27	54
	South Pyeongan Province	2	4
	Pyongyang	5	10
	South Hamgyeong Province	4	8
	North Hamgyeong Province	8	16
	North Pyeongan Province	0	0
	Jagang Province	0	0
	South Hwanghae Province	0	0
	North Hwanghae Province	0	0
No Response	2	4	
Total		50	100

KINU systematically manages this data by assigning personal identification numbers (e.g., NKHR2020000000) to all North Korean defectors who were interviewed. When citing their responses in the white paper, the interviewees are referred to by their identification numbers to protect their personal information.⁵ When more information was needed on certain rights or topics in addition to the in-depth interviews held in the early stages of entering South Korea, additional interviews were conducted. For these additional interviews, the sources of information were indicated as “North Korean defector ○○○, [Day] [Month] [Year], interviewed in Seoul.” Moreover, memoirs written by North Korean defectors were used as supplementary data.

Second, KINU utilizes official North Korean documents such as North Korean laws and regulations.

Third, KINU also uses UN documents on North Korean human rights, including reports submitted to UN human rights organizations by the North Korean authorities; General Comments and Concluding Observations of the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights; documents related to the UPR on North Korea by UNHRC; and the COI reports.

Fourth, survey results and statistics from various organizations such as the World Health Organization (hereinafter WHO), the

⁵ In addition, in order to prevent the interviewees from being identified, any personal information collected is indicated as “○○.”

UN Children’s Fund (hereinafter UNICEF), the World Food Programme (hereinafter WFP), UN High Commissioner for Refugees (hereinafter UNHCR), and Statistics Korea (South Korea) are also used.

Fifth, KINU utilizes major North Korean media when necessary, including the Korean Central News Agency (hereinafter KCNA) and the *Rodong Sinmun*.

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

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

The *White Paper on Human Rights in North Korea 2021* is written in accordance with the following principles:

- (1) The white paper focuses on describing the information obtained in the 2020 survey. However, when KINU considers that mentioning a previous survey is necessary for suggesting a tendency or trend in changes, the results of surveys prior to 2020 are included. Moreover, the white paper uses the results of surveys obtained prior to 2020 when dealing with topics that do not have sufficient information.
- (2) In order to look into the recent human rights situation in North Korea, KINU uses events that took place within five years of the survey for our research and analysis. In other words, the *White Paper on Human Rights in North Korea*

2021, which is based on the 2020 survey, only examines events that took place between 2016 and 2020. However, if certain events that occurred before 2016 are considered to be particularly meaningful, they are also included as an exception.

- (3) KINU only includes testimonies of North Korean defectors on events that they directly experienced or witnessed in order to guarantee the objectivity and reliability of the investigation. However, testimonies that are considered to be credible – for example, information the interviewees have heard directly from persons who experienced or witnessed certain events – are also included. In such cases, the white paper clearly states that the testimony is second-hand information.
- (4) The latest North Korean laws and regulations obtained are used. However, when it was necessary to refer to previous laws and regulations, they are cited with a clear statement that they are previous laws and regulations.
- (5) The white paper uses the most up-to-date names of North Korean organizations, except when interviewees referred to them by their previous names. As for names of some organizations, previous and current names may be mixed in use. For example, the term State Security Department (SSD) is used although the official name of the organization is Ministry of State Security (MSS).



White Paper on Human Rights
in North Korea 2021



Part II

The Reality of Civil and Political Rights

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

1

Right to Life

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

Table II-1

Article 6 of the ICCPR

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

The situation in North Korea related to the right to life will be examined by major issues in the following sections.

A. Extrajudicial, Summary or Arbitrary Execution

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

gravity and thus must be strictly controlled and limited by law.⁶ The meaning of “arbitrary” is somewhat ambiguous; however, it can be said that it is a broader concept than “unlawful.” In other words, deprivation of life that is regarded as “lawful” under the domestic laws of a State Party may be regarded as “arbitrary” under Article 6 of the ICCPR. Ultimately, prohibition against “arbitrary” deprivation of life means that life should not be deprived unreasonably. Pursuant to the provisions of Article 6 of the ICCPR, Article 14 of the ICCPR (that stipulates the right to a fair trial), and Article 15 of the ICCPR (that stipulates the principle of non-retroactivity of punishment), extrajudicial, summary or arbitrary execution is prohibited.

In North Korea, extrajudicial, summary or arbitrary executions are often carried out, particularly in detention facilities. In the 2019 survey, a testimony was collected about an inmate of Hamheung *Kyohwaso* who was caught while escaping and publicly executed (without a trial) in April 2016. The testifier said that inmates who did not want to see the execution were threatened that their release date would be postponed if they did not attend the execution, and, after the escapee had been shot to death, other inmates were forced to throw stones at the dead body, which was then cremated by male inmates.⁷ A North Korean

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

7_ NKHR2019000043 2019-07-01.

defector ○○○ testified that in 2013, two male inmates fought in Jeongeori *Kyohwaso* and one died as a result, and the other inmate was shot in front of all the other inmates without any trial.⁸ Although in many cases such executions are held in public to incite fear among detainees and impose tighter control, testimonies have confirmed that they are sometimes conducted in secret. There are some cases where the death penalty is decided through an open trial in prison camps (*kyohwaso*).⁹ However, such trial may be meaningless if it is only perfunctory in nature.

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

8_NKHR2017000044 2017-07-03.

9_NKHR2015000031 2015-02-10.

B. Broad Application of the Death Penalty for Offenses

Article 6, paragraph 2 of the ICCPR states that in countries that have not abolished the death penalty, a death sentence may only be imposed for the most serious crimes based on the law in force at the time of the commission of the crime. The “law” here is generally understood as a law in the formal sense. The expression “the most serious crimes” may be difficult to define due to its ambiguity. However, the UN Human Rights Committee explained in its General Comments on the right to life that it should be restrictively interpreted to mean that the death penalty should be an exceptional measure.¹⁰ Moreover, in its Concluding Observations on multiple national reports, the Committee pointed out that the declaration of the death penalty for treason, piracy, robbery, trading of toxic or hazardous substances, narcotics-related crimes, draft dodging, property crimes, economic crimes, adultery, corruption and political crimes violates Article 6 of the ICCPR as these offenses do not constitute the “most serious crimes.” This conclusion leaves premeditated murder or attempted murder and deliberate infliction of serious injury to be classified as the “most serious crimes.”

10_ UN Human Rights Committee, General Comment, No. 6 (1982), para. 7.

The current North Korean Criminal Law of 2015¹¹ stipulates the death penalty as the most severe statutory punishment for conspiracy to overturn the state, terrorism, treason against the fatherland, crime of clandestine destruction, treason against the people, illegal cultivation of opium/manufacturing of narcotics, trafficking/distribution of narcotics and premeditated murder. The following <Table II-2> indicates crimes punishable by death under the Criminal Law, and their legal requirements and related statutory penalties.

Table II-2 Crimes Subject to Capital Punishment under Criminal Law and Their Legal Requirements and Statutory Penalties

Conspiracy to overturn the state (Article 60)	Extremely serious cases of participation in or conspiracy to incite political revolts, civil disturbances, demonstrations or violent attacks 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 or surrendering to another country or turning over secrets to the enemy.	Unlimited-term correctional labor punishment or death penalty and confiscation of property

11_The Criminal Law of the DPRK revised and supplemented on 22 July 2015 in accordance with Ordinance 578 of the Presidium of the SPA (hereinafter the Criminal Law).

Crime of clandestine destruction (Article 65)	Extremely serious cases of clandestine 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 committed under imperialist rule against the people by engaging in the persecution of North Korea's national liberation movement and struggle for unification or by selling the interests of the people 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/trading 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, it should be noted that the death penalty was added as the statutory penalty for crimes related to the cultivation of opium and manufacturing of narcotics in the Criminal Law of 2013. It appears that the punishment for such crimes has been reinforced as cases of illegal opium cultivation or narcotics manufacturing have increased.

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 substances)</p> <p>A person who illegally cultivates opium or manufactures narcotics/toxic substances shall be subject to up to one year of labor training punishment.</p> <p>In cases where the act in the above paragraph is serious, the person 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 substances)</p> <p>A person who illegally cultivates opium or manufactures narcotics/toxic substances shall be subject to up to one year of labor training punishment.</p> <p>A person who cultivates large amounts of opium or manufactures large amounts of narcotics/toxic substances shall be subject to up to five years of correctional labor punishment.</p> <p>A person who cultivates particularly large amounts of opium or manufactures particularly large amounts of narcotics shall be subject to five years or more and up to 10 years of correctional labor punishment. When the case is serious, the person shall be subject to 10 years or more of correctional labor punishment.</p> <p>In cases where the act in Paragraph 3 is particularly serious, the person shall be subject to unlimited-term 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>A person who illegally cultivates opium or manufactures narcotics shall be subject to up to one year of labor training punishment.</p> <p>A person who cultivates large amounts of opium or manufactures large amounts of narcotics shall be subject to up to five years of correctional labor punishment.</p> <p>A person who cultivates particularly large amounts of opium or manufactures particularly large amounts of narcotics shall be subject to five years or more and up to 10 years of correctional labor punishment. When the case is serious, the person shall be subject to 10 years or more of correctional labor punishment.</p> <p>In cases where the act in Paragraph 3 is particularly serious, the person shall be subject to unlimited-term correctional labor punishment or the death penalty.</p>

Meanwhile, North Korea enacted the Addendum to the Criminal Law (General Crimes) in 2007, which is a separate law, to reinforce the punishment for general crimes, some of which are

subject to the death penalty or the death penalty together with confiscation of property. Moreover, the Addendum to the Criminal Law stipulates that “in the event multiple crimes committed by a single offender are extremely serious or the offender displays no feeling of remorse (*gaejunseong*),”¹² the offender may be punished by death. This case is a serious issue, as it means that the range of crimes for which the death penalty is applicable can be broadly expanded. However, according to the 2010 Addendum to the Criminal Law, which was obtained in 2017, it is noted that North Korea reduced the number of crimes punishable by death, and unlimited-term correctional labor punishment was added as a punishment to the crimes that were previously only punishable by death or the death penalty together with confiscation of property.¹³ Such changes are a slight improvement in that the number of crimes subject to the death penalty was reduced and the crimes that had been punishable only by the death penalty are now punishable either by the death penalty or restricting physical freedom. Crimes subject to capital punishment under the Addendum to the Criminal Law (General Crimes) of 2007 and 2010, and their statutory penalties, can be seen in <Table II-4>.

12_ The word *gaejunseong* seems to mean *gaejeon*, which refers to a sense of remorse and a change of heart.

13_ Revised and supplemented on 26 October 2020 in accordance with Ordinance 1152 and Order 44 of the Presidium of the SPA.

Table II -4

Crimes Subject to Capital Punishment under the Addendum to Criminal Law (General Crimes) of 2007 and 2010 and Their Statutory Penalties

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

Part I

Part II
The Reality of Civil and Political Rights

Part III

Part IV

Part V

	Extremely serious intentional infliction of serious injury (Article 19)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious kidnapping (Article 20)	Death penalty
	Extremely serious rape (Article 21)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious theft of private property (Article 22)	Death penalty with confiscation of property
	Other exceptional crimes subject to unlimited-term correctional labor punishment or death penalty (Article 23)	Unlimited-term correctional labor punishment or death penalty
Addendum to the Criminal Law of 2010	Extremely serious intentional destruction of combat equipment and military facilities (Article 1)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious plundering of state property (Article 2)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
	Extremely serious theft of state property (Article 3)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
	Extremely serious intentional destruction or damaging of state property (Article 4)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious counterfeiting of currency (Article 5)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious smuggling/trafficking of precious or colored metals (Article 6)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
	Extremely serious escape by a prisoner (Article 7)	Unlimited-term correctional labor punishment or death penalty
	Extremely serious kidnapping (Article 8)	Unlimited-term correctional labor punishment or death penalty

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

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

Over the last few years, the number of executions for acts of superstition, narcotics trading or watching or distributing South Korean video recordings has risen. Relevant testimonies were also collected in the 2020 survey. A North Korean defector ○○○ testified that he/she heard that public executions were held while policy-based control over acts of superstition was carried out between 2018 and 2019.¹⁴ A North Korean defector in his/her 50s who had lived in Yanggang Province and defected in 2018 testified that there were many recent cases where people were

14_NKHR2020000011 2020-06-15.

shot to death due to drugs (*bingdu*), and there were more non-public executions than public.¹⁵ A North Korean defector ○○ testified that one person was publicly shot to death at a plaza in Chongjin, North Hamgyeong Province, in 2014, for the crimes of distributing South Korean dramas and trafficking narcotics and that he/she did not personally witness the event but watched video footage of it when people passed around the footage at school.¹⁶ Moreover, another North Korean defector ○○○ testified that he/she witnessed two men being shot to death for distributing South Korean movies and providing a venue for prostitution, respectively, in Yeonbong-dong, Hyesan, Yanggang Province in 2014.¹⁷ It appears that the North Korean authorities have reinforced crackdowns and punishments in such cases as narcotics are spreading across North Korea, and the number of cases where North Koreans watch/distribute South Korean video recordings is also increasing.

Table II-5 Cases of Death Penalty Executions Related to Narcotics and South Korean Video Recordings

Testimonies	Testifier ID
In 2014, one person was shot to death at a plaza in Chongjin, North Hamgyeong Province for the crimes of distributing South Korean dramas and trafficking narcotics.	NKHR2019000084 2019-10-05
In 2014, two men were shot to death for distributing South Korean movies and providing a venue for prostitution, respectively, in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2019000103 2019-11-09

15_ NKHR2019000022 2019-05-07.

16_ NKHR2019000084 2019-10-05.

17_ NKHR2019000103 2019-11-09.

Testimonies	Testifier ID
In October 2014, three men were shot to death at an airfield in Yeonbong-dong, Hyesan, Yanggang Province for distributing South Korean video recordings.	NKHR2018000098 2018-10-01
In March 2015, five men in their 30s to 40s were shot to death in Pyeongseong, South Pyeongan Province after an open trial for watching South Korean video recordings and trading narcotics.	NKHR2017000083 2017-09-25
In 2017, a man was shot to death at an airfield in Yeonbong-dong, Hyesan, Yanggang Province for distributing South Korean video recordings.	NKHR2018000114 2018-10-13
In February 2017, around 20 people were shot to death in Byeoksong County, South Hwanghae Province, for watching and distributing South Korean video recordings and trading narcotics.	NKHR2017000073 2017-08-28

Cases were also documented where capital punishment was carried out presumably for anti-state crimes; specific grounds for carrying out the punishment were not identified. A North Korean defector ○○○ testified that in 2015, he/she witnessed the manager and the Party secretary of the Daedonggang Terrapin Farm being publicly shot to death, which was attended by approximately 1,000 residents, for committing acts against the Party, disobeying the teachings and instructions of the Supreme Leader (*Suryeong*) and corruption.¹⁸ A North Korean defector ○○○ testified that two women were executed for spreading Christianity and another woman was executed for distributing anti-regime leaflets after a public trial in Gilseongpo Port, North Hwanghae Province, in 2015.¹⁹ According to the testifier, there

18_NKHR2020000018 2020-07-04.

19_NKHR2019000054 2019-07-29.

were crowds of around 1,000–2,000 people, and the military, Ministry of People’s Security (MPS) officers and MSS agents around North Hwanghae Province came, while People’s Unit (*inminban*) chiefs or secretary-level representatives and members of factory enterprises and People’s Units (*inminban*) had to be present. Moreover, while it was not confirmed whether there were representatives from the court, the testifier explained that the overall trial and execution was carried out by the Ministry of State Security. This case may constitute an extrajudicial, summary or arbitrary execution. In addition, a testimony was collected where the testifier heard about a 70-year-old woman who was shot to death under a bridge of the Suseong Stream (Suseongcheon) for acts and dissemination of superstition in Chongjin, North Hamgyeong Province in 2018.²⁰ Another testimony was collected where the testifier witnessed two people shot to death for carrying the Bible in Pyeongseong, South Pyeongan Province, in 2018.²¹

Testimonies of executions carried out for social deviance and violent crimes such as murder have been continuously collected.²² In the 2019 survey, a testifier heard about a criminal involved in a case of child abduction who was publicly shot to death in Hyesan,

20_NKHR2019000071 2019-08-26.

21_NKHR2019000024 2019-05-18.

22_ In the 2018 survey, there was a case in which one man was shot to death for calling South Korea and aiding passage to South Korea in Hyesan, Yanggang Province in 2017 (NKHR2018000114 2018-10-13) and a case of one woman shot to death for killing a child living next door in Onsong County, North Hamgyeong Province in December 2017 (NKHR2018000107 2018-10-01).

Yanggang Province in 2014;²³ a testifier heard about a woman who ran a prostitution operation and worked as a madam was executed sometime in 2014–2015;²⁴ and a testifier heard about a public execution for murder in Musan County, North Hamgyeong Province sometime in 2017–2018.²⁵ In January 2018, there was an incident where a driver’s lover murdered the son (six years old) of the Party chief secretary of Onsong County. An order was issued to shoot the female perpetrator in front of a crowd of 100,000, and the woman was shot to death in front of a significantly large number of people.²⁶ A North Korean defector ○○○ testified that he/she witnessed a man shot to death for murder in the military town of Jangsaeng in Jongseong-gu, Onsong County, North Hamgyeong Province sometime in February–March 2018.²⁷

There were testimonies from North Korean defectors that public executions have not been conducted recently. A North Korean defector ○○○ who defected in 2019 testified that he/she had witnessed a public execution by shooting sometime in 2012–2013, and there has been no public execution since then.²⁸ In

23_NKHR2019000047 2019-07-01.

24_NKHR2019000054 2019-07-29.

25_NKHR2019000038 2019-06-15.

26_NKHR2019000111 2019-11-18.

27_NKHR2019000118 2019-11-30.

28_NKHR2020000005 2020-05-15.

addition, a North Korean defector ○○○ testified that there has been no public execution by shooting nationwide since 2013. He/she further testified that he/she heard that a policy of no public execution was ordered by Kim Jong Un.²⁹ Despite such testimonies, testimonies that public executions were carried out in 2015 and 2018 were obtained in the 2020 survey.

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

Article 6, paragraph 5 of the ICCPR prohibits the death penalty for crimes committed by persons under 18 years of age and executing the death penalty for pregnant women. What is noteworthy, however, is that the prohibition of sentencing juveniles to the death penalty is based on their age at the time they committed the crime, not at the time of sentencing.

Article 29 of the current North Korean Criminal Law of 2015 stipulates that “any person below the age of 18 at the time of commission of a crime shall not be sentenced to death, and sentence of death shall not be carried out on pregnant women.” In terms of legislation, North Korea appears to be appropriately implementing Article 6, paragraph 5 of the ICCPR. In KINU’s previous surveys, some non-compliant cases were identified. However, cases where juveniles were sentenced to the death

²⁹_NKHR2020000032 2019-08-04.

penalty or the death sentence was carried out on pregnant women have not been documented in recent surveys.

D. Other Infringements of the Right to Life

Article 6, paragraph 1, of the ICCPR states that the “inherent right to life [...] shall be protected by law.” The UN Human Rights Committee expressed in the General Comments its concern over the tendency to interpret the right to life extremely narrowly and stressed that the expression “inherent right to life” cannot be fully understood in such a restrictive manner and that the protection of this right requires each state to actively take measures.³⁰ From this perspective, there are many violations related to the right to life in North Korea. As will be examined in later sections, cases of death continue to occur in detention facilities due to violence and cruel treatment, poor nutrition, poor sanitation and poor health care. This issue will be examined in more detail in II. The Reality of Civil and Political Rights, 5. Right to Humane Treatment of Persons in Detention.

E. Evaluation

The right to life is still not properly guaranteed in North Korea. Broadly defining the scope of crimes to be punishable by death by

³⁰ UN Human Rights Committee, General Comment, No. 6 (1982), para. 5.

applying the Addendum to the Criminal Law (General Crimes) and frequently carrying out the death penalty based on such a unique form of law is contrary to Article 6, paragraph 2 of the ICCPR, which stipulates that in a country where the death penalty still exists, a death sentence may only be imposed for the “the most serious crimes.” The 2020 survey also found cases of the death penalty being imposed for narcotics trading, watching or distributing South Korean video recordings and violent crimes such as murder. Although specific grounds for carrying out capital punishment have not been identified, there were cases where the death penalty was carried out for possessing copies of the Bible, distributing propaganda leaflets and engaging in acts of superstition. While it is difficult to establish whether the collected cases constitute extrajudicial, summary or arbitrary execution, the broad scope of crimes subject to the death penalty and frequent execution of capital punishment might constitute a violation of the obligations of the State Parties stipulated in the ICCPR.

2

Right Not to Be Tortured or Receive Inhuman Treatment

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

Table II-6 Article 7 of the ICCPR

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

The universal value of human rights prohibits torture and inhuman treatment in order to protect the dignity and the physical and mental integrity of every human being. This chapter will examine the major issues related to the situation in North Korea regarding the right not to be tortured or receive inhuman treatment.

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

According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter CAT), torture is defined as an act of intentionally inflicting severe physical and/or mental pain on an individual by a public official for specific purposes such as obtaining information or a confession or imposing punishment. Other various actions that inflict harsh pain that cannot be recognized as torture due to the lack of key elements, such as specific purpose, intention or severe pain, constitute cruel, inhuman or degrading treatment or punishment. While the definitional distinction between “torture” and “cruel, inhuman or degrading treatment or punishment” may not be clear, both clearly constitute a violation of Article 7 of the ICCPR.

North Korea has established regulations on torture and inhuman treatment in its Criminal Law (2015) and Criminal Procedure Law (2016).³¹ Article 242 of the Criminal Law stipulates that “law

31_The Criminal Procedure Law of the DPRK revised and supplemented on 10 August 2016 in accordance with Ordinance 1245 of the Presidium of the SPA (hereinafter the Criminal Procedure Law).

enforcement personnel who conducts interrogations in an unlawful manner or exaggerates or fabricates a case shall be subject to up to one year of labor training punishment.” It further provides that if such personnel conspire with another person to carry out the said actions or cause someone to die, sustain serious injury or be falsely accused of a crime by carrying out the said actions, they shall be subject to up to five years of correctional labor punishment. When the case is extremely serious, such personnel shall be subject to five years or more and up to 10 years of correctional labor punishment. Article 6 of the Criminal Procedure Law stipulates that “the state shall strictly guarantee human rights in the handling of criminal cases,” and Article 37 of the same law states that “the testimony of a preliminary examinee or the accused obtained through force and inducement cannot be used as evidence.” Article 166 of the Criminal Procedure Law provides that “preliminary examination officers shall not forcibly make the preliminary examinee admit their guilt or induce statements.” Moreover, Article 225 stipulates that witnesses are protected from threats or coercion during interrogation. In addition, in its national report submitted for the third cycle of the UPR in 2019, North Korea stated that it protects human rights in the process of handling criminal cases while consistently upholding the principle that scientific accuracy, objectivity and impartiality must be ensured.³²

32_UN Doc. A/HRC/WG.6/33/PRK/1 (2019). para. 27.

Despite these regulations in North Korean Criminal Law and Criminal Procedure Law, torture and inhuman treatment frequently occur in the actual process of handling criminal cases, and use of torture is prevalent as it is established as one of the investigation methods for obtaining confessions from suspects during interrogation.³³ As in the 2019 survey, the 2020 survey collected testimonies that, with respect to violence and cruel treatment in detention facilities, the testifiers experienced or witnessed forcing of a fixed posture and beatings.³⁴ Taking into consideration the repeated testimonies about beatings and cruel treatment in prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*) and detention centers (*guryujang*) under the Ministry of Social Security,³⁵ it appears that beatings and cruel treatment have not yet been eradicated in all of the facilities under the Ministry of State Security and the Ministry of Social Security.³⁶

On the other hand, there were recent testimonies where testifiers had not experienced beatings while detained in a detention facility and that beating is prohibited in the Prosecutors'

33_Dong-ho Han *et al.*, *Torture and Inhuman Treatment in North Korea* (Seoul: KINU, 2016), p. 9.

34_NKHR2020000032 2020-08-04; NKHR2020000035 2020-09-05; NKHR2020000020 2020-07-04.

35_The MPS was renamed to the Ministry of Social Security in May 2020. The terms "MPS" and "MPS agents" will be maintained in the following sections, except when the revised names must be used.

36_NKHR2020000020 2020-07-04.

Offices and the Prosecutors' Offices monitor the situation of human rights violations in MPS branches.³⁷ A testifier who had been detained in an MSS detention center (*guryujang*) in Hyesan, Yanggang Province, in May 2017, testified that he/she did not experience cruel treatment because North Korea was hit hard by accusations of human rights violations at the time.³⁸

Table II-7 Cases of Torture and Inhuman Treatment in the Process of Handling Criminal Cases

Testimonies	Testifier ID
A North Korean defector who had been investigated for distributing South Korean video recordings when living in Onsong County, North Hamgyeong Province, in 2015 said that the preliminary examination officer did not let him/her sleep, forced him/her to be in a fixed posture and beat his/her legs with a right-angle ruler.	NKHR2017000042 2017-07-03
A North Korean defector in his/her 20s who was caught by wiretapping while working as a remittance broker was severely beaten during an investigation by the MSS city branch in Hyesan, Yanggang Province.	NKHR2018000049 2018-06-04
A North Korean defector was investigated by the MSS county branch in Onsong County, North Hamgyeong Province, for human trafficking in February 2015 and was frequently beaten in the investigation process. The defector testified that there were also people whose bodies were bruised and flesh was decayed when they left since they were beaten with a club.	NKHR2018000074 2018-07-30
A North Korean defector was investigated by the MSS city branch in Hyesan, Yanggang Province for 15 days for illegal use of a mobile phone in October 2015. Four MSS agents beat him/her frequently with their fists and feet.	NKHR2018000127 2018-11-19

37_NKHR2020000024 2020-07-06; NKHR2020000032 2020-08-04.

38_NKHR2020000027 2020-07-06.

Testimonies	Testifier ID
A North Korean defector, who had been investigated by the MSS city branch in Pyeongseong, South Pyeongan Province in January 2016 for his/her daughter's defection from North Korea, said that the investigator in charge grabbed his/her head and slammed it against a wall and kicked his/her legs.	NKHR2017000059 2017-07-31
A North Korean defector was investigated for eight days in May 2016 at an MSS holding center (<i>jipkyulso</i>) in Samjiyeon, Yanggang Province. The defector was bruised all over his/her body after being beaten up for not admitting the fact that he/she attempted to go to South Korea. The beating was even worse for his/her father as he lost all his teeth, and the blood vessels in his eyes burst.	NKHR2018000129 2018-11-19
A North Korean defector who had been investigated by the MSS city branch in Samjiyeon, Yanggang Province, testified to having been beaten severely for three days for not admitting to the charge of illegal border-crossing.	NKHR2017000057 2017-07-31
A North Korean defector was investigated by the MSS county branch in Onsong County, North Hamgyeong Province for 15 days in September 2016 and was beaten by the MSS agents until he/she made a full confession and acknowledged his/her deeds. The defector was investigated while he/she was shackled to a chair and when he/she refused to testify, the MSS agents kicked the chair so that he/she fell while tied to the chair.	NKHR2018000109 2018-10-06
A North Korean defector was investigated by the MSS city branch in Hoeryong, North Hamgyeong Province for 30 days in November 2016. He/she was severely beaten during the investigation with a thick club and right-angle rulers.	NKHR2017000054 2017-07-31
A North Korean defector was beaten frequently in November 2016 while being detained for 20 days in the MSS county branch in Onsong County, North Hamgyeong Province. Sometimes, the officers beat him while on drugs (<i>bingdu</i>).	NKHR2017000099 2017-10-23
A North Korean defector was caught while attempting to defect in 2018 and was detained in a holding center (<i>jipkyulso</i>) and a detention center (<i>guryujang</i>).	NKHR2020000020 2020-07-04
A testifier who had worked at a detention center (<i>guryujang</i>) for approximately four and a half months from April 2019, said that a person confined in a detention center (<i>guryujang</i>) before trial is considered "a person whose sentence is pending" and thus treated as a prisoner, to whom cruel treatment, such as forcing of fixed posture, is given.	NKHR2020000035 2020-09-05

B. Public Execution of the Death Penalty

Countries that allow the death penalty can violate Article 7 of the ICCPR depending on the method of execution. The UN Human Rights Committee stated in its General Comments on the prohibition of torture and inhuman treatment that countries must execute the death penalty in such a way as to cause the least possible amount of physical and mental suffering.³⁹ Against this backdrop, it must be considered that being executed publicly constitutes a cruel, inhuman or degrading punishment for the person subject to the execution, which thereby violates Article 7.⁴⁰ In this case, “public execution of the death penalty” refers to cases where the death penalty is conducted in public, provided that it is imposed only for crimes stipulated in the Criminal Law and carried out in accordance with certain procedures. If an extrajudicial, summary or arbitrary execution is carried out in public, it would violate both Article 6 and Article 7 of the ICCPR. Meanwhile, regardless of whether an execution is carried out as a

39_ UN Human Rights Committee, General Comment, No. 20 (1992), para. 6.

40_ The UN Human Rights Committee expressed concern over public execution of the death penalty in some national reports including the one by North Korea. UN HRC, Concluding Observations: Islamic Republic of Iran, UN Doc. CCPR/C/IRN/CO/3 (2011); Democratic People’s Republic of Korea, 27 August 2001, UN Doc. CCPR/CO/72/PRK; Nigeria, UN Doc. CCPR/C/79/ Add.65 (1996). The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also pointed out the issue of public execution of the death penalty. Note by Secretary-General, Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN Doc. A/67/279 (2012).

result of imposing a death sentence or as an extrajudicial, summary or arbitrary execution, it is bound to be seen by the general population if it is carried out in public. From the perspective of those who witness the execution, the act may constitute cruel, inhuman or degrading treatment, which violates Article 7.⁴¹

Although provisions on the procedures and methods of carrying out the death penalty are included in the Criminal Procedure Law and the Judgments and Decisions Enforcement Law of North Korea,⁴² there is no provision in North Korean laws that explicitly provides for the carrying out of the death penalty in public. Cases of public executions were documented up until 2018; however, testimonies that public executions have disappeared were also noted in the recent surveys. A North Korean defector ○○○ who defected in 2019 testified that he/she had witnessed a public execution sometime in 2012–2013, and there had been no public execution since then; in addition, another defector ○○○

41_ The COI also stated the following in its report of the detailed findings, “Especially for young children and relatives of the victim, the experience of [watching such killings] is often so horrifying, that the witnesses must themselves also be considered victims of inhuman and cruel treatment in contravention of Article 7 of the ICCPR.” OHCHR, “Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea”, UN Doc. A/HRC/25/CRP.1 (2014), para. 830.

42_ Article 421 of the North Korean Criminal Procedure Law stipulates that the death penalty shall be carried out by the punishment enforcement institution that has received the order to execute the death penalty and a certified copy of the written judgment issued by the Central Court. Article 32 of the Judgments and Decisions Enforcement Law provides the same as the Criminal Procedure Law and further stipulates that the death penalty “shall be carried out in ways such as shooting.”

who defected from North Korea in the same year testified that a policy of no public execution was ordered by Kim Jong Un.⁴³

However, testimonies claim that public executions were carried out for political and ideological reasons or acts of superstition. A North Korean defector testified that in 2015, the manager and the Party secretary of the Daedonggang Terrapin Farm were publicly shot to death for political and ideological crimes, such as committing acts against the Party, disobeying the teachings and instructions of the Supreme Leader (*Suryeong*) and corruption, and the execution was attended by around 1,000 people.⁴⁴ In addition, a North Korean defector ○○○ testified that policy-based control over acts of superstition was widely carried out between 2018 and 2019, and he/she heard that public executions were held in the process.⁴⁵ Although it is difficult to accurately analyze the state of public executions in North Korea due to limited information, it can be inferred that the frequency of public executions has decreased compared to the past and that public executions were still carried out for political and ideological crimes and acts of superstition.

According to the testimonies of North Korean defectors, it appears that public executions are still carried out by the North Korean authorities. Testimonies were collected indicating that the

43_NKHR2020000005 2020-05-15; NKHR2020000032 2020-08-04

44_NKHR2020000018 2020-07-04.

45_NKHR2020000011 2020-06-15.

People’s Unit (*inminban*) announces the time and place of public execution in advance but does not make attendance mandatory,⁴⁶ people are mobilized in schools or at work to attend public executions,⁴⁷ and university students who are considered rebellious (so-called “*aerosaeng*”) are separately mobilized and forced to attend public executions⁴⁸. However, the number of residents going to see public executions seems to be decreasing compared to the past.

Table II-8 Cases of Public Execution by Shooting

Testimonies	Testifier ID
In 2015, three women were publicly executed by shooting at Gilseongpo Port, North Hwanghae Province.	NKHR2019000054 2019-07-29
In February 2015, five men were publicly executed by shooting at a stadium in Pyeongseong, South Pyeongan Province.	NKHR2017000083 2017-09-25
In the summer of 2015, a City Party official was publicly executed by shooting in Hyesan, Yanggang Province.	NKHR2016000158 2016-09-20
In October 2016, three men and four women were publicly executed by shooting at an airfield in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2017000073 2017-08-28
In 2017, two men were publicly executed by shooting at an airfield in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2018000114 2018-10-13
In February 2017, approximately 20 people were publicly executed by shooting in Byeoksong County, South Hwanghae Province.	NKHR2017000073 2017-08-28
In December 2017, one woman was publicly shot dead at Onsong County, North Hamgyeong Province.	NKHR2018000107 2018-10-01
In 2018, two people were publicly executed by shooting in Pyeongseong, South Pyeongan Province.	NKHR2019000024 2019-05-18

46_ NKHR2018000060 2018-07-02.

47_ NKHR2018000098 2018-10-01.

48_ NKHR2018000114 2018-10-13.

Testimonies	Testifier ID
In 2018, a woman was publicly executed by shooting in Chongjin, North Hamgyeong Province.	NKHR2019000071 2019-08-26
In January 2018, a woman was publicly executed by shooting in Sinuiju, North Pyeongan Province.	NKHR2019000111 2019-11-18
Sometime in February-March 2018, a man was publicly executed by shooting in Onsong County, North Hamgyeong Province.	NKHR2019000118 2019-11-30

Due to limited information, it is not easy to clearly divide the collected cases into those where the death penalty was publicly executed and those where extrajudicial, summary or arbitrary executions were conducted in public. However, aside from whether the minimum legal rights such as the right to trial are guaranteed to defendants, carrying out an execution by shooting in “public” itself is inhuman under Article 7 of the ICCPR, and thus, the above cases, at the very least, constitute a violation of Article 7 of the ICCPR. However, as in the 2018 survey, the 2019 survey collected testimonies claiming that public executions have decreased recently.⁴⁹ While some answered that public executions disappeared after a certain point of time,⁵⁰ such answers seem to be limited to the testifiers’ personal experience since there were specific cases of witnessing public executions up until 2018. Regarding the decrease in the number of public executions, more

49_ NKHR2018000115 2018-10-22; NKHR2019000063 2019-07-29; NKHR2019000083 2019-09-25; NKHR2019000086 2019-10-19; NKHR2019000097 2019-10-21; NKHR2019000112 2019-11-18.

50_ NKHR2019000021 2019-05-07; NKHR2019000033 2019-06-03; NKHR2019000069 2010-08-26; NKHR2019000070 2019-08-26; NKHR2019000078 2019-09-25; NKHR2019000082 2019-09-25; NKHR2019000087 2019-10-05.

detailed observation is required to determine if it means that there are more private executions or more summary executions are taking place in secret.

According to KINU's survey results thus far, when categorized by region, public executions are most often witnessed in Hyesan, Yanggang Province. This finding can largely be attributed to the fact that more than half of the interviewees had lived in Yanggang Province. However, in general, public execution of the death penalty seems to be carried out more frequently in border areas than in inland areas, and in cities than in rural areas. It is analyzed that this tendency may be because there are relatively more illegal activities in border regions and cities, and the North Korean authorities are trying to warn and incite fear among residents in those regions.

C. Enforced Disappearances and Deaths in Detention Facilities

The UN Human Rights Committee has found that enforced disappearances may constitute torture and/or inhuman treatment of the person who is made to disappear and his or her family.⁵¹ Victims of enforced disappearances would be detained and

51_ For example, Committee on Civil and Political Rights Communications 950/2000, *Sarma v. Sri Lanka*, 31 July 2003, para. 9.5; 1295/2004, *El Alwani v. Libyan Arab Jamahiriya*, 11 July 2007, paras. 6.5 and 6.6; and 1327/2004, *Grioua v. Algeria*, 10 July 2007, paras. 7.6. and 7.7.

separated from their families for a long time, and their families would live in worry and concern without knowing their whereabouts and whether they are alive or dead. Therefore, both the people who are subject to enforced disappearances and their families are victims of torture and/or inhuman treatment. This topic will be examined in more detail in II. The Reality of Civil and Political Rights, 4. Right to Liberty and Security of Person; II. The Reality of Civil and Political Rights, 7. Right to a Fair Trial; V. Major Issues, 1. Political Prison Camps (*Kwanliso*); and V. Major Issues, 5. Separated Families, Abductees and Korean War POWs.

D. Evaluation

Contrary to what has been stipulated in North Korean Criminal Law and Criminal Procedure Law, torture and inhuman treatment seem to be still occurring in the process of handling cases. In the 2020 survey, it was found that torture and inhuman treatment are used to force confessions. North Korean defectors testified that beatings and cruel treatment are still conducted in detention facilities. On the other hand, it is noteworthy that testimonies are being collected that report that North Korean authorities are prohibiting beatings and monitoring human rights violations in detention facilities.

Although it is difficult to accurately confirm cases of public executions due to limited information and testimonies, in the 2020

survey, it was found that the frequency of public executions and forced witnessing of public executions has decreased recently. However, it was identified that public executions are still being carried out for political and ideological crimes or acts of superstition.

Public executions constitute cruel, inhuman or degrading punishment from the perspective of those subjected to the execution, and cruel, inhuman and degrading treatment to those who are forced to witness the execution.

3

Right Not to Be Forced into Labor

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

Table II-9 Article 8 of the ICCPR

Paragraph 1	No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
Paragraph 2	No one shall be held in servitude.
Paragraph 3	(a) No one shall be required to perform forced or compulsory labour. (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court. (c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include: (i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention:

- (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
- (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
- (iv) Any work or service which forms part of normal civil obligations.

This chapter will examine the major issues related to the situation in North Korea regarding the right not to be forced into labor. The 2020 survey found that forced labor continues in North Korea. However, testimonies were collected in the survey claiming that detainees whose sentences have not been confirmed are not forced into labor.

A. Labor Training Punishment for Minor Offenses

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

a court, including detention before trial, and “any work or service normally required of a person who is under detention” is interpreted to mean daily tasks in detention facilities and work to facilitate detainees’ return to society.

Punishments depriving personal liberty and imposing forced labor in North Korean Criminal Law include correctional labor punishment—i.e., unlimited-term correctional labor punishment and limited-term correctional labor punishment—and labor training punishment (Article 27). Unlimited-term/limited-term correctional labor punishment detains criminals in prison camps (*kyohwaso*) and forces them to work, with the period of limited-term correctional labor punishment lasting from one year to 15 years (Article 30). Labor training punishment sends criminals to certain places where they are forced to work for a term ranging from six months to one year (Article 31). According to Article 8, paragraph 3 (b) of the ICCPR, detaining those who are sentenced by courts to correctional labor punishment or labor training punishment in prison camps (*kyohwaso*) or other places and imposing labor upon them does not constitute “forced labor,” which is prohibited. While it is generally interpreted as inappropriate to impose imprisonment with hard labor for minor offenses, the North Korean Criminal Law states that labor training punishment, which falls under the category of “imprisonment with hard labor,” can be ordered for relatively minor offenses. This reality could raise the issue of whether such legislation constitutes a violation of Article 8, paragraph 3, of the ICCPR. Moreover, imposing

excessive labor on convicted prisoners may not comply with Article 10, paragraph 3, of the ICCPR, which stipulates the treatment of convicted prisoners. (See II. The Reality of Civil and Political Rights, 5. Rights to Humane Treatment of Persons in Detention.)

In the 2020 survey, testimonies were collected indicating that labor training punishment was imposed on people who were not sent to prison camps (*kyohwaso*) after being forcibly repatriated to North Korea for human trafficking or defection. It was testified that labor training punishment lasted for one to six months, and in some cases, people who paid bribes were released after being investigated. A North Korean defector ○○○ who defected in September 2019 testified that punishment of defectors is continuously strengthened; according to the testimony, people caught while attempting to cross the Duman River (*Dumangang*) are sentenced to six months of labor training punishment, and people caught after staying in China for about a year are sentenced to one year of correctional labor punishment.⁵²

In the 2020 survey, testimonies were collected reporting that in addition to defection from North Korea, smuggling of goods, absence without notice and use of drugs (*bingdu*) led to the imposition of labor training punishment, and people who receive labor training punishment are forced into construction work or

52_NKHR2020000030 2020-08-03.

logging, which are highly labor intensive.⁵³ A North Korean defector ○○○ testified that he/she was imprisoned in a disciplinary labor center (*rodonggyoyangdae*) in 2017 but was released without doing any labor after paying 1,100 yuan as a bribe; the defector further testified that other detainees were forced into the loading and unloading of cement as construction was in full swing in Samjiyeon at that time, and he/she heard that their work was very arduous and difficult.⁵⁴

Table II-10 Cases of Labor Training Punishment

Testimonies	Testifier ID
A North Korean defector who was caught in China while attempting to defect in 2015 was sentenced to labor training punishment but released after paying 2,000 yuan each to the Ministry of State Security and the Ministry of Social Security.	NKHR2020000024 2020-07-06
A North Korean defector who was caught in China while attempting to defect in 2018 was released without having to go through a trial after his/her mother paid 7,000-7,500 yuan as a bribe.	NKHR2020000020 2020-07-04
A North Korean defector testified that sometime in 2016-2017 his/her co-worker was sentenced to six months of labor training punishment for absence from work without notice.	NKHR2020000021 2020-07-06
A testifier who defected from North Korea in September 2019 explained that reasons for imprisonment in a labor training camp (<i>rodongdanryundae</i>) include being involved in beatings, theft or brokerage with Chinese counterparts and unemployment. In particular, being engaged in brokerage with Chinese counterparts would lead to approximately six months of imprisonment in a labor training camp (<i>rodongdanryundae</i>).	NKHR2020000030 2020-08-03
A testifier's cousin's husband was arrested for using drugs (<i>bingdu</i>) in 2018; according to the testifier, he was supposed to be sentenced to correctional labor punishment, but his sentence was reduced to six months imprisonment in a labor training camp (<i>rodongdanryundae</i>) after he paid a bribe.	NKHR2020000042 2020-10-31

53_NKHR2020000022 2020-07-06.

54_NKHR2020000027 2020-07-06.

B. Re-Educational Labor Discipline

The North Korean Administrative Penalty Law of 2017 requires more attention than any other law in regards to the right not to be forced into labor under Article 8 of the ICCPR.⁵⁵ Article 15 of the Administrative Penalty Law stipulates re-educational labor discipline as a type of administrative penalty. Article 17 states that “re-educational labor discipline is an administrative legal restriction under which those who have committed a serious illegal act are forced to perform labor.” According to the provision, the period of discipline is five days or more and up to six months. According to the current Administrative Penalty Law, a total of 161 actions are punishable by re-educational labor discipline. Re-educational labor discipline can be imposed by the Socialist Law-Abiding Life Guidance Committee, prosecutorial institutions, judicial institutions and people’s security institutions (Articles 333, 335, 336 and 337).

Table II-11 Re-Educational Labor Discipline under the Administrative Penalty Law

<p>Article 333 (Authority of the Socialist Law-Abiding Life Guidance Committee to Impose Administrative Penalty)</p>	<p>The Socialist Law-Abiding Life Guidance Committee may impose admonitions, stern warnings, unpaid labor discipline, re-educational labor discipline, demotion, dismissal, removal from jobs, fines, suspension, demand for compensation, confiscation, suspension of qualifications, degradation of qualifications or deprivation of qualifications of the workers of agencies, enterprises or organizations or individual citizens who commit illegal acts.</p>
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55_The Administrative Penalty Law of the DPRK revised and supplemented on 22 December 2016 in accordance with Ordinance 1463 of the Presidium of the SPA and entered into force on 1 June 2017 (hereinafter the Administrative Penalty Law).

Article 335 (Authority of Prosecutorial Institutions to Impose Administrative Penalty)	Prosecutorial institutions may impose re-educational labor discipline, fines, demand for compensation, confiscation or suspension for illegal acts identified in the process of prosecutorial monitoring.
Article 336 (Authority of Judicial Institutions to Impose Administrative Penalty)	Judicial institutions may impose re-educational labor discipline, fines, demand for compensation or confiscation due to illegal acts confirmed during a trial.
Article 337 (Authority of the People's Security Institutions to Impose Administrative Penalty)	People's security institutions may impose re-educational labor discipline, fines, demand for compensation, confiscation or suspension due to illegal acts discovered in the process of security enforcement.

In addition to the Administrative Penalty Law, the People's Security Enforcement Law⁵⁶ stipulates that people's security institutions and Responsible Workers' Association have the authority to impose re-educational labor discipline on those who commit acts violating the legal order (Article 57 of the People's Security Enforcement Law).

Re-educational labor discipline does not fall under the aforementioned exceptions to the prohibition against forced labor and therefore is a more serious issue. A North Korean defector in his/her 20s from Yanggang Province testified that he/she was sentenced by the MPS city branch of Samjiyeon to be imprisoned in the Samjiyeon labor training camp (*rodongdanryundae*) for a month and was mobilized to perform various kinds of work including papering walls, building fences for the MPS building,

56_The People's Security Enforcement Law of the DPRK revised and supplemented on 27 February 2007 in accordance with Ordinance 2144 of the Presidium of the SPA (hereinafter the People's Security Enforcement Law).

hardening the ground for the city stadium in Samjiyeon and weeding.⁵⁷ According to his/her testimony, he/she was accompanied by a supervisor whenever he/she was leaving the camp, and Life Review Sessions (*saenghwalchonghwa*) took place every Saturday evening, and the inmates were required to recite the Ten Principles and the rules of the labor training camp (*rodongdanryundae*) every evening.

Table II-12 Cases of Re-Educational Labor Discipline

Testimonies	Testifier ID
In July 2015, the testifier was detained in a labor training camp (<i>rodongdanryundae</i>) in Samjiyeon, Yanggang Province and did farm work for 12 hours per day.	NKHR2016000015 2016-01-26
In August 2016, the testifier was imprisoned in a labor training camp (<i>rodongdanryundae</i>) in Hoeryong, North Hamgyeong Province and was forced to do construction work, work at restaurants, paper the walls of an official's house, etc.	NKHR2017000086 2017-09-25
From August to September 2016, the testifier did logging and cooking at a disciplinary labor center (<i>rodonggyoyangdae</i>) in Bocheon-eup, Bocheon County, Yanggang Province. He/she was allowed to commute between home and the center out of consideration for his/her young daughter at home.	NKHR2018000120 2018-10-22
In November 2016, political committee members and MPS branch officers decided to sentence the testifier to six months of re-educational labor discipline for absence from work without notice; the testifier was detained in a labor training camp (<i>rodongdanryundae</i>) in Hyesan, Yanggang Province and was forced to work in the construction of a secondary academy in Hyesan and worked from 7 am to 9 pm.	NKHR2017000095 2017-10-23

57_NKHR2018000129 2018-11-19.

C. Labor Exploitation of Detainees in Holding Centers (*Jipkyulso*)

A holding center (*jipkyulso*) is a place of investigation and detention for travelers who have left their designated travel area or traveled beyond the duration of their authorized travel dates, homeless children, those whose cases are pending and defectors who have been forcibly repatriated. When a holding center (*jipkyulso*) notifies the MPS branch or the MSS branch in charge of the area of residence of a detainee, the relevant officers of the MPS branch or the MSS branch come to the holding center (*jipkyulso*) and transfer the detainee to his/her area of residence. According to defector testimonies, it appears that some holding centers (*jipkyulso*) force their detainees into labor. Depending on the time of notification from the holding center (*jipkyulso*) to the MPS branch in charge of the detainees' area of residence, detainees stay in holding centers (*jipkyulso*) for three to six months, and it was testified that some holding centers (*jipkyulso*) intentionally delay their notification to exploit detainees for labor.

A North Korean defector ○○○ who was detained in a holding center (*jipkyulso*) in Chongjin, North Hamgyeong Province for 20 days in 2017 testified that he/she was mobilized to build factory fences and harvest the fields. The testifier was able to return home earlier thanks to his/her family; without such effort, the detention center (*guryujang*) does not let its detainees go without approximately

three months of labor.⁵⁸ The testifier said the length of stay in a center changes depending on how well inmates' family members do “business (*saeop*)” with the MPS officers in charge. Another North Korean defector who had been detained in a holding center (*jipkyulso*) in Ranam District in Chongjin, North Hamgyeong Province from May to July in 2015 said that he/she was mobilized to cast pavement blocks for about 12 hours a day.⁵⁹ According to his/her testimony, a holding center (*jipkyulso*) is likely to contact the relevant MPS branch right away when a person in question does not have money on him/her. However, for those with money, the director and guards of the center would not contact the MPS branch right away as they do not want to split the money that can come directly to their pocket. According to the testimony, those repatriated from China had to stay in the holding center (*jipkyulso*) longer than others as they had a significant amount of clothing, money and valuables.

In the 2019 survey, there was a specific testimony collected about the intensity of labor at holding centers (*jipkyulso*) in Chongjin, North Hamgyeong Province. A North Korean defector who was detained in a holding center (*jipkyulso*) in Chongjin, North Hamgyeong Province from July to August 2018 testified that he/she was not investigated and did farm work, construction

58_NKHR2018000098 2018-10-01.

59_NKHR2018000074 2018-07-30.

work and livestock work from 5 am to 8 pm.⁶⁰ The testifier carried blocks on his/her back at a construction site and was beaten by a guard when he/she tried to drink water on a hot day reaching 40°C. A North Korean defector who said he/she had been detained in Nongpo *Jipkyulso* in Ranam District in Chongjin, North Hamgyeong Province from August to December 2017 testified that he/she woke up at 3 am every morning to put cement into burlap bags at a cement factory located in the holding center (*jipkyulso*) and also did farming including planting cabbage and red peppers.⁶¹ A North Korean defector who had been detained in a holding center (*jipkyulso*) in Ranam District in Chongjin, North Hamgyeong Province in 2015 was mobilized for labor to produce 20 tons of cement and 3,000 precast pavers per day and worked around 15–16 hours per day.⁶² According to the testifier, he/she had to manually run a machine that cast precast pavers when the electricity was off, and although the tips of his/her fingers were chapped and severely bleeding, he/she could not get treatment and had to continue working.

60_NKHR2019000010 2019-04-08.

61_NKHR2019000075 2019-08-26.

62_NKHR2019000089 2019-10-19.

Table II-13 Cases of Forced Labor in Holding Centers (*Jipkyulso*)

Testimonies	Testifier ID
In 2015, the testifier was mobilized for the production of cement and precast pavers when detained in a holding center (<i>jipkyulso</i>) in Ranam District in Chongjin, North Hamgyeong Province.	NKHR2019000089 2019-10-19
In September 2015, the testifier was mobilized for construction work when he/she was detained in Yongsan <i>Jipkyulso</i> in Rason, North Hamgyeong Province.	NKHR2018000001 2018-03-12
In December 2016, the testifier was forced to participate in making fertilizer with human feces when he/she was detained in a holding center (<i>jipkyulso</i>) for travelers in Chongam District in Chongjin, North Hamgyeong Province.	NKHR2017000054 2017-07-31
From December 2016 to March 2017, the testifier was mobilized to make soccer balls and gathering firewood when he/she was detained in Songpyeong <i>Jipkyulso</i> in Chongjin, North Hamgyeong Province.	NKHR2017000099 2017-10-23
From August to December 2017, the testifier was mobilized for labor to put cement into burlap bags at a cement factory and was also mobilized for farm work including planting cabbage and red peppers when detained at Nongpo <i>Jipkyulso</i> in Ranam District in Chongjin, North Hamgyeong Province.	NKHR2019000075 2019-08-26
From July to August 2018, the testifier was mobilized for farming, construction and working with livestock, etc., when detained in a holding center (<i>jipkyulso</i>) in Chongjin, North Hamgyeong Province.	NKHR2019000010 2019-04-08

As described above, testimonies that forced labor is carried out in detention centers (*guryujang*) and holding centers (*jipkyulso*), which simply are places of detention, have been collected in surveys before 2020. However, in the 2020 survey, testimonies were collected claiming that detainees whose sentences have not been confirmed are not forced into labor. A North Korean defector ○○ ○ who had worked at a detention center (*guryujang*) since April 2019 testified that a person confined in a detention center (*guryujang*) before trial is considered as “a person whose sentence

is pending” and that detention centers (*guryujang*) do not impose forced labor.⁶³ A testifier who had been detained and investigated in a detention facility of the Ministry of State Security between late 2017 to early April 2018 said that there was no exploitation of labor.⁶⁴

D. Evaluation

It has been found that North Korea continues to practice forced labor prohibited by Article 8, paragraph 3 of the ICCPR. Key examples include imposing labor training punishment that is categorized as imprisonment with hard labor for relatively minor offenses, imposing re-educational labor discipline under the Administrative Penalty Law and the People’s Security Enforcement Law and forcing labor on those who are temporarily detained in holding centers (*jipkyulso*). Relevant cases were noted in the 2019 survey. In particular, holding centers (*jipkyulso*) located in the border areas appear to impose hard labor on their detainees. However, in the 2020 survey, testimonies indicated that detainees whose sentences have not been confirmed are not forced into labor. It appears that further observations on this issue are needed in the future.

63_NKHR2020000035 2020-09-05.

64_NKHR2020000004 2020-05-15.

4

Right to Liberty and Security of Person

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

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.

In this sense, major issues related to the situation in North Korea regarding the right to liberty and security of person will be examined. It has been found that arbitrary or unlawful arrest or detention continues in North Korea. The recent survey has not collected any meaningful testimony to find out whether the situation regarding the liberty and security of person has changed in North Korea.

A. Arbitrary or Unlawful Arrest or Detention

Article 9, paragraph 1 of the ICCPR prohibits arbitrary or unlawful arrest or detention, which refers to the arrest or detention

imposed without legal grounds or lawful procedures.⁶⁵ The term “arbitrary” is broader in scope compared to the term “unlawful,” and encompasses elements such as inappropriateness, injustice and lack of predictability, legal procedures, reasonableness, necessity and proportionality.⁶⁶ Therefore, prohibition against arbitrary arrest or detention can overlap with the prohibition against unlawful arrest or detention. According to the General Comments of the UN Human Rights Committee, even though the issue of detainee treatment is dealt primarily with by Articles 7 and 10 of the ICCPR, the question of arbitrary detention can be raised if those who are detained are treated in a manner that is not related to the purpose of their detention.⁶⁷ Moreover, arrest or detention as a punishment for the legitimate exercise of freedom of opinion and expression, freedom of assembly and association, freedom of religion and the right to privacy—all of which are protected by the ICCPR—is considered to be arbitrary, as are arrest or detention on discriminatory grounds and detention in violation of the principle of non-retroactivity of punishment; in particular, enforced disappearances constitute a serious form of arbitrary detention, as they violate numerous substantive and procedural provisions of the ICCPR.⁶⁸

65_ UN Human Rights Committee, General Comment, No. 35 (2014), para. 11.

66_ *Ibid.*, para. 12.

67_ *Ibid.*, para. 14.

68_ *Ibid.*, para. 17.

The North Korean Constitution⁶⁹ stipulates that its citizens are protected in terms of their inviolability as persons and that citizens shall not be detained or arrested without legal grounds (Article 79). The North Korean Criminal Procedure Law distinguishes the investigation procedure for identifying criminals and criminal facts from the preliminary examination to confirm criminals and criminal facts. According to the law, compulsory measures, such as arrest and detention, are in principle taken during the preliminary examination, and the arrest of criminal suspects or criminals during the investigation process is allowed only in exceptional cases (Article 142). Regarding arrest or detention during the preliminary examination, the North Korean Criminal Procedure Law stipulates that the “preliminary examination officer may arrest or detain the preliminary examinee to prevent the avoidance of preliminary examination or trial or the disturbance of investigation” (Article 175). The law also states that “citizens shall not be arrested or detained for reasons not prescribed in the law or without following the procedures prescribed in law” (Article 176). Moreover, it underlines the time, reasons, procedures, duration, etc. of arrest and detention (Articles 177 to 190). In addition, the North Korean Criminal Law stipulates that law enforcement personnel who unlawfully arrest, detain or apprehend people shall receive labor training punishment

69_ The Constitution of the DPRK revised and supplemented on 29 August 2019 at the 2nd Session of the 14th SPA (hereinafter the Constitution).

of one year or less, and those who repeatedly commit such acts or cause serious consequences shall receive correctional labor punishment of five years or less (Article 241).

Arrest or detention conducted without complying with the relevant provisions of the North Korean Criminal Procedure Act would constitute unlawful arrest or detention. In spite of such provisions, it appears that arbitrary or unlawful arrest and detention are still prevalent in North Korea. As will be examined in detail below, detaining people in political prison camps (*kwanliso*) without going through legal procedures for those who criticize the regime or insult the Supreme Leader (*Suryeong*), attempt to enter South Korea or engage in religious activities is both arbitrary and unlawful. Moreover, arresting and detaining people who “unlawfully enter/exit the border” while not recognizing the freedom to leave the country and requiring people to hold travel permits when leaving the city or county in which they reside and arresting and detaining them in holding centers (*jipkyulso*) when they leave the authorized travel area or travel beyond the permitted duration of travel are also considered to be arbitrary arrest and detention (see II. The Reality of Civil and Political Rights, 6. Right to Freedom of Movement and Residence). Arresting and detaining people for watching/distributing South Korean video recordings constitute arbitrary arrest and detention as well (see II. The Reality of Civil and Political Rights, 10. Freedom of Expression). This practice is due to the fact that

although there are provisions for crackdowns and punishment in North Korean laws, those arrests and detentions were to punish the legitimate exercise of rights that are protected by the ICCPR. If the above provisions on arrest and detention in the North Korean Criminal Procedure Law are not properly complied with, arrest and detention may be considered to be unlawful. According to an investigation conducted by the Korean Bar Association in 2016, most criminal suspects in North Korea are investigated under arrest or detention, and in many cases, the detention period exceeds the prescribed duration.⁷⁰ Even when lifting the detention status, it appears that relevant authorities emphasize that Kim Jong Un was being merciful rather than presenting relevant legal grounds. A female North Korean defector from Hyesan, Yanggang Province who defected in August 2016 testified that she had been investigated for five months at the MSS provincial bureau after being caught by the Border Security Command while attempting to defect in February 2015. According to her testimony, she was released because of Kim Jong Un's policy to "spare one's life if the person has 1% conscience despite the 99% guilt," and her detention was not recorded anywhere.⁷¹

In the 2020 survey, no testimony within the last five years had been collected regarding whether the North Korean Criminal

70_ Korean Bar Association, *2016 White Paper on Human Rights in North Korea* (Seoul: Korean Bar Association, 2016), pp. 196-208.

71_NKHR2017000001 2017-04-10.

Procedure Law had been observed. However, according to a North Korean defector ○○○ who had worked at the Prosecutors' Office as a prosecutor until 2013 testified that only those who have been sentenced to imprisonment are detained in the detention rooms within the Prosecutors' Office, and investigation of a suspect may be conducted for the maximum of 10 days and after that period, the suspect must be released.⁷²

B. Insufficient Procedural Guarantee of Liberty and Security of Person

Article 9, paragraph 2 of the ICCPR stipulates that one should be notified upon arrest of the reasons for his/her arrest and the alleged charges. The North Korean Criminal Procedure Law stipulates that notification of arrest and detention shall be provided in the preliminary examination stage (Article 182), although not in the investigation stage. Therefore, it appears that the right of arrested persons to be informed specified in Article 9, paragraph 2 of the ICCPR is not properly protected. A North Korean defector in his/her 50s who had lived in Hyesan, Yanggang Province testified that his/her son was dragged away by an unidentified man in January 2016 and released after being investigated for several days.⁷³ According to the testifier, he/she

72_NKHR2020000032 2020-08-04.

73_NKHR2018000089 2018-08-27.

later found out that the man who had dragged his/her son was an MSS provincial bureau agent. Another North Korean defector testified that his/her spouse was arrested by an MSS agent and investigated for about 15 days without being notified of the reason for the spouse's arrest.⁷⁴

Meanwhile, Article 9, paragraph 3 of the ICCPR states that criminal suspects arrested or detained on a criminal charge shall be brought promptly before a judge or an authority who can exercise judicial power and shall have the right to receive a trial or be released within a reasonable time frame. The Article also states that detention before trial is, at all times, exceptionally allowed. North Korea has not established a warrant review system under which the validity of warrants is reviewed by a judge. According to the North Korean Criminal Procedure Law, when suspects are arrested during the investigation stage, they should be immediately released if there is no approval by prosecutor within 48 hours or if there is no validation within 10 days that the suspects are guilty (Article 143). Moreover, if they are arrested in the process of the preliminary examination, approval by prosecutor is required to determine whether or not to execute the decision to imprison them (Article 185). According to the UN Human Rights Committee, in order to be recognized as an authority with the power to exercise judicial power, independence, objectivity and fairness requirements must be satisfied; however, it is noteworthy that prosecutors are

74_NKHR2018000099 2018-10-01.

not considered such authority.⁷⁵ In addition, the North Korean Criminal Procedure Law stipulates the period of time during which suspects may be imprisoned in each stage of investigation, preliminary examination and prosecution. Still, the period of detention for a preliminary examination may last up to five months, which is excessively long for detention before trial (Articles 186 and 187). However, it has been identified that there are cases where even the period prescribed by law is not complied with. A North Korean defector in his/her 30s from Yanggang Province testified that he/she was sentenced to correctional labor punishment in 2015 after being detained in a detention center (*guryujang*) for nine months.⁷⁶ However, he/she said that the period he/she was detained in the detention center (*guryujang*) was excluded from the duration of the punishment.

Table II-15 Period of Investigation, Preliminary Examination and Prosecution and Imprisonment Period of Suspects

Investigation Stage	Criminal Procedure Law Article 143	When a criminal suspect or a criminal arrested pursuant to Article 142 of this Law is detained, the investigator shall prepare a detention decision within 48 hours from the time of arrest and obtain approval of a prosecutor, conduct an investigation for the maximum of 10 days from the date of arrest, and send the said criminal suspect or criminal to go through preliminary examination. If there is no approval by a prosecutor or validation within 10 days from the date of arrest that the said criminal suspect is guilty, the said criminal suspect or criminal shall be released. (The rest is omitted)
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75_ UN Human Rights Committee, General Comment, No. 35 (2014), para. 32.

76_ NKHR2018000034 2018-05-07.

Preliminary Examination Stage	Criminal Procedure Law Article 150	Preliminary examination of a criminal case shall be completed within two months from the date when the preliminary examination of the case begins. Preliminary examination of a criminal case to which labor training punishment may be applied shall be completed within 10 days. (The rest is omitted)
	Criminal Procedure Law Article 151	Preliminary examination of a particularly complex criminal case for which preliminary examination cannot be completed within the period stipulated in Article 150, paragraph 1 of this Law may be conducted for up to five months from the date when the preliminary examination begins pursuant to Article 187, paragraphs 1 and 2 of this Law. If preliminary examination of a criminal case that may result in labor training punishment cannot be completed within the period stipulated in Article 150, paragraph 2 of this Law for an inevitable reason, the period of preliminary examination may be extended by five days upon approval by a prosecutor.
	Criminal Procedure Law Article 186	A preliminary examinee cannot be detained for preliminary examination for more than two months. (The rest is omitted)
	Criminal Procedure Law Article 187	As for a complex criminal case for which preliminary examination cannot be completed within the period stipulated in Article 150, paragraph 1 of this Law, the detention period of a preliminary examinee may be extended by one month upon approval by the head of a provincial (direct-controlled municipal) Public Prosecutors' Office for cases examined by city (district)/county/province (direct-controlled municipality) preliminary examination officers or by the Central Public Prosecutors' Office for cases examined by central preliminary examination officers. As for a complex criminal case that requires longer detention period, the detention period of a preliminary examinee may be extended by two months upon approval by the head of the Central Public Prosecutors' Office. As for a complex criminal case that may result in labor training punishment for which preliminary examination cannot be completed within the period stipulated in Article 150, paragraph 2 of this Law, the detention period of a preliminary examinee may be extended by five days upon approval by a prosecutor.

Part I

Part II
The Reality of Civil and Political Rights

Part III

Part IV

Part V

Prosecution Stage	Criminal Procedure Law Article 261	A prosecutor who receives case records from a preliminary examination officer shall make a decision to review the case and review and process the case within 10 days. However, the period of review and processing of a particularly complex or serious case that cannot be reviewed and processed within 10 days may be extended by five days. Records of a criminal case that may result in labor training punishment shall be reviewed and processed within five days.
	Criminal Procedure Law Article 262	The detention period of a preliminary examinee for prosecution shall be 10 days. However, as for a particularly complex or serious case, the detention period may be extended by five days. The detention period of a preliminary examinee to whom labor training punishment may be imposed shall be five days.

Article 9, paragraph 4 of the ICCPR stipulates a person’s right to request the lawfulness of his/her arrest or detention be reviewed, and paragraph 5 states the right to compensation for unlawful arrest or detention. However, the right to request a review of the lawfulness of an arrest or detention does not seem to be recognized in North Korea. As for claiming criminal compensation, it is hard to find relevant regulations in publicly disclosed laws and regulations. Relatedly, the North Korean Law on Compensation for Damages⁷⁷ stipulates compensation for damages caused by the illegal infringement of one’s person (Article 8). In particular, it stipulates the responsibility for damage compensation when a person’s liberty has been restricted (Article

77_The Law on Compensation for Damages of the DPRK revised and supplemented on 19 April 2005 in accordance with Ordinance 1083 of the Presidium of the SPA (hereinafter the Law on Compensation for Damages).

40). However, the Law on Compensation for Damages is applied only to relationships among agencies, enterprises, organizations and citizens (Article 8), and the illegal infringement of one's person by a judicial agency is not specified as falling within the scope of the application of the Law. However, North Korea mentioned the "Regulation on Criminal Compensation" in its Second Periodic Report on the implementation of the ICCPR submitted to the UN Human Rights Committee in 2000.⁷⁸ North Korea stated in the report that Article 2 of the said Regulation stipulates that "the state shall compensate for the mental and physical suffering and the property loss of the person who has been arrested and detained or punished innocently by investigation, preliminary examination or judicatory organs." In the Common Core Documents submitted to the UN in 2016, North Korea also mentioned a compensation system for those whose rights are infringed upon. It indicated that there is a criminal compensation system as well as a civil compensation system.⁷⁹ However, general North Korean residents are not aware of the existence of the criminal compensation system, and the system is not used.⁸⁰

78_ Second Periodic Report of the Democratic People's Republic of Korea on Its Implementation of the International Covenant on Civil and Political Rights, UN Doc. CCPR/C/PRK/2000/2 (2000), para. 17 (d).

79_ Common Core Document Forming Part of the Reports of State Parties: Democratic People's Republic of Korea, UN Doc. HRI/CORE/PRK/2016 (2016), para. 52.

80_ Korean Bar Association, *2018 White Paper on North Korean Human Rights*, (Seoul: Korean Bar Association, 2018), p. 85.

C. Evaluation

It appears that arbitrary or unlawful arrest or detention, which is prohibited by Article 9, paragraph 1 of the ICCPR, continues to occur in North Korea. Detention of political prisoners is a representative case of both arbitrary and unlawful arrest and detention. As will be examined specifically in the chapters on individual rights, arrest and detention are frequently used in North Korea as punishment for the legitimate exercise of the rights guaranteed in the ICCPR, and they clearly constitute arbitrary arrest and detention. It is also assessed that the procedural guarantee of the liberty and security of person is insufficient. The North Korean Criminal Procedure Laws does not have a provision for informing the suspect of the reasons for his/her arrest and the alleged charges against him/her. It also does not include a system to review the validity of a warrant by a judge. Moreover, the detention period before trial is excessively long. For example, the detention for preliminary examination may last up to five months, and even this process is not properly complied with. It seems that North Korea also does not recognize the right to request a review of the lawfulness of arrest and detention. The 2020 survey has not collected any meaningful testimony to find out whether the situation regarding the liberty and security of person has changed in North Korea.

5

Right to Humane Treatment of Persons in Detention

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

Table II-16 Article 10 of the ICCPR

Paragraph 1	All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
Paragraph 2	(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted imprisoned persons. (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
Paragraph 3	The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

This chapter will examine major issues related to the situation of human rights violations in North Korea regarding the right to humane treatment of persons in detention.

A. Inhuman Treatment of Persons Deprived of Liberty

Article 10, paragraph 1 of the ICCPR stipulates that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” This provision applies to those who are deprived of liberty by the laws and authority of the State Parties and held in prisons, hospitals (particularly psychiatric hospitals), detention camps, correctional institutions or other facilities.⁸¹ Article 10, paragraph 1 of the ICCPR supplements the ban on torture or other cruel, inhuman or degrading treatment or punishment specified in Article 7 of the ICCPR, by imposing on the State Parties an active obligation towards persons who are vulnerable as their liberty is deprived.⁸² Therefore, persons deprived of their liberty shall not be treated in any way contrary to Article 7 of the ICCPR or be subject to any hardships or pressure other than that which results from the deprivation of liberty. Persons deprived of their liberty must have their dignity respected under the same conditions as those of free persons and must enjoy all the rights set forth in the ICCPR, subject to the restrictions that are unavoidable in a closed environment.⁸³

81_ UN Human Rights Committee, General Comment, No. 21 (1992), para. 2.

82_ *Ibid.*, para. 3.

83_ *Ibid.*

(1) Situation in Detention Facilities

In North Korea, there are several types of detention facility, including prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*) and detention centers (*guryujang*), and political prison camps (*kwanliso*). Political prison camps (*kwanliso*) will be examined in V. Major Issues, 1. Political Prison Camps (*Kwanliso*) as these camps are different in nature than other detention facilities.

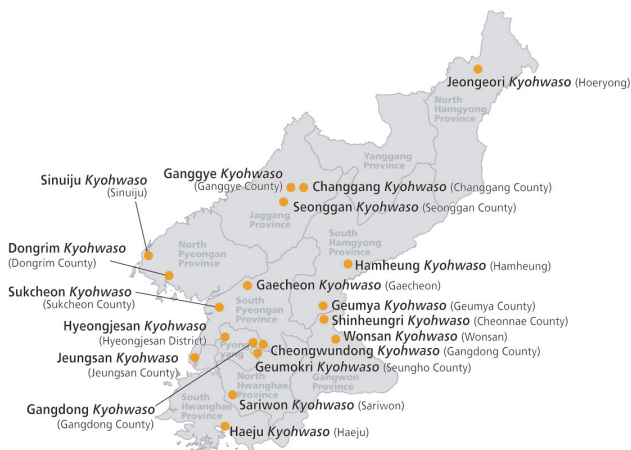
(A) Prison Camps (*Kyohwaso*)

Prison camps (*kyohwaso*) are correctional facilities of the MPS Corrections Bureau that is directly under the State Affairs Commission (hereinafter SAC) and are a place for detaining those who have been sentenced to correctional labor punishment by courts.⁸⁴ Based on the testimonies of North Korean defectors and

84_ The North Korean Criminal Law stipulates that correctional labor punishment is to detain criminals in prison camps (*kyohwaso*) and have them engage in labor and is divided into unlimited-term correctional labor punishment and limited-term correctional labor punishment (Article 30). The current North Korean Criminal Law imposes unlimited-term correctional labor punishment for a total of eight crimes (i.e., conspiracy to overturn the state, terrorism, treason against the fatherland, clandestine destruction, treason against the people, illegal cultivation of opium and manufacturing of narcotics, smuggling and trafficking of narcotics and premeditated murder) (Articles 60, 61, 63, 65, 68, 206, 208 and 266). For most general crimes, limited-term correctional labor punishment is imposed. The term of limited-term correctional labor punishment is from one to 15 years. Even when crimes are merged or prison terms are combined, the total term cannot exceed 15 years, and one day of detention before the rendition of judgment is counted as one day of limited-term correctional labor punishment (Article 30). During the term of unlimited-term correctional labor punishment and limited-term correctional labor punishment, the rights of citizens are partially suspended (Article 30).

satellite images, it was identified that there are a total of 19 prison camps (*kyohwaso*) that are operated in North Korea as of 2015, as can be seen in <Figure II-1>.⁸⁵

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



Testimonies were collected from North Korean defectors on the situations in Jeongeori *Kyohwaso* and Gaechon *Kyohwaso*. The prevalence of testimonies from these two sites is due to defectors who were forcibly repatriated to North Korea being detained mostly in Jeongeori *Kyohwaso* and Gaechon *Kyohwaso* after being sentenced to correctional labor punishment for illegal border-crossing⁸⁶ as specified in North Korean Criminal Law.

85_ Dong-ho Han *et al.*, *Prison Camps in North Korea* (Seoul: KINU, 2015), p. 12.

86_ Article 221 of the North Korean Criminal Law stipulates that people convicted of illegal border-crossing shall be sentenced to one year or less of labor training punishment, and where the offence is extremely serious, such people shall be sentenced to five years or less of correctional labor punishment.

- Jeongeori *Kyohwaso*

Jeongeori *Kyohwaso* is a prison camp (*kyohwaso*) under the authority of the MPS provincial bureau in North Hamgyeong Province and is located in Musan-ri, Hoeryong, North Hamgyeong Province (42.2103 degrees north latitude and 129.7536 degrees east longitude).

Figure II-2 Satellite View of Jeongeori *Kyohwaso*



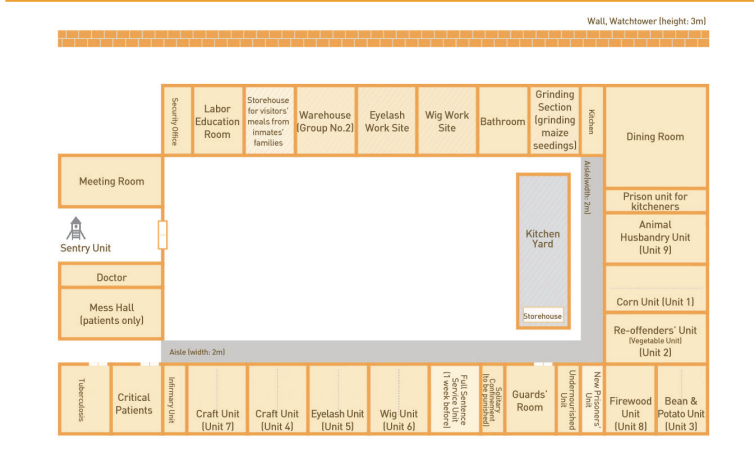
Jeongeori *Kyohwaso* manages convicted prisoners by dividing them into sections numbered 1 to 5. Convicted male prisoners are placed in Sections No. 1, 2, 4, and 5, while convicted female prisoners are assigned to Section No. 3.⁸⁷ Each section is divided again into units. According to testimonies, Section No. 1 has around 12 units, Sections No. 2 and 3 around 10 units, Section No. 4 around four units and Section No. 5 around three units.⁸⁸ Many

87_NKHR2013000046 2013-03-05 and many other testimonies.

88_NKHR2012000185 2012-09-11.

North Korean defectors who had been detained in Jeongeori *Kyohwaso* are female, and their testimonies enabled a more detailed examination of Section No. 3, which is the female detention facility. According to the testimonies, there are three prison staff for Section No. 3, including the head of the section, a secretary and a doctor, and three female guards.⁸⁹ The section is divided into a potato unit, a vegetable unit, a bean unit, a corn unit, a rock collection unit, a wig/eyelash unit, a firewood unit, an animal husbandry unit, a cooking unit and an undernourished unit.⁹⁰ <Figure II-3> shows the inside of the physical structure of Section No. 3 at Jeongeori *Kyohwaso*, which has been reconstructed based on testimonies.⁹¹

Figure II-3 Inside Jeongeori *Kyohwaso*, Section 3



89_ NKHR2014000048 2014-05-13.

90_ NKHR2011000248 2011-12-20; NKHR2014000048 2014-05-13.

91_ 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 sections. The female section is again divided into unlimited-term and limited-term zones in which prisoners sentenced to unlimited-term correctional labor punishment and those sentenced to limited-term correctional labor punishment are detained, respectively.⁹² Areas for those sentenced to unlimited-term and limited-term correctional labor punishment are in separate buildings.⁹³ Given that convicted

92_NKHR2014000175 2013-10-21; NKHR2015000186 2015-12-15.

93_Above testimonies.

female prisoners sentenced to unlimited-term correctional labor punishment are detained here, Gaecheon *Kyohwaso* seems to be a detention facility for criminals charged with serious crimes. According to testimonies, the female prisoners at Gaecheon *Kyohwaso* are divided into various units such as a farming unit, a livestock unit, a knitting unit, a vegetable unit, a fruit unit and a plowing unit.⁹⁴ A North Korean defector testified that the prisoners belonging to the farming, livestock and fruit units lived in single-story houses assigned to each unit, while those belonging to the knitting unit lived in a two-story building near the guards' building. According to the testifier, the knitting unit is comprised of those who are sentenced to unlimited-term correctional labor punishment and those with a higher risk of escaping, including those convicted of illegal border-crossing and human trafficking.⁹⁵ According to a North Korean defector who was imprisoned in Gaecheon *Kyohwaso* from 2011 to 2013, re-offenders are placed in the vegetable unit for high-intensity work.⁹⁶ Testifiers said that convicted male prisoners at Gaecheon *Kyohwaso* work in brick units and leather units (making shoes, belts, holsters, military boots and loafers) or mine coal at nearby coal mines.⁹⁷ A male defector in his 30s who was once detained in Gaecheon *Kyohwaso*

94_NKHR2013000156 2013-08-20.

95_NKHR2013000121 2013-06-25; NKHR2016000014 2016-01-26.

96_NKHR2017000130 2017-12-18.

97_NKHR2013000115 2013-06-11; NKHR2013000195 2013-10-29.

in 2015 testified that those with a short prison term, meaning those with a low flight risk, are assigned to mining work.⁹⁸

(B) Labor Training Camps (*Rodongdanryundae*)

Labor training camps (*rodongdanryundae*) are where those sentenced to labor training punishment (from six months to one year) by the court or those sentenced to re-educational labor discipline (from five days to six months) as an administrative penalty by people's security institutions, etc. are detained. It has been found that those sentenced to labor training punishment are detained in labor training camps (*rodongdanryundae*) under the jurisdiction of the MPS and those sentenced to re-educational labor discipline are detained in city-, county- or district-level labor training camps (*rodongdanryundae*) under the Labor Mobilization Division of the People's Committee. There are testimonies about labor training camps (*rodongdanryundae*) in Wonsan, Gangwon Province, and in Jeungsan County, South Pyeongan Province, being under the jurisdiction of the MPS.⁹⁹ Testifiers claimed that they were sentenced to labor training punishment and sent to the labor training camp (*rodongdanryundae*) located in Gaecheon *Kyohwaso*.¹⁰⁰ Therefore, it can be assumed that there is a labor

98_ NKHR2018000034 2018-05-07.

99_ NKHR2014000065 2014-06-03; NKHR2015000121 2015-09-08.

100_ NKHR2016000026 2016-03-08; NKHR2017000005 2017-04-10; NKHR2018000049 2018-06-04; NKHR2018000080 2018-07-30.

training camp (*rodongdanryundae*) under the control of the MPS inside Gaechon *Kyohwaso*. It has also been reported that the military operates its own internal labor training camps (*rodongdanryundae*).¹⁰¹

(C) Holding Centers (*Jipkyulso*)

A holding center (*jipkyulso*) investigates and detains travelers who have left their designated travel area or traveled beyond the authorized duration of travel, homeless children, those whose cases are pending and forcibly repatriated defectors. When a holding center (*jipkyulso*) sends notification to the MPS city/county branch in charge of the area of residence of a detainee, the MPS branch officers in charge come to the holding center (*jipkyulso*) and transfer the detainee to his/her area of residence. Holding centers (*jipkyulso*) under the control of the MPS are located across North Korea and there are holding centers (*jipkyulso*) operated by the Ministry of State Security in border regions. It has been found that holding centers (*jipkyulso*) operated by the Ministry of State Security in border regions are for detaining those who attempt to cross the border illegally to defect to China or South Korea. Moreover, it has been identified that a large number of detainees are confined in small spaces. According to the testimony of a North Korean defector ○○○, when he/she was detained in a Ministry of State Security-run Chongjin *Jipkyulso* in 2017, 30 people were detained in a space slightly larger than two *pyeong*.¹⁰²

101_ NKHR2015000119 2015-09-08.

102_ NKHR2019000075 2019-08-26.

(D) Detention Centers (*Guryujang*)

Detention centers (*guryujang*) are where criminal suspects are detained for investigation before trial. According to the North Korean Criminal Procedure Law, investigators and preliminary examination officers of state security institutions are in charge of conducting the investigation and preliminary examination of cases related to crimes against the state and the people. The investigation and preliminary examination of general crimes related to administrative and economic projects, and of general cases arising in the process of legal institutions' monitoring on the observance and enforcement of laws, are conducted by investigators and preliminary examination officers of prosecutorial institutions, and the investigation and preliminary of other general crimes are conducted by investigators and preliminary examination officers of people's security institutions (Articles 46 and 48). Hence, detention centers (*guryujang*) are divided into MSS detention centers (*guryujang*) and MPS detention centers (*guryujang*). The organization of the Ministry of State Security is divided into central-, provincial- and city- or county-level units, and there are detention centers (*guryujang*) at each level. The MPS is divided into central-, provincial-, city- or county and dong- or ri-level units, and there are detention centers (*guryujang*) for each level.

(2) Treatment in Detention Facilities

According to the testimonies of North Korean defectors, violence and cruel treatment continue to occur in prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*) and detention centers (*guryujang*) in North Korea, and many detainees suffer from poor nutrition, sanitation and health care. It is found that many detainees die from such inhuman treatment. In the following sections, the use of violence and cruel treatment and the nutritional, sanitary and medical conditions in detention facilities are examined.¹⁰³

(A) Prison Camps (*Kyohwaso*)

Violent and cruel treatment in prison camps (*kyohwaso*) continues to occur. Numerous relevant cases have also been documented in the 2019 survey. A North Korean defector ○○○ who had been detained in a prison camp (*kyohwaso*) in Hamheung, South Hamgyeong Province in 2016 said that he/she was beaten for three days, which made his/her calves turn black, and the swollen calves were chapped on the third day.¹⁰⁴ There are testimonies stating that violence and cruel treatment in prison camps (*kyohwaso*) have substantially decreased compared to the past. One North Korean defector who had been detained in

103_ See IV. Vulnerable Groups, 1. Women for sexual violence and forced abortion on women in detention facilities.

104_ NKHR2019000043 2019-07-01.

Gaecheon *Kyohwaso* two times in 2008 and 2015 testified that compared to what he/she experienced in 2008, there was much less violence and cruel treatment in 2015.¹⁰⁵ He/she said that the MPS officers tried not to use violence since they were punished and forced to write self-criticism reports if they used violence against the inmates. The testifier said that this treatment was due to the policy of not infringing upon the human rights of prison camp (*kyohwaso*) inmates.

Table II-17 Testimonies on Violence and Cruel Treatment in Prison Camps (*Kyohwaso*)

Testimonies	Testifier ID
The testifier, who had been imprisoned in Jeongeori <i>Kyohwaso</i> in 2014, witnessed frequent beatings. Prisoners were kicked by those wearing shoes, and soup bowls were thrown into the faces of prisoners.	NKHR2018000044 2017-07-03
The testifier, who had been imprisoned in Jeongeori <i>Kyohwaso</i> from April 2014 to March 2015, experienced frequent violence whenever he/she could not work well or comply with the rules. The testifier is still suffering from the aftereffects of violence.	NKHR2016000184 2016-12-13
The testifier, who had been imprisoned in Gaecheon <i>Kyohwaso</i> from August 2014 to July 2015, witnessed inmates beating another inmate after the guard in charge told them to “educate that one” because he/she did not meet the labor quota.	NKHR2016000114 2016-07-12
When detained in Gaecheon <i>Kyohwaso</i> in 2016, it was a routine for the inmates to be trampled on by those wearing shoes and hit with hands or fists. The inmates were punished with starvation or sleep deprivation when they did not follow orders or made mistakes.	NKHR2017000122 2017-11-20
When the testifier was detained in a prison camp (<i>kyohwaso</i>) in Hamheung, South Hamgyeong Province in 2016, correctional officers (<i>gyehowon</i>) beat him/her. The testifier’s calves were beaten for three days, and as a result, the flesh turned black, and the swollen flesh became chapped on the third day.	NKHR2019000043 2019-07-01

105_ NKHR2018000034 2018-05-07.

The nutrition, sanitation and health care inside prison camps (*kyohwaso*) still appear dire. The aforementioned testifier who had been detained in Gacheon *Kyohwaso* two times in 2008 and 2015 said that although violence and cruel treatment have decreased significantly, there was no improvement in nutrition, sanitation and health care.¹⁰⁶ Meals consisted only of lumps of corn and beans, and thus, inmates were only able to subsist by relying on food brought by their families during visitation. However, not many inmates had families visiting them while the testifier was there. A North Korean defector ○○○ testified that he/she witnessed two prisoners die from illness while serving their sentences in Hamheung *Kyohwaso* in 2016. The two prisoners had uterine cancer and spondylitis tuberculosa and died without receiving treatment as the prison camp (*kyohwaso*) did not provide medical treatment.¹⁰⁷ Due to poor nutrition and intensive labor, there were prisoners who suffered from malnutrition or ended up dying.¹⁰⁸ There have been many cases reported of inmates found dead, and the prison camps (*kyohwaso*) handled the disposing of the bodies without notifying their family of the death. For example, one testifier said that his/her mother, who was detained in Gacheon *Kyohwaso*, died from illness in December

106_ Above testimony.

107_ NKHR2019000043 2019-07-01.

108_ "North, serious violations of human rights of detainees in prison camps," *Radio Free Asia*, 18 June 2019.

2014, and yet, the prison camp (*kyohwaso*) did not hand over the body to the family but rather disposed of it on its own.¹⁰⁹

Table II-18 Testimonies on Poor Nutrition, Sanitation and Health Care in Prison Camps (*Kyohwaso*)

Testimonies	Testifier ID
The testifier, who had been detained in Gaecheon <i>Kyohwaso</i> from 2013 to 2014, was given a very small meal portion (<i>migyeolbap</i>) when he/she did not complete the daily assigned work. He/she often had stomach pains after eating a meal made of boiled rotten corn and was so hungry that he/she had to eat mice or insects. Inmates often died of weak health. The prison camp (<i>kyohwaso</i>) incinerated the bodies and did not inform the families of their deaths.	NKHR2017000047 2017-07-03
The testifier, who had been imprisoned in Gaecheon <i>Kyohwaso</i> from August 2014 to July 2015, said that he/she was given just 450 g of corn, a jar of rice and 30 g of beans per day to eat. Eighty percent of the prisoners were weak. Only those who suffered pneumonia, weakness or hepatitis and were close to death were allowed to be hospitalized.	NKHR2016000114 2016-07-12
In December 2014, the testifier's mother died of illness while being detained in Gaecheon <i>Kyohwaso</i> . The prison camp (<i>kyohwaso</i>) did not hand over the body to the family and disposed of it by itself.	NKHR2018000073 2018-07-30
The testifier had been detained in Jeongeori <i>Kyohwaso</i> from 2015 to August 2016 and saw many cases where inmates died of weak health. The dead bodies were incinerated at Mount Bulmang (<i>Bulmangsan</i>). The incineration facility was so small that the bodies had to be folded up and crammed in.	NKHR2017000047 2017-07-03
In 2016, two prisoners died from illness while serving their sentences in Hamheung <i>Kyohwaso</i> . The two prisoners had uterine cancer and spondylitis tuberculosa and did not receive treatment as the prison camp (<i>kyohwaso</i>) did not provide medical care.	NKHR2019000043 2019-07-01

109_NKHR2018000073 2018-07-30.

(B) Labor Training Camps (*Rodongdanryundae*)

Violence and cruel treatment also occur in labor training camps (*rodongdanryundae*). In the 2019 survey, relevant cases were documented. A North Korean defector ○○○ testified that he/she witnessed officers beating other inmates with clubs in a labor training camp (*rodongdanryundae*) in Ongjin County, South Hwanghae Province in October 2014.¹¹⁰ Meanwhile, there were also testimonies claiming that acts of violence and cruel treatment are decreasing in labor training camps (*rodongdanryundae*). A North Korean defector who had been detained in a labor training camp (*rodongdanryundae*) in Samjiyeon, Yanggang Province in August 2016 said that the rules in the camp included “one should not violate human rights”, “one should not fight with other inmates” and “one should not steal from or rob others.”¹¹¹ According to the testifier, in the labor training camp (*rodongdanryundae*), harsh verbal exchanges or beating others may constitute a “human rights violation,” and during his/her stay in the camp, he/she experienced no beating nor did he/she hear any profanity. A North Korean defector, who had been detained in a labor training camp (*rodongdanryundae*) in Onsong County, North Hamgyeong Province for two months from March 2015, also testified that the MPS officers in the camp did not beat the inmates as Kim Jong Un had set a ban on violence and corporal punishment.¹¹²

110_NKHR2019000011 2019-04-20.

111_NKHR2018000129 2018-11-19.

112_NKHR2018000074 2018-07-30.

Table II-19

Testimonies on Violence and Cruel Treatment in Labor Training Camps (*Rodongdanryundae*)

Testimonies	Testifier ID
In 2014, when the testifier had been detained in a labor training camp (<i>rodongdanryundae</i>) in Hoeryong, North Hamgyeong Province, the inmates were not beaten when they made a mistake; rather, they were instructed to run laps around the track.	NKHR2017000093 2017-10-23
The testifier, who had been imprisoned in a labor training camp (<i>rodongdanryundae</i>) in Hyesan, Yanggang Province in March 2014, said that he/she was slapped hard in the face for not doing a good job in monitoring work and his/her eardrum was damaged.	NKHR2016000108 2016-07-12
In March 2014, the testifier had been detained at a labor training camp (<i>rodongdanryundae</i>) in Samjiyeon, Yanggang Province. Since a labor training camp (<i>rodongdanryundae</i>) is operated for the purpose of training people with labor, those who did not work well were punished and beaten every day. The elderly were not exempt from such treatment.	NKHR2016000114 2016-07-12
In October 2014, officers beat prisoners with clubs in a labor training camp (<i>rodongdanryundae</i>) in Ongjin County, South Hwanghae Province.	NKHR2019000011 2019-04-20
In 2016, the testifier was sentenced to labor training punishment and sent to the labor training camp (<i>rodongdanryundae</i>) within Gaecheon <i>Kyohwaso</i> . There was no violence or cruel treatment.	NKHR2018000049 2018-06-04
The testifier had been detained in a labor training camp (<i>rodongdanryundae</i>) in Hyesan, Yanggang Province, from November 2016 to May 2017. Officers swore at him/her when he/she did not do the work well, but there was no beating.	NKHR2017000095 2017-10-23

In addition, the nutrition, sanitation and health care in labor training camps (*rodongdanryundae*) still seems dire. A North Korean defector ○○○, who had been detained in a labor training camp (*rodongdanryundae*) in Samjiyeon, Yanggang Province in August 2016 testified that the camp provided three meals a day, but it was very difficult to endure the hunger as the detainees were only served boiled corn and dried radish soup.¹¹³ According to

113_NKHR2018000129 2018-11-19.

the testifier, however, when inmates became sick, the camp provided medicine or took them to the hospital. Another North Korean defector, who had been detained in a labor training camp (*rodongdanryundae*) in Onsong County, North Hamgyeong Province for two months from March 2015, testified that corn rice, clear soybean soup and salted dried radish soup were provided as meals.¹¹⁴ According to the testifier, those who had been forcibly repatriated from China were not forced into working outside the camp as they might escape and thus were given very little food. Those incarcerated after committing a crime around the local area near the camp had more food to eat as they received food from their family during visitation and also worked outside the camp.

Table II-20 Testimonies on Poor Nutrition, Sanitation and Health Care in Labor Training Camps (*Rodongdanryundae*)

Testimonies	Testifier ID
In 2014, the testifier was detained in a labor training camp (<i>rodongdanryundae</i>) in Hoeryong, North Hamgyeong Province, where about 50 women stayed in one room, having corn rice and salty soup as their meals.	NKHR2017000093 2017-10-23
In 2016, when the testifier was detained in the labor training camp (<i>rodongdanryundae</i>) in Gaecheon <i>Kyohwaso</i> in Gaecheon, South Pyeongan Province, he/she was provided corn rice and salty soybean soup with lettuce as meals.	NKHR2018000049 2018-06-04
In August 2016, the testifier was detained in a labor training camp (<i>rodongdanryundae</i>) in Hoeryong, North Hamgyeong Province for a month. About 50-60 people stayed in one room having 130 g of corn rice and salty soup for meals. Some ran away because they were too hungry. The situation was better for those whose families gave corn flour (food made with heated corn, <i>sokdojeon garu</i>) or those who had brought food for themselves.	NKHR2017000086 2017-09-25

114_ NKHR2018000074 2018-07-30.

Testimonies	Testifier ID
From November 2016 to May 2017, when the testifier was detained at a labor training camp (<i>rodongdanryundae</i>) in Hyesan, Yanggang Province, corn was provided for meals. The meals were better when the inmates' families brought food to the camp. Not much heating was provided, but it was not too cold as there were many people gathered in a small space. When a military doctor diagnosed sick inmates, their families brought medicine.	NKHR2017000095 2017-10-23

(C) Holding Centers (*Jipkyulso*)

Violence and cruel treatment continue to occur in holding centers (*jipkyulso*). A North Korean defector ○○○ who had been detained in a holding center (*jipkyulso*) in Hyesan, Yanggang Province in November 2014 testified that he/she was beaten for being an unsatisfactory worker.¹¹⁵ A North Korean defector, who had been detained in a holding center (*jipkyulso*) in Sinuiju, North Pyeongan Province in July 2013, also testified that most of the inmates in the holding center (*jipkyulso*) were beaten for being unsatisfactory workers.¹¹⁶ Meanwhile, testimonies indicating that violence and cruel treatment have decreased were collected in the 2019 survey. A North Korean defector ○○○ who had been imprisoned in the MSS provincial holding center (*jipkyulso*) in Yanggang Province in 2018 testified that he/she was forced to remain in a fixed posture and even a slight movement, such as scratching, was not allowed.¹¹⁷ However, the testifier said that beatings have substantially decreased compared to the past.

115_NKHR2018000080 2018-07-30.

116_NKHR2018000023 2018-04-09.

117_NKHR2019000069 2019-08-26.

Table II-21 Testimonies on Violence and Cruel Treatment in Holding Centers (*Jipkyulso*)

Testimonies	Testifier ID
From March to June 2014, the testifier had been detained in a holding center (<i>jipkyulso</i>) in Chongjin, North Hamgyeong Province. The testifier was kicked in the ribs and beaten on the back of the hand with a metal wire for guns. Sounds of another prisoner being beaten with a wooden stick were heard from the room next door. The testifier was threatened with, “do you also want to be beaten up like that?”	NKHR2017000093 2017-10-23
The testifier had been detained in a holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province for 15 days in May 2014, and when his/her eyes met the eyes of the correctional officers (<i>gyehowan</i>), he/she was beaten with a club or shovel or was kicked.	NKHR2018000077 2018-07-30
In November 2014, the testifier had been detained in a holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province for 40 days and was forced to remain in a fixed posture. When one of the prisoners did something wrong, all of the prisoners in the room were punished. An inmate who had been detained in the same room was not able to walk properly when she was discharged due to serious injuries to her head and legs caused by continuous beatings.	NKHR2016000094 2016-06-14
From 28 February to 20 March 2015, the testifier had been detained in the MSS city holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province. The testifier was severely beaten by officers during a simple investigation.	NKHR2017000001 2017-04-10
The testifier had been detained for 20 days in the Ungsan <i>Jipkyulso</i> in Rajin, North Hamgyeong Province in September 2015. He/she was beaten for not doing work properly or being disobedient.	NKHR2018000001 2018-03-12
The testifier had been imprisoned in the MSS provincial holding center (<i>jipkyulso</i>) in Yanggang Province in 2018 and was forced to remain in a fixed posture. Even a slight movement such as scratching was not allowed. However, beatings have decreased compared to the past.	NKHR2019000069 2019-08-26

The nutrition, sanitation, and health care in holding centers (*jipkyulso*) were also found to be poor. A North Korean defector ○○○ who had been detained in a holding center (*jipkyulso*) in Ranam District in Chongjin, North Hamgyeong Province from May to July 2015, testified that he/she worked for 12 hours a day

but all he/she had as a meal was corn rice, salty soup and salted dried radish greens.¹¹⁸ A North Korean defector ○○○ who had been detained in a holding center (*jipkyulso*) in Hyesan, Yanggang Province for a month in April 2014 testified that corn was provided as a meal and he/she was required to work even when he/she had a fever.¹¹⁹ Another North Korean defector ○○○ who had been imprisoned in a holding center (*jipkyulso*) in Hyesan in 2014 testified that corn and dried radish soup were served as meals, and as the portions were small, all prisoners felt hungry.¹²⁰ This defector testified that the sanitation in the holding center (*jipkyulso*) in Hyesan was fine, with disinfectant being sprayed.

Table II-22 Testimonies on Poor Nutrition, Sanitation and Health Care in Holding Centers (*Jipkyulso*)

Testimonies	Testifier ID
When the testifier had been imprisoned in a holding center (<i>jipkyulso</i>) in Hyesan in 2014, corn and dried radish soup were served as meals, and as the portions were small, all prisoners felt hungry. The sanitation in the holding center (<i>jipkyulso</i>) in Hyesan was fine, as disinfectant was sprayed.	NKHR2019000047 2019-07-01
From October 2014 to March 2015, the testifier had been detained at a holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province. Corn and cabbage soup were provided as meals, and heating was provided only when detainees' families sent firewood.	NKHR2015000170 2015-12-01
From 28 February to 20 March 2015, the testifier had been detained in the MSS city holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province. Corn and cabbage soup were provided as meals, and families visiting the center were allowed to bring food.	NKHR2017000001 2017-04-10

118_ NKHR2018000074 2018-07-30.

119_ NKHR2018000010 2018-03-12.

120_ NKHR2019000047 2019-07-01.

Testimonies	Testifier ID
The testifier received noodles for meals when he/she had been detained in the Ungsan <i>Jipkyulso</i> in Rajin, North Hamgyeong Province in September 2015 but had to eat with his/her hands, not chopsticks. He/she picked twigs on his/her way to work and used them as chopsticks.	NKHR2018000001 2018-03-12
From December 2016 to March 2017, the testifier had been detained in Songpyeong <i>Jipkyulso</i> in Chongjin, North Hamgyeong Province. Each day, 200 g of corn rice, dried radish soup and kimchi were provided as meals. Sometimes, pureed soybean was served. When the testifier was mobilized to gather firewood, he/she was injured when his/her ankle/foot struck a tree, but no treatment was provided.	NKHR2017000099 2017-10-23

(D) Detention Centers (*Guryujang*)

Relevant cases have been reported mostly regarding the MSS county detention center (*guryujang*) in Onsong County, North Hamgyeong Province and the MSS city detention center (*guryujang*) in Hyesan, Yanggang Province. A female North Korean defector in her 40s, who had been detained in the MSS county detention center (*guryujang*) in Onsong County, North Hamgyeong Province in February 2015, testified that she routinely had to maintain a fixed posture from dawn to night.¹²¹ She said that if she moved even a little, she was punished by being forced to stand against a wall for three hours. A North Korean defector ○○○ who had been detained in the MSS county detention center (*guryujang*) in Onsong County, North Hamgyeong Province in 2015, testified that he/she was repeatedly beaten by a correctional officer (*gyehowon*) with a club, which left a severe bump on

121_NKHR2018000074 2018-07-30.

his/her head that made him/her unable to lie down properly. The testifier said that the reason for the beatings was his/her poor pronunciation of the North Korean language, which was a result of the testifier's long-term imprisonment in a Chinese prison.¹²² A North Korean defector ○○○ who had been arrested for attempting to defect and detained in the MSS city detention center (*guryujang*) in Hyesan, Yanggang Province from 12 July to 1 August 2017 testified that when he/she was interrogated, detainees who broke rules, such as not maintaining a fixed posture, were beaten with a ruler.¹²³ According to the testifier, a female inmate who had been detained in the same room was kicked by someone wearing shoes resulting in a swollen head covered with bruises from the top to the lower part of her eyes. A testifier who had been severely beaten every day while detained in the MSS county detention center (*guryujang*) in Onsong County in 2017 said that he/she was seriously scarred on his/her waist and back, and since no proper treatment was provided, he/she was infected with tetanus and had a high fever and pus draining from the wounds.¹²⁴ A North Korean defector ○○○ who had been detained in a detention center (*guryujang*) in Hyesan, Yanggang Province in 2016 said that maintaining a fixed posture is so hard that he/she would rather be beaten instead.¹²⁵ Another North

122_NKHR2019000089 2019-10-19.

123_NKHR2018000089 2018-08-27.

124_NKHR2019000075 2019-08-26.

125_NKHR2018000058 2018-07-02.

Korean defector ○○○ who had been detained in the MSS city detention center (*guryujang*) in Hyesan, Yanggang Province in October 2016 testified that he/she was forced to remain in a fixed posture from morning to night. According to the testifier, correctional officers (*gyehowon*) installed cameras to monitor the inmates and beat them whenever they moved slightly.¹²⁶

Meanwhile, there were many testimonies collected in the 2019 survey that reported violence and cruel treatment have decreased as a policy banning corporal punishment was enforced in detention facilities.¹²⁷ A North Korean defector ○○○ who had been detained in the MSS county detention center (*guryujang*) in Onsong County, North Hamgyeong Province in 2014 testified that beatings were not severe as they were considered a violation of human rights, and he/she was punished by being forced to remain in a fixed posture for one to two hours.¹²⁸ There was also testimony revealing that security institutions or prosecutorial institutions are in principle prohibited from torturing and beating. A North Korean defector ○○○ who had been detained in an MPS branch detention center (*guryujang*) in January 2019 corroborated the above.¹²⁹

126_NKHR2018000109 2018-10-06.

127_NKHR2019000033 2019-06-03; NKHR2019000069 2019-08-26; NKHR2019000079 2019-09-25.

128_NKHR2019000026 2019-05-18.

129_NKHR2019000106 2019-11-09.

Table II-23 Testimonies on Violence and Cruel Treatment at Detention Centers (*Guryujang*)

Testimonies	Testifier ID
In 2014, the testifier had been detained in the MSS county detention center (<i>guryujang</i>) in Onsong County, North Hamgyeong Province and beatings had become less severe as they were considered a human rights violation.	NKHR2019000026 2019-05-18
In 2015, the testifier had been detained in the MSS county detention center (<i>guryujang</i>) in Onsong County, North Hamgyeong Province, and he/she was repeatedly beaten by a correctional officer (<i>gyehowon</i>) with a club, which caused a severe bump on his/her head that made it difficult for him/her to lie down properly. The reason for the beating was his/her poor pronunciation of the North Korean language, which was a result of the testifier's long-term imprisonment in a Chinese prison.	NKHR2019000089 2019-10-19
From March to June 2015, the testifier had been detained and investigated in the MSS city detention center (<i>guryujang</i>) in Hyesan, Yanggang Province and was forced to maintain a fixed posture. When the testifier moved just a little, he/she was forced to do 5,000 squats. Many weak people passed out during such physical punishment. Moreover, he/she was frequently beaten, and beatings were so severe that pus came out of his/her ear.	NKHR2016000051 2016-04-19
While detained in the MSS city detention center (<i>guryujang</i>) in Hyesan, Yanggang Province in December 2015, the testifier was forced to remain in a fixed posture. Correctional officers (<i>gyehowon</i>) installed cameras to monitor the inmates, and when the testifier moved even very slightly, the officers made the testifier stick his/her head or hands out of the bars and beat it/them with oak clubs. The testifier sometimes fainted when beaten severely.	NKHR2016000078 2016-05-31
While detained in the MSS city detention center (<i>guryujang</i>) in Hyesan, Yanggang Province in 2016, the testifier was forced to maintain a fixed posture. There was a surveillance camera that ran 24 hours, and if the testifier moved just a little, correctional officers (<i>gyehowon</i>) imposed physical punishment such as handstands. Sometimes, they hit the palms 100 to 200 times with a stick. Due to such hardship in the detention center (<i>guryujang</i>), the testifier lost 10 kg and suffered for six months.	NKHR2017000001 2017-04-10
While detained in the MSS city detention center (<i>guryujang</i>) in Hyesan, Yanggang Province in October 2016, the testifier was forced to stay in a fixed posture. The testifier was monitored through surveillance cameras and was beaten whenever he/she even slightly changed his/her posture.	NKHR2018000109 2018-10-06

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Testimonies	Testifier ID
While detained in the MSS city detention center (<i>guryujang</i>) in Hoeryong, North Hamgyeong Province in December 2016, the testifier was forced to stay in a fixed posture. The testifier was beaten and forced to do 1,000 squats whenever there was a slight change in his/her posture.	NKHR2017000054 2017-07-31
The testifier had been detained in an MPS branch detention center (<i>guryujang</i>) in January 2019. Security institutions or prosecutorial institutions are in principle prohibited from using torture or beatings.	NKHR2019000106 2019-11-09

Testimonies on the poor state of nutrition, sanitation and health care in detention centers (*guryujang*) have been continuously collected. Testifiers stated that the meals served at detention centers (*guryujang*) were poor, and the heating was not properly working during wintertime. A North Korean defector ○○○ who had been detained in the MPS provincial bureau detention center (*guryujang*) in Hyesan in October 2015 testified that corn flour mixed with beans were provided as meals; the testifier also said that while he/she had been detained in the MSS provincial detention center (*guryujang*) in Yanggang Province between 2017 and 2018, corn and soybeans were provided as meals.¹³⁰ A female defector in her 40s, who had been detained in the MSS county detention center (*guryujang*) in Onsong County, North Hamgyeong Province in February 2015, testified that crusty overcooked rice, kimchi and bean sprouts were provided as meals and as spoons were not provided, she had to make a spoon using a

130_ NKHR2020000004 2020-05-15.

piece of plastic.¹³¹ Another North Korean defector who had been detained and investigated in the MSS city detention center (*guryujang*) in Hyesan, Yanggang Province in May 2017 testified that about 50 kernels of corn that smelled like mold were provided as a meal.¹³²

A North Korean defector ○○○ who had been in a detention center (*guryujang*) between early 2018 and April 2019 testified that a handful of corn and salt water were provided as meals, and the quality of meals was so bad that even dogs would not eat them. The testifier said that he/she lost 10 kg because he/she was not provided with any food with fat and only ate things like corn, and there were people who had died of poor blood circulation caused by weakness. According to the testifier, the detainees were weighed once a month to check their health but were not informed of their weight status, drinking water provided in a large bucket was to be shared among three to four people and there was not enough water because that water had to be used also for toilet flushing, washing and cleaning, the room he/she was in was very cold during winter and the inmates had to wear the clothes they had been wearing at the time they were imprisoned since no extra clothing was provided. The testifier recalled that he/she talked to the person in charge and received some clothes from home. The

131_NKHR2018000074 2018-07-30.

132_NKHR2018000091 2018-08-27.

testifier said that there was a military doctor to treat the inmates, but the medicines provided in such centers are not good and are not given to detainees unless they are seriously ill. The defector testified that life in the detention center (*guryujang*) was like that of an animal.¹³³

A testifier who had been beaten severely every day in the MSS county detention center (*guryujang*) in Onsong County in 2017 said that he/she was seriously scarred on his/her waist and back, and since no proper treatment was provided, he/she was infected with tetanus and had a high fever and pus draining from his/her wounds.¹³⁴ A testifier who had been detained in an MSS detention center (*guryujang*) in 2017 testified that it was too cold to sleep at night that he/she trembled all over.¹³⁵ A female defector in her 40s who had been detained in the MSS county detention center (*guryujang*) in Onsong County, North Hamgyeong Province in February 2015 said that there was no heating even in the winter and the cold was so severe it froze people's feet, and there was no leniency for patients.¹³⁶

133_ NKHR2020000020 2020-07-04.

134_ NKHR2019000075 2019-08-26.

135_ NKHR2020000027 2020-07-06.

136_ NKHR2018000074 2018-07-30.

Table II-24 Testimonies on Poor Nutrition, Sanitation and Health Care at Detention Centers (*Guryujang*)

Testimonies	Testifier ID
While held in the MPS city branch detention center (<i>guryujang</i>) in Samjiyeon, Yanggang Province from 8 May to 30 October 2015, the testifier was given about 100 g of slightly salted corn as meals. People became sick as they were given unwashed, germinated and insect-infested corn to eat. A meal on Sunday could have been substituted with a powdered meal delivered by families; however, one had to bribe the correctional officers (<i>gyehowon</i>) with a pack of cigarettes in order to be allowed to receive food from one's family.	NKHR2017000005 2017-04-10
When held in the MSS city detention center (<i>guryujang</i>) in Hyesan, Yanggang Province in December 2015, the testifier was provided with moldy, rotten corn and dried radish soup as meals. It was very cold during winter because heating was not provided, and the inmates were not able to stretch their body properly while sleeping as 10 to 15 people slept together in a small room.	NKHR2016000078 2016-05-31
While held in the MPS city branch detention center (<i>guryujang</i>) in Hyesan, Yanggang Province in 2016, the testifier was provided with corn and dried radish soup as meals. People were struggling because the portions were too small.	NKHR2017000125 2017-11-20
While detained in the MSS city detention center (<i>guryujang</i>) in Hyesan, Yanggang Province in June 2016, the testifier was provided with just a handful of boiled corn and watery soup per meal. There was a toilet inside the detention center (<i>guryujang</i>) but no water supply. Every morning, people had to carry water in a 30-liter bucket and used the water to flush the toilet and wash dishes. The inmates consistently suffered from lack of water, and if they used too much water, they were criticized and punished.	NKHR2017000108 2017-11-20
While detained in the MSS city detention center (<i>guryujang</i>) in Hoeryong, North Hamgyeong Province from November to December 2016, the testifier was given corn rice, which smelled like mold, together with salt water or soybean paste water as meals.	NKHR2017000054 2017-07-31
While detained in the MSS county detention center (<i>guryujang</i>) in Onsong County in 2017, the testifier was seriously scarred on his/her waist and back, and since no proper treatment was provided, he/she was infected with tetanus and had a high fever and pus draining from the wounds.	NKHR2019000075 2019-08-26
While detained in the MSS county detention center (<i>guryujang</i>) in Gyeongwon County, North Hamgyeong Province in October 2017, the testifier was given corn rice, salted red pepper and a cucumber per meal.	NKHR2018000098 2018-10-01

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B. Issues Related to the Treatment of Unconvicted Prisoners

Article 10, paragraph 2 (a) of the ICCPR stipulates that the accused shall, except for exceptional circumstances, be segregated from convicted prisoners and shall be subject to separate treatment appropriate to their status as unconvicted prisoners. This arrangement underscores the status of unconvicted prisoners who have the right to be presumed innocent as stipulated in Article 14, paragraph 2 of the ICCPR.¹³⁷

The North Korean Constitution and Criminal Procedure Law do not specify that criminal defendants shall be presumed innocent until proven guilty. Neither include provisions on separate confinement of unconvicted prisoners and convicted prisoners and on the treatment of unconvicted prisoners.¹³⁸ As discussed above, the basic separation of unconvicted and convicted prisoners seems to be in place in North Korea; the facilities for those sentenced to correctional labor punishment, labor training punishment or labor training discipline are different from the facilities for criminal suspects or defendants. A more detailed

137_ UN Human Rights Committee, General Comment, No. 21 (1992), para. 9.

138_ In South Korea, for example, the Administration and Treatment of Correctional Institution Inmates Act stipulates separate confinement of unconvicted prisoners and convicted prisoners and exceptions and includes detailed provisions on the principles for the treatment of unconvicted prisoners, the prohibition of visits, the wearing of plain clothes, haircuts, interviews with the defense counsel, the receiving of correspondence, special rules on investigation, work and edification, etc.

survey is needed to better identify whether unconvicted detainees are receiving appropriate treatment distinguishable from the treatment given to convicted prisoners. However, given that some holding centers (*jipkyulso*) force prisoners into labor (see II. The Reality of Civil and Political Rights, 3. Right Not to Be Forced into Labor) and that access to a defense counsel is not effectively guaranteed (II. The Reality of Civil and Political Rights, 7. Right to a Fair Trial), it is assessed that the guarantee of reasonable treatment for unconvicted prisoners is insufficient.

C. Issues Related to the Treatment of Convicted Prisoners

According to Article 10, paragraph 3 of the ICCPR, correctional systems should include activities for the correction and rehabilitation of prisoners. Therefore, convicted prisoners should be provided with correction/rehabilitation programs, work programs, vocational training, etc. so that they are corrected and reformed and their ability to re-adapt to society is developed.

First of all, it appears that there are no separate provisions on the treatment of convicted prisoners in North Korean laws.¹³⁹ Provisions related to punishment in North Korean Criminal Law

¹³⁹ In South Korea, for example, the Administration and Treatment of Correctional Institution Inmates Act has specific provisions on the principles for the treatment of convicted prisoners, classification review, education and edification programs, work and vocational training, temporary release, etc.

seem to be pursuing the education of convicted prisoners through labor in detention facilities such as prison camps (*kyohwaso*). However, the inhuman labor environment in detention facilities and imposition of excessive labor, as has been testified by many North Korean defectors, do not seem to be consistent with the purpose of promoting the correction and rehabilitation of convicted prisoners. In particular, many testimonies have been collected where prisoners are distressed as the labor intensity is very high and they face verbal abuse and violence when they fail to meet their labor allotment or are slow in their productivity. A female North Korean defector who had been detained in Gaecheon *Kyohwaso* from September 2014 to June 2015 testified that she worked in the eyelash unit and knitting unit for five months, respectively, and when she failed to complete the assigned work, the team leaders were punished, and so, the team leaders kept the inmates from going to bed until the work was completed.¹⁴⁰ A North Korean defector who had been detained in Gaecheon *Kyohwaso* in June 2015 testified that he/she had to work in a coal mine from 8 am to 5 pm with only a 30-minute lunch break and that the tasks were very labor intensive.¹⁴¹ A North Korean defector who had been detained in Hamheung *Kyohwaso* in South Hamgyeong Province in 2016 said that he/she

140_NKHR2018000081 2018-07-30.

141_NKHR2018000034 2018-05-07.

worked making artificial eyelashes in a work unit from 6 am to 10 pm and was beaten by correctional officers (*gyehowon*) when the work was not completed as planned.¹⁴²

Table II-25 Extreme Labor in Prison Camps (*Kyohwaso*)

Testimonies	Testifier ID
While imprisoned in Gaecheon <i>Kyohwaso</i> from August 2014 to July 2015, the testifier was forced to work 14 hours a day because too much work was assigned. The testifier was severely beaten and not allowed to sleep when he/she did not complete the assigned work properly.	NKHR2016000114 2016-07-12
While imprisoned in Gaecheon <i>Kyohwaso</i> from May to August in 2015, the testifier worked for seven hours a day in the vegetable unit.	NKHR2018000080 2018-07-30
While imprisoned in Jeongeori <i>Kyohwaso</i> from 2015 to August 2016, the testifier worked to drag three-meter long trees when he/she was very weak. It took two and a half hours to climb up the mountain and six hours to come down. He/she was beaten with an oak cane when he/she failed to complete assigned daily tasks. Some inmates died immediately after being crushed by a tree while dragging it to the ground.	NKHR2017000047 2017-07-03
While held in Gaecheon <i>Kyohwaso</i> in 2016, the testifier was mobilized for various works including mining coal, farming, carrying stones, painting limestone and putting up steel bars.	NKHR2017000122 2017-11-20

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

Article 10, paragraph 2 (b) of the ICCPR stipulates that accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. Moreover, the latter part of Article 10, paragraph 3 of the ICCPR states that juvenile offenders

142_ NKHR2019000043 2019-07-01.

shall be segregated from adults and treated appropriately for their age and legal status. While Article 10 does not specify the age of juveniles, the UN Human Rights Committee has stated in its General Comments 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.¹⁴³

In the current North Korean laws, provisions for unconvicted/convicted juvenile prisoners are hard to find. There have been testimonies where one witnessed children being mobilized for labor in holding centers (*jipkyulso*).¹⁴⁴ It appears there is a need for a more detailed survey on convicted and unconvicted juvenile prisoners.

E. Evaluation

Violence and cruel treatment have long been a routine in all kinds of detention facilities such as prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*) and detention centers (*guryujang*). In particular, the level of violence and cruel treatment imposed in the MSS holding centers (*jipkyulso*) and detention centers (*guryujang*) located in border areas is extremely serious. It has been identified that the nutrition, sanitation and health care in detention facilities are also still very

143_ UN Human Rights Committee, General Comment, No. 21 (1992), para. 13.

144_ NKHR2017000130 2017-12-18; NKHR2018000010 2018-03-12.

poor. These conditions constitute a violation of Article 10, paragraph 1 of the ICCPR, which stipulates the humane treatment of people deprived of their freedom. The use of violence and cruel treatment at detention facilities may also constitute a violation of Article 7 of the ICCPR (that prohibits torture and inhuman treatment), and deaths at detention facilities may constitute a violation of Article 6 of the ICCPR (that stipulates protection of the right to life). The treatment of unconvicted prisoners seems to be poorly protected except for the fact that unconvicted and convicted prisoners are confined separately. With respect to the treatment of convicted prisoners, it appears that measures not in accordance with the original purpose of the correctional system are carried out, including the imposition of excessive labor.

On the other hand, testimonies were collected claiming that the use of violence and cruel treatment in detention facilities has decreased compared to the past. In addition to the findings in the surveys from 2017 and 2018 that violence and cruel treatment have decreased substantially compared to the past in prison camps (*kyohwaso*) and labor training camps (*rodongdanryundae*), the 2019 survey found that there were testimonies claiming violence and cruel treatment have decreased substantially compared to the past in holding centers (*jipkyulso*) and detention centers (*guryujang*). There were also testimonies that torture and beatings are in principle prohibited in security institutions and prosecutorial institutions. Moreover, it was identified that there were some

improvements in terms of the nutrition, sanitation and health care in detention facilities. In the 2019 survey, a testimony was collected reporting that the sanitary conditions of a holding center (*jipkyulso*) in Hyesan were relatively acceptable. Such changes in status are noteworthy and must be continuously monitored to see if there is meaningful change in the human rights situation in detention facilities. Moreover, the international community needs to continuously call for the improvement of human rights in detention facilities in North Korea.

6

Right to Freedom of Movement and Residence

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

Table II-26 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 (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
Paragraph 4	No one shall be arbitrarily deprived of the right to enter his own country.

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

A. Using Travel Permits to Control People and Restrict Movement

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.” “Everyone” includes not only nationals but also foreigners who are temporarily staying within the territory of a country. With regard to the freedom of movement and residence, North Korea amended its Constitution in September 1998, adding that “citizens shall have the right to freedom of residence and travel” (Article 75). However, regardless of such change in the legal system, the North Korean authorities continue to restrict

people's movement through the travel permit system. North Korean people can move to other areas only after obtaining a travel permit. The North Korean authorities manage and control people's movement to Pyongyang and border regions more strictly. Article 30 of the People's Security Enforcement Law, which is a representative law that regulates the daily lives of North Korean people, stipulates that "the people's security institutions shall exercise control over violations of travel regulations and disorderly wandering on the streets." In addition, Article 282 of the Administrative Penalty Law stipulates that people who violate travel regulations shall be subject to admonitions, stern warnings, fines, or unpaid labor or re-educational labor discipline of three months or less. The provision further states that when the case is serious, three months or more of unpaid labor or re-educational labor discipline is imposed.

Underaged persons without a People's Registration Card cannot receive travel permits for themselves and must be accompanied by an adult acting in the capacity of a guardian who has a permit. Those traveling for official business can obtain a business travel permit and travel within North Korea. Soldiers, government officials and enterprise workers can travel for business trips or be dispatched across North Korea if they have a business travel permit issued by the organization they are affiliated with. Patients who have a doctor's certificate can obtain a permit to travel to a provincial capital for treatment or to the

place of residence of their immediate family members who can take care of them.

When people are moving within a province, they must carry travel permits issued by the relevant MPS city/county branch. However, to move outside a province, people must carry travel permits issued by Section 2 Office of the People's Committee.¹⁴⁵ The legal issuance of a travel permit is free and takes around five to seven days. However, many North Koreans offer cigarettes or other bribes to obtain one immediately.¹⁴⁶

The colors of the lines on travel permits differ by region, and the authorities frequently change the colors to prevent counterfeiting. Obtaining a travel permit is relatively easy except for special areas such as Pyongyang and border regions.¹⁴⁷ Travelers who obtain a travel permit must report to the local People's Unit (*inminban*) chief of their destination upon arrival and register on the travel roster and get their travel permit stamped by the MPS. If a traveler is caught without a travel permit, the local People's Unit

145_ NKHR2017000069 2017-08-28; NKHR2017000092 2017-09-25; NKHR2018000041 2018-06-04; NKHR2018000058 2018-07-02; NKHR2018000096 2018-08-27; NKHR2018000110 2018-10-06; NKHR2018000114 2018-10-13.

146_ NKHR2017000127 2017-12-18; NKHR2018000050 2018-07-02; NKHR2018000096 2018-08-27; NKHR2019000003 2019-04-08; NKHR2019000009 2019-04-08; NKHR2019000079 2019-09-25 and many other testimonies.

147_ NKHR2016000001 2016-01-12; NKHR2016000029 2016-03-08. Of course, "easy" is a relative term. Some testifiers were of the view that the issuance of a travel permit is a very complicated and demanding procedure as it takes a considerably long time to obtain one legally. Therefore, the testimony that it is relatively easy to obtain a travel permit might have been made on the premise that bribes are paid in the process.

(*inminban*) chief must report it to the MPS officer in charge of the matter.

Since the authorities impose strict control over the freedom of movement, North Korean residents often pay bribes to obtain travel permits. A North Korean defector ○○○ said that he/she paid 30,000 North Korean won to obtain his/her travel permit twice to travel from Bukchang County, South Pyeongan Province to Hyesan, Yanggang Province and that one needs a travel permit to obtain a train ticket.¹⁴⁸ Cases where people who travel within a province do not carry their travel permit and simply carry their People's Registration Card are increasing. When caught, such people pay bribes to avoid punishment.¹⁴⁹

A North Korean defector ○○○ who defected in 2019 testified that even if one is required to carry a daily permit to travel within a province, he/she was able to travel only with his/her People's Registration Card and that daily permits are replaced by People's Registration Cards as there is no one who would apply for a daily permit. The testifier said that crackdowns can be avoided if one has money while traveling within a province, but one must obtain a permit in order to travel outside a province. According to the

148_ NKHR2020000042 2020-10-31.

149_ NKHR2016000017 2016-01-26; NKHR2016000033 2016-03-22; NKHR2016000049 2016-04-19; NKHR2016000137 2016-08-23; NKHR2016000098 2016-06-14; NKHR2017000052 2017-07-03; NKHR2018000004 2018-03-12; NKHR2018000064 2018-07-11; NKHR2018000092 2018-08-27; NKHR2019000012 2019-04-20; NKHR2019000062 2019-07-29.

testifier, to avoid crackdowns, people pass through guard posts after loading their bicycles on service cars; they ride their bicycles again after passing the guard posts.¹⁵⁰

A North Korean defector ○○○ who defected in 2019 testified that he/she was able to travel around even though he/she could not obtain a People's Registration Card nor a travel permit as he/she was subject to monitoring due to his/her family's defection. The testifier said that he/she was caught in a crackdown, and he/she escaped punishment by paying with a pack of cigarettes or around 5,000 won. According to the testifier, it is faster to pay a bribe than to spend time and effort to obtain a travel permit, and more people pay bribes to travel than go through official procedures to obtain a travel permit. The testifier said that he/she spent approximately 10,000 North Korean won as a bribe to travel to Chongjin; he/she also said that one would be escorted to his/her seat if he/she approaches a train attendant, flight attendant, MSS agent or MPS officer and says, "I could not get a permit, but please let me travel."¹⁵¹

The North Korean authorities restrict people's movement through the travel permit system. However, the mobility of residents has increased compared to the past as bribery has become widespread in the process of moving between regions.

150_NKHR2020000016 2020-07-04.

151_NKHR2020000021 2020-07-06.

When traveling to other regions, North Korean residents prove their identity with their People’s Registration Card, not with a travel permit, and offer bribes to train attendants, flight attendants, MSS agents or MPS officers when caught in a crackdown.

Officials of the Korean Workers’ Party (hereinafter KWP), unlike the general public, can travel preferentially if they possess party-stamped credentials.¹⁵² Moreover, given that the North Korean authorities only turn a blind eye to those who have the financial capacity to offer bribes, it has been found that in North Korea, freedom is still granted on a discriminatory basis.

Table II-27 Cases Related to Travel Permits

Testimonies	Testifier ID
In 2015, the testifier obtained a travel permit in Kimjongsuk County, Yanggang Province. Although the issuance of travel permits for border regions or Pyongyang/Rason is restricted, one could obtain a permit immediately by giving one to five packs of cigarettes to the Section 2 Office of an MPS city/county branch. It was usually possible to secure 15-30 days of travel to Pyongyang/Rason by offering two cartons of cigarettes. It was also possible to extend the duration of travel through bribes.	NKHR2015000142 2015-10-06
In 2015, the testifier traveled from Hyesan, Yanggang Province to South Hamgyeong Province without a travel permit. The testifier was able to travel without a train ticket and a permit as he/she knew the train crew but was eventually caught and paid a fine of 10,000 won.	NKHR2016000081 2016-05-30
In 2015, the testifier obtained a travel permit by paying bribes to go to a border region so that he/she can receive money sent by his/her older sister in South Korea.	NKHR2017000063 2017-07-31

152_ NKHR2016000013 2016-01-26.

Testimonies	Testifier ID
The testifier was issued a travel permit on two occasions to go to a hospital in Pyongyang in 2015 and offered cigarettes and eight yuan to show gratitude.	NKHR2018000016 2018-04-09
The testifier's uncle died in 2015, so the testifier obtained a travel permit to go to Sinpo, South Hamgyeong Province by paying 20 yuan. It took one to two days to get the permit.	NKHR2018000098 2018-08-27
In January 2015, the testifier obtained a travel permit by offering a pack of cigarettes in order to go to Chongjin from Onsong, North Hamgyeong Province.	NKHR2017000092 2017-09-25
In March 2015, the testifier obtained a travel permit to Chongjin, North Hamgyeong Province after stating the purpose of issuance was to visit his/her younger sibling in Hyesan, Yanggang Province. The testifier applied for it at the Section 2 Office of the MPS city/county branch, and there was no commission fee as it was obtained legally, and it took a month to receive the permit.	NKHR2016000171 2016-11-01
In October 2015, the testifier legally obtained certification documents (i.e., unit, business travel order, letter of delegation) through his/her company to visit relatives in Onsong, North Hamgyeong Province from Chongjin, North Hamgyeong Province.	NKHR2016000155 2016-09-20
In the spring of 2017, the testifier's father received a travel permit so that he could receive a health examination at a hospital located in Pyongyang. Approximately 30,000-50,000 won was offered as a bribe. There were two red diagonal lines drawn on the travel permit. The travel permit specified the name of the applicant, address in Pyongyang, reasons for travel and duration of travel.	NKHR2019000071 2019-08-26
The testifier obtained a travel permit to attend a wedding of his/her acquaintance living in Pyongyang in April 2017. He/she gave 100 yuan to the person in charge at the Section 2 Office of the People's Committee and received the permit in two days. The travel permit to Pyongyang had a red line drawn diagonally while travel permits to other provinces had a blue line.	NKHR2018000058 2018-07-02
In June 2017, the testifier obtained a travel permit by offering a pack of cigarettes to go to his/her relatives' house in Gimchaek, North Hamgyeong Province from Hyesan, Yanggang Province. After arriving in Gimchaek, the testifier registered the location of his/her stay with the local People's Unit (<i>inminban</i>) chief.	NKHR2017000126 2017-12-18
In 2018, the testifier obtained a travel permit in Yanggang Province for his/her bog bilberry business. It cost 100 yuan to obtain a permit to Pyongyang and 50 yuan to obtain a permit to Hamheung.	NKHR2019000026 2019-5-18

Testimonies	Testifier ID
The testifier obtained a travel permit to attend the 70th anniversary of the Day of the Foundation of the Republic in 2018. The testifier gave bribes to six people and received the permit on the day of application. The testifier would not have had the permit processed on the same day had he/she not paid the bribes.	NKHR2019000021 2019-05-07
In November 2018, the testifier obtained a travel permit to go to Pyeongseong from Yanggang Province to do business there. Although the testifier was not requested to provide a specific amount, the testifier gave a pack of cigarettes for expedited processing and received the permit within 24 hours.	NKHR2019000024 2019-05-18
The amount of a bribe for obtaining a travel permit varies depending on the destination. For general regions, applicants pay 20-50 yuan, and for special areas that require approval numbers, applicants pay 100 yuan.	NKHR2018000110 2018-10-06

B. Restriction of Access to Certain Areas and Forced Deportation

With respect to the right to freedom of movement and residence, Article 12, paragraph 3 of the ICCPR stipulates that “the above- mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.” The UN Human Rights Committee stated in its General Comments that the right to freedom of movement and residence may be restricted only when the conditions for restriction are clearly indicated in domestic laws, and facts such as an individual being a holder of state secrets or the individual not having a specific permit should not constitute grounds to restrict such individual’s right to freedom of movement

and residence.¹⁵³ In effect, Article 12, paragraph 3 of the ICCPR implies that the right to freedom of movement and residence can be restricted only when there are legitimate and valid reasons in terms of national policy.

In North Korea, however, the problem is that such provisions are interpreted arbitrarily by the authorities. North Korea has designated certain areas, such as Pyongyang, border areas, areas near the Military Demarcation Line (*jeonyeonjidae*) and free trade zones, including Rajin and Sonbong, as approval number areas and prohibits access to the general public. In order to travel to these regions, one needs to be in possession of a travel permit issued by the county of one's residence, marked with the approval number of the Section 2 Office of the local People's Committee of such regions (e.g., North Hamgyeong Province, Jagang Province, Yanggang Province, North Pyeongan Province, Pyongyang, etc.). A travel permit for approval number areas is clearly differentiated with other certificates since it has many lines drawn with different colors and the MSS codes written on it.¹⁵⁴

Obtaining a travel permit to Pyongyang is more difficult and requires a higher bribe amount; it is impossible to have such permit issued without paying bribes.¹⁵⁵ This permit is not issued

153_ UN Human Rights Committee, General Comment, No. 27 (1999), paras. 12, 16.

154_ Dong-ho Han *et al.*, *Freedom of Movement in North Korea* (Seoul: KINU, 2017), pp. 22~25; NKHR2018000058 2018-07-02; NKHR2019000071 2019-08-26.

155_ NKHR2018000058 2018-07-02; NKHR2018000110 2018-10-06.

at all when important events are scheduled in Pyongyang or when the political situation is unstable, but exceptions may be made when the purpose of travel is to receive medical treatment.¹⁵⁶ It is impossible for one to travel to Pyongyang carrying only his/her People's Registration Card even if he/she pays bribes to MPS officers; one must carry his/her travel permit.¹⁵⁷ The control is stricter in border areas than in Pyongyang,¹⁵⁸ and obtaining a travel permit is more difficult when moving from inland areas to border regions than moving from border regions to inland areas.¹⁵⁹

Such broad restrictions on public access to various special districts constitute a violation of the right to freedom of movement and residence. Although the North Korean authorities argue that access to certain districts are controlled for national security reasons, this restriction is an unreasonable claim. For example, there is no other country that controls and regulates its own people's visit to the capital city.

Restricting access to certain areas through a strict and complicated travel permit issuing process and carrying out forced deportation are acts infringing upon the right to freedom of movement and residence. The UN Human Rights Committee interpreted in its General Comments that the right to freedom of residence includes

156_NKHR2018000016 2018-04-09.

157_NKHR2018000092 2018-08-27.

158_NKHR2018000041 2018-06-04.

159_NKHR2014000127 2014-08-26; NKHR2018000003 2018-03-12.

protection from “all forms of forced internal displacement” and “precludes preventing the entry or stay of persons in a defined part of the territory.”¹⁶⁰ Forced deportation carried out by the North Korean authorities constitutes a representative example of forced displacement by a state.

The North Korean authorities have used forced deportation as a political tool against political reactionaries and anti-government dissidents and their families. In particular, they have expelled people with disreputable backgrounds (*songbun*) from Pyongyang to remote provinces. To begin with, it has been claimed that the Kim Jong Un regime has reduced the population in Pyongyang to expand benefits such as food rations to its residents and has forcibly deported ex-convicts and unemployed persons from Pyongyang in order to strengthen its control by effectively identifying and expelling anti-government individuals.¹⁶¹ Moreover, forced deportation for similar reasons was also witnessed in Samjiyeon, Yanggang Province. Samjiyeon is the birthplace of Kim Jong Un and is also referred to as the “Holy Land of Revolution” and the “Second Pyongyang.” As such, former prisoners (ex-convicts) and their families are in principle forcibly moved out of Samjiyeon. A testimony was collected stating that because Samjiyeon is located in the border region, most of the

160_ UN Human Rights Committee, General Comment, No. 27 (1999), para. 7.

161_ Dong-ho Han *et al.*, *Freedom of Movement in North Korea* (Seoul: KINU, 2017), p. 36.

former prisoners residing there are people who have attempted to defect from North Korea, and thus, those former prisoners are forcibly deported out of Samjiyeon in order to prevent future border-crossing attempts.¹⁶²

Since Kim Jong Un came to power, there have been reports that residents of border areas were forcibly moved in the process of tightening control over defection. Among the border regions, it is relatively easier to cross the river in Samjiyeon, Yanggang Province compared to Hyesan or Bocheon County because of the thick woods growing behind the houses near the river. In 2015, in order to effectively control defection, around 200 households in the border areas near Samjiyeon were forced to move and the existing houses were demolished.¹⁶³ While the forced movement policy that has been used as a tool for political retaliation is a traditional form of forced deportation, the forced movement policy that is carried out to control border regions can be understood as a new form of forced deportation.

On the other hand, it seems that cases of forced deportation of people who were caught in the process of defecting from North Korea or forcibly repatriated from China have decreased.¹⁶⁴ In particular, there had been no testimony in the 2019 survey concerning

162_ NKHR2017000122 2017-11-20.

163_ NKHR2016000025 2016-03-08.

164_ NKHR2017000011 2017-04-10; NKHR2017000060 2017-07-31; NKHR2018000040 2018-05-08.

deportation as a result of family members' defection from North Korea. This finding does not necessarily mean punishment for defection has weakened; rather, it appears that the decrease is a result of the practical difficulty in deporting all of those who have attempted to defect from North Korea and their families. In particular, with respect to Yanggang Province, where many defection attempts occur as it is close to the border, a problem arises where there are too many deportees to be housed in a limited space as non-border regions within the province need to be designated as relocation areas.¹⁶⁵

There were testimonies in the 2019 survey about cases where those who committed “anti-socialist” crimes that disturb the socialist order, such as prostitution, use of narcotics and fraud, were punished for their offense while their family members were deported. A North Korean defector ○○○ who defected in 2017 testified that he/she witnessed a case where a mother was deported to Goksan, North Hwanghae Province due to her son committing fraud in 2014-2015.¹⁶⁶ The testifier also said that he/she heard of a case where a woman who was running a prostitution business during the same period was executed and her son was deported.¹⁶⁷ A North Korean defector ○○○ who

165_ Dong-ho Han *et al.*, *Freedom of Movement in North Korea* (Seoul: KINU, 2017), p. 40.

166_ NKHR2019000054 2019-07-29.

167_ Above testimony.

defected in 2016 testified that he/she witnessed a case in 2014–2015 where the whole family was deported for helping a kidnapper.¹⁶⁸

Table II-28 Cases Related to Forced Deportation

Testimonies	Testifier ID
Around 2014–2015, the testifier witnessed a case where a mother was deported to Goksan, North Hwanghae Province since her son committed fraud, and the son was imprisoned in a prison camp (<i>kyohwaso</i>).	NKHR2019000054 2019-07-29
Around 2014–2015, the testifier heard that a woman running a prostitution business was executed, and her son who helped her business was forcibly deported.	NKHR2019000054 2019-07-29
A Party worker, who was ordered to be deported in 2015 for divorcing his/her spouse, defected from North Korea.	NKHR2017000033 2017-06-05
In 2015, the testifier witnessed two members from Unhasu Orchestra being forcibly deported to Kwibong-ri, Pungso County, Yanggang Province, from Pyongyang.	NKHR2017000097 2017-10-23
In spring 2015, around 10 households from Rimyongsu-gu, Samjiyeon, Yanggang Province were forcibly deported after they were caught smuggling items from China. They were mostly deported to the Pungso and Baekam regions.	NKHR2016000063 2016-05-03
In September 2015, the testifier was deported from Bocheon County, Yanggang Province to Sinchang-ri, Pungso County, Yanggang Province due to a crime committed by his wife. The enforcement institution was the MPS county branch, and the MPS officers came suddenly in the early morning and packed up all the furniture and moved them.	NKHR2016000194 2016-12-27
In October 2016, a Provincial Party official of Yanggang Province was forcibly deported to Unheung County, Yanggang Province for commenting that the performance by an artist, whom Kim Jong Un complimented, was not very good.	NKHR2017000126 2017-12-18

168_NKHR2019000063 2019-07-29.

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

Article 12, paragraph 2 of the ICCPR stipulates “everyone shall be free to leave any country, including his own.” Here, “his own” (country) can be interpreted broadly than just one’s own country, and “free to leave” means that procedural legitimacy and freedom to leave the country should be guaranteed. The UN Human Rights Committee interprets Article 12, paragraph 2 of the ICCPR that a country has an obligation to properly provide required documents, including a passport, for individuals who wish to leave their country.¹⁶⁹

However, the North Korean authorities do not allow the freedom to leave North Korea and move to another country by strictly controlling the issuance of documents required for leaving the country. Most of North Korean people cannot obtain passports to travel to other countries. According to the North Korean Immigration Law,¹⁷⁰ North Korean residents can obtain passports and visas for official or private affairs (Article 11). There are three types of passports: diplomatic passports, government official passports and traveler passports. Diplomats are issued diplomatic

169_ UN Human Rights Committee, General Comment, No. 27 (1999), para. 9.

170_ The Immigration Law of the DPRK revised and supplemented on 10 July 2013 in accordance with Ordinance 3249 of the Presidium of the SPA (hereinafter the Immigration Law).

passports, government officials working at Party organizations or espionage divisions are issued government official passports and residents traveling abroad, for example, to visit relatives, are issued traveler passports.

The issuance of traveler passports are limited to those who are visiting their relatives in China. Their personal documentation should provide basic information, such as the name and address of the relatives in China. There were testimonies reporting that there is an internal regulation within the foreign affairs section of the Ministry of State Security that states passports can be issued only for people aged 50 or older.¹⁷¹ However, this regulation is not observed as there are many cases where people offer bribes.¹⁷² To be issued a passport, a letter of invitation from China is required, and this invitation letter needs to be validated by the manager of the applicant's enterprise/organization, MPS officers and MSS agents in charge, etc. The process is followed by the final validation by a foreign affairs officer of the MSS city branch and the final approval by the vice leader of the Ministry of State Security, which requires a written statement from the applicant promising not to damage the reputation of North Korea and to come back within the authorized period of time.

171_NKHR2015000043 2015-02-24.

172_A North Korean defector ○○○ testified that he/she was 35 years old by the time he/she obtained the passport and thus had to bribe the Ministry of State Security agent in charge to get the passport issued. NKHR2015000070 2015-04-07.

In reality, however, passports are issued to people of special ranks, such as diplomats, public officials, people working overseas and students studying overseas, and it is not common for ordinary residents to obtain passports. However, it seems that it is easy for ethnic Chinese and their families to obtain passports to visit China. A North Korean defector ○○○ who defected in 2017 testified that his/her spouse was an ethnic Chinese and he/she had his/her passport issued as many as four times as it was relatively easy for families of ethnic Chinese to obtain passports; the testifier claimed that while the official permitted period of stay in China is two months, ethnic Chinese are allowed to stay in China up to two years.¹⁷³

In North Korea, there is a document called a “border area immigration document” in addition to passports. North Korean residents living in border regions can obtain this document when they want to go abroad (China) for a short period of time to visit their relatives or carry out small-scale trading. According to Article 13 of the Immigration Law, North Korean residents can be issued a border area immigration document for official or private affairs. If the purpose of travel is to visit relatives in China, a letter of invitation is required as is the case with traveler passports. A North Korean defector ○○○ who defected in 2019 said that he/she had applied for a border pass in 2015 and received it four

173_NKHR2019000054 2019-07-29.

years later, and in the process, he/she paid 15,000 yuan or more as a bribe.¹⁷⁴ In border regions such as Yanggang Province, it is said that the Ministry of State Security restricts the issuance of border passes as there are only a few people returning after going to China with a legally issued border pass.¹⁷⁵

People engaged in border trade can obtain a river-crossing pass (*dogangjeung*), which is issued without a letter of invitation from China. A river-crossing pass (*dogangjeung*) is known as a short-term pass that allows crossing of the border for 24 to 48 hours.

One aspect that differentiates border area immigration documents from passports is that the former are issued by a city/province level Ministry of State Security branch, not by the central organization of the Ministry of State Security. In this respect, it appears that obtaining a border area immigration document is somewhat easier than obtaining a passport.

Those who cross the border illegally without obtaining legitimate immigration documents will be subject to a fine or forbidden to leave the country (Article 55 of the Immigration Law) and punished according to the Criminal Law. Article 221 of the North Korean Criminal Law (Crime of Illegal Border-Crossing) states that those who commit the crime of illegal border-crossing are subject to “labor training punishment of one

174_NKHR2019000035 2019-06-03.

175_Above testimony.

year or less.” If the offense is serious, they will be subject to “correctional labor punishment of five years or less.” Despite these provisions on the prohibition of and punishment for illegal border-crossings, defection continues as there is no other legal way to cross the border. This practice ultimately leads to an increase in the price of border-crossing, resulting in a situation where North Korean people who went to China end up staying in China longer than originally scheduled in order to earn more money to make up for the costs. In the process, many of these people end up staying in China as illegal aliens. The border control implemented by the North Korean authorities, which is inconsistent with its obligation as a state to provide required documents for individuals who wish to leave their country, can be regarded a serious violation of the freedom of movement.

D. Evaluation

According to the 2020 survey, North Korean authorities seriously infringe upon the right to freedom of movement and residence of North Korean people. The people’s right to movement is restricted by the travel permit system and the imposition of zone-based crackdowns. Measures such as forced deportation of reactionaries designated by the authorities and restriction of access to certain areas continue to occur. It seems that forced deportation of defectors and their families, which has

been imposed as a punishment for defection, has decreased. However, this does not mean that the human rights situation in North Korea has been improving; rather, it is assessed that the decrease is a result of the insufficient capacity of the North Korean authorities to relocate the deported residents. In fact, the decrease in forced deportation as a punishment for defectors has led to the tightening of border control, the purpose of which is to prevent defection in advance. In this respect, the freedom to movement for North Korean people is still seriously violated.

The North Korean authorities rigorously restrict the crossing of the border. Except in special cases, people rarely obtain passports or border passes in a legitimate manner, and the procedure of obtaining a passport is complicated and entails many restrictions that the applicant must pay bribes to complete the process. The international community should make efforts to improve the freedom of movement and residence in North Korea not only because it is a basic human right, but also because it would provide opportunities for North Korean people to change their way of thinking through contact with the outside world.

7

Right to a Fair Trial

Article 10 of the UDHR stipulates that “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.” Article 14 of the ICCPR also stipulates that States Parties shall guarantee the right to a fair trial through each state’s judicial system. The right to a fair trial is a key element in protecting human rights and plays a role as a procedural tool to advocate the rule of law.¹⁷⁶ Article 14, paragraph 1 guarantees the right to equality in trials, the right to a fair trial in all kinds of lawsuits, and the right to public trials. Articles 14, paragraphs 2 to 7 stipulate the minimum rights that should be granted to suspects and defendants in the procedure of criminal trials.

176_ UN Human Rights Committee, General Comment, No. 32 (2007), para. 2.

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: (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.

In North Korea, courts are established in accordance with the Constitution and the Law on the Constitution of the Courts.¹⁷⁷ However, trials in North Korea are not fair. This chapter will examine the major issues related to the right to a fair trial in North Korea.

A. Denial of Judicial Independence

Article 14, paragraph 1 of the ICCPR stipulates that all persons have the right to be tried by an “independent and impartial tribunal.” North Korea establishes its courts based on its Constitution and the Law on the Constitution of the Courts. The judicial system in North Korea consists of the Central Court, provincial (direct-controlled municipality) courts, city (district) and county people’s courts and special courts (Article 159 of the Constitution). Special courts consist of military courts, railroad courts and military logistics courts (Article 3 of the Law on the Constitution of the Courts, Article 52 of the Criminal Procedure Law). North Korea has a three-level court and two-level trial system. Under North Korean law, judges are elected through elections. In other words, the head of the Central Court is elected by the SPA (Article 91, subparagraph 12 of the Constitution); other Central Court judges by the Presidium of the SPA; and provincial (direct-controlled

177_ The Law on the Constitution of the Courts of the DPRK revised and supplemented on 21 December 2011 in accordance with Ordinance 2052 of the Presidium of the SPA (hereinafter the Law on the Constitution of the Courts).

municipality) court judges and people’s court judges by the respective local People’s Assembly (Article 4 of the Law on the Constitution of the Courts). Moreover, the Central Court is accountable to the SPA and the Presidium of the SPA when the SPA is in recess (Article 168 of the Constitution).

However, based on the principle of Party supremacy and centralism, the KWP exercises *de facto* control over all institutions and organizations including the SPA, which is nominally the highest sovereign body in North Korea. Thus, judicial institutions of North Korea seem to function as delegated bodies with limited power that are managed and supervised by higher authorities, the SPA and the KWP.¹⁷⁸ While there are provisions stating that “courts shall be independent in the process of trials 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 in their organizational system, rather than guaranteeing the independence of individual judges; the provisions cannot be regarded as providing the independence of the judiciary in its true sense.¹⁷⁹ A North Korean defector ○○ ○ who had worked at a provincial Prosecutors’ Office as a prosecutor until 2013 testified that the role of judges in trials is not significant and that prosecutors of Prosecutors’ Offices always

178_Kyu-chang Lee and Gwang-jin Chung, *The North Korean Criminal Trial System: Characteristics and Actual Practice* (Seoul: KINU, 2011), p. 49. (In Korean)

179_ *Ibid.*, pp.49-53.

supervise trials. According to the testifier, trials are led by prosecutors, and prosecutors can take more bribes than judges and sometimes accept bribes from suspects during trial preparation. Being a prosecutor is a very well-paid profession because there are many opportunities to receive bribes; prosecutors often demand bribes from suspects in the name of doing “business (*saeop*)” with defense counsels and judges to lower their sentence, and they also steal part of the amount of money given by suspects. The testifier also said that trials often result in verdicts imposing punishments that are either too lenient or too harsh, and the judicial system and discipline are in disorder.¹⁸⁰

Meanwhile, North Korea has adopted the people’s jury system. Under the system, laymen, who are not legal experts, form an *en banc* court together with a professional judge to conduct a trial, fully participate in trial proceedings as full members of the court, exercise equal rights to judges and decide a case through majority vote. People’s jurors participate in first instance trials (Article 9 of the Law on the Constitution of the Courts). Judgments and decisions are adopted by majority vote of the judges and people’s jurors participating in a trial (Article 17 of the Law on the Constitution of the Courts). Like judges, people’s jurors are also elected through elections. People’s jurors of the Central Court are elected by the Presidium of the SPA, while people’s jurors at

180_NKHR2020000032 2020-08-04.

provincial (direct-controlled municipality) courts and people's courts are elected by the respective People's Assembly (Article 4 of the Law on the Constitution of the Courts). In practice, only those who are loyal to the KWP are elected as people's jurors, and the elected people's jurors inevitably follow the direction of the KWP; against this backdrop, the people's jury system can be viewed as a means for the KWP to systematically control the courts.¹⁸¹

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 the trials. Moreover, corruption that exists within the trial process also serves as one of the major factors that undermine the fairness of trials.

North Korea has a unique system of preliminary examination held between the investigation and prosecution phases. The purpose of preliminary examination is to determine the preliminary examinee and reveal the entire story of the crime completely and accurately (Article 147 of the Criminal Procedure Law). However, contrary to the relevant provisions of the law, testimonies indicate

¹⁸¹ *Ibid.*, p.54.

that sentences are decided prior to trials by preliminary examination officers, without the participation of judges and people's jurors. A North Korean defector ○○○ who underwent the preliminary examination and trial process in Onsong County, North Hamgyeong Province from March to July 2010 testified that the MPS county branch's preliminary examination officers normally decide what the sentence will be. According to the testifier, when the preliminary examination was almost finished, a prosecutor came from the courthouse and asked whether he/she experienced any violence and whether a sanitary environment was provided during the preliminary examination as well as if there was any other issue that he/she wanted to raise. The defector testified that he/she was unable to raise objections because the correctional officers (*gyehowon*) had already intimidated him/her prior to the prosecutor's arrival.¹⁸²

The first instance trial proceeds in five phases: the commencement of hearing, factual inquiry, prosecutor's presentation of arguments and defense counsel's defense, defendant's final testimony and pronouncement of judgment (Article 300 of the Criminal Procedure Law). In North Korea, criminal trials in general are conducted as a mere formality. The North Korean defector who went through the preliminary examination and trial process in Onsong County, North Hamgyeong Province from March to July 2010 testified

182_NKHR2016000102 2016-06-28.

that the trial only took 15 minutes in total and he/she was sentenced to five years of correctional labor punishment; according to the testifier, although he/she tried to protest, the correctional officers (*gyehowon*) interrupted.¹⁸³ In the interviews, most of the North Korean defectors who have experienced trials said that judges, prosecutors, defense counsels and people's jurors attended the trials, but their role was very passive.¹⁸⁴ However, some testimonies provided a different story. A North Korean defector ○○○ who was tried for economic offenses in Kimjongsuk County, Yanggang Province in December 2011 commented that the judge was the most active and that the defense counsel and people's jurors were somewhat active, and the prosecutors were average in their participation during the trial. The testifier said that he/she was sentenced to five years of correctional labor punishment in the preliminary examination but was sentenced to one year of labor training punishment after the trial.¹⁸⁵ A North Korean defector ○○○ who went through a trial for illegal border-crossing in Hyesan, Yanggang Province in August 2012 replied that the role of the judge was average, but that of the prosecutor, defense counsel and people's jurors was very active; the testifier explained that there was a witness testimony, and the testifier was sentenced to one and a half years of correctional

183_ Above testimony.

184_ NKHR2017000005 2017-04-10; NKHR2017000103 2017-10-23.

185_ NKHR2016000113 2016-07-12.

labor punishment.¹⁸⁶ Considering that the maximum statutory sentence for a person convicted of illegal border-crossing is five years of correctional labor punishment (Article 221 of the Criminal Law), one can presume that the discussions during the trial process might have affected the final sentence.

Meanwhile, North Korea operates a public trial system, under which trials are locally organized to raise public awareness and prevent crimes. Heads of agencies, enterprises and organizations may expose and condemn the wrongdoing of criminals (Article 285 of the Criminal Procedure Law). Public trials are used as a tool for political propaganda or education for residents.¹⁸⁷

The said public trial system can be positively evaluated in that a trial can be conveniently carried out at the local level. However, the on-site public trial system in North Korea is not a genuine trial system but used as a means of controlling North Korean people by instilling awareness and inducing fear by exposing and condemning crimes. In this respect, public trials are sometimes called “public disclosure gatherings” among North Korean residents.¹⁸⁸

It is not clear which crimes are subject to public trial. Recently, public trials on narcotics trading, such as those involving drugs

186_NKHR2016000189 2016-12-27.

187_NKHR2018000099 2018-10-01; NKHR2018000102 2018-10-01; NKHR2019000050 2019-07-20.

188_NKHR2019000013 2019-06-07.

(*bingdu*) and opium, have increased.¹⁸⁹ Public trials on possessing or watching impure video recordings, including watching South Korean movies or dramas, have also been witnessed many times.¹⁹⁰ In addition, there also are public trials on illegal border-crossing,¹⁹¹ murder¹⁹² and human trafficking.¹⁹³

A North Korean defector ○○○ who defected in 2019 testified that too many public trials are held for narcotics-related offenses.¹⁹⁴ Another North Korean defector who defected in 2019 testified that public trials are held approximately once every month; according to the testifier, persons accused of using narcotics, watching impure video recordings, illegally crossing the border to China or calling China or South Korea are subject to a public trial.¹⁹⁵

The public trial system goes against the fair trial principle. There have been inconsistent testimonies from North Korean defectors as to whether judges, prosecutors, defense counsels and people's jurors attended the trials. However, testimonies indicated

189_ NKHR2018000009 2018-03-12; NKHR2018000076 2018-07-30; NKHR2018000095 2018-08-27; NKHR2019000021 2019-05-07; NKHR2019000045 2019-07-01; NKHR2019000062 2019-07-29; NKHR2019000097 2019-10-21.

190_ NKHR2019000063 2019-07-29; NKHR2019000021 2019-05-07; NKHR2019000064 2019-08-17; NKHR2019000104 2019-11-09; NKHR2019000116 2019-11-30.

191_ NKHR2019000064 2019-08-17; NKHR2019000096 2019-10-21; NKHR2019000110 2019-11-18.

192_ NKHR2019000024 2019-05-18.

193_ NKHR2019000082 2019-09-25.

194_ NKHR2020000035 2020-09-05.

195_ NKHR2020000005 2020-05-15.

that even if they are present, they do not play a significant role.¹⁹⁶ A North Korean defector ○○○ testified that prosecutors and defense counsels attend public trials only for perfunctory reasons, and defense counsels do not properly defend the accused; the testifier also said that the accused cannot defend himself/herself against the offenses he/she is charged with.¹⁹⁷ A North Korean defector ○○○ testified that in many cases, judges and prosecutors do not attend public trials.¹⁹⁸ North Korean defector ○○○ testified that when the case is serious, officers from a Prosecutor's Office, an MSS provincial bureau or an MSS city branch attend the trial.¹⁹⁹

Moreover, the right to life and the right to liberty and security of person are violated in the process of public trials. During public trials, those who have committed the most serious crimes are sometimes executed by shooting.²⁰⁰ A North Korean defector ○○○ who received a public trial in front of a culture center in Potae District, Samjiyeon, Yanggang Province in 2014 for illegal border-crossing testified that he/she was severely beaten in an MSS detention center (*guryujang*) for 20 days and was tried at a

196_NKHR2018000014 2018-04-09; NKHR2018000095 2018-08-27.

197_NKHR2020000035 2020-09-05.

198_NKHR2020000022 2020-07-06.

199_NKHR2020000005 2020-05-15.

200_NKHR2018000009 2018-03-12; NKHR2018000095 2018-08-27; NKHR2018000124 2018-10-27.

public trial without preliminary examination with no judges, prosecutors, defense counsels or people’s jurors in attendance.²⁰¹ Violation of the right to life occurs in public trials as those who have committed the most serious crimes are publicly executed. For example, a North Korean defector ○○○ testified that in January 2018, a criminal who had murdered the son of the Party chief secretary of Onsong County, North Hamgyeong Province was publicly executed immediately after a public trial.²⁰² Details about public executions are examined in the section on public executions in II. The Reality of Civil and Political Rights, 2. Right Not to Be Tortured or Receive Inhuman Treatment.

C. Operation of Quasi-Judicial Systems

Article 14, paragraph 1 of the ICCPR stipulates that all persons have the right to be tried by a “tribunal established by law.” However, North Korea operates quasi-trial systems, which are not the official court-based trial system. Comrade trials and the Ministry of State Security’s political criminal trials fall into this category, and many organizations other than judicial institutions impose administrative penalties. North Korea’s operation of quasi-judicial systems constitutes a violation of the ICCPR.

201_NKHR2018000081 2018-07-30.

202_NKHR2019000111 2019-11-18.

(1) Comrade Trial System

North Korea has an independent and unique form of a trial system called the comrade trial system, which is a social institution designed to control the population without having to go through formal trial organizations and proceedings. North Korea has abolished the crowd trial system, which was temporarily enforced during the Korean War, and began to operate the regional-level comrade trial system around 1972. The legal grounds for the system can be found in the Prosecution and Surveillance Law.²⁰³ Article 40, subparagraph 3 of the Law stipulates that a prosecutor may declare a comrade trial to rectify violations of law or inquire into legal accountability when he/she intends to subject criminals to a preliminary examination, refer lawbreakers to the Socialist Law-Abiding Life Guidance Committee or the Comrade Trial Board, or impose labor training or detention.

Economic crimes, cases where loss has occurred as a result of negligence, minor incidents involving acts that hinder Kim Il Sung's unitary ideology and other relevant crimes are subject to a comrade trial. At a comrade trial, people who have committed the said crimes may be subject to unpaid labor discipline of six months or less, while those who have committed economic

203_ The Prosecution and Surveillance Law of the DPRK revised and supplemented on 24 April 2012 in accordance with Ordinance 2346 of the Presidium of the SPA (hereinafter the Prosecution and Surveillance Law).

improprieties may be subject to an administrative fine equal to 10 to 20 times the undue gain in the form of deduction from their salaries, suspension of exercise of administrative rights, demotion, self-criticism, stern warning or admonition; however, there seems to be no appellate procedure in place.²⁰⁴ A North Korean defector ○○○ said that comrade trials were on every regular market day (once every 10 days) in Yeonsa County, North Hamgyeong Province, and as a result, most of the accused (90%) were sent to labor training camps (*rodongdanryundae*), and some (10%) were sent to prison camps (*kyohwaso*).²⁰⁵

It is recognized that the comrade trial system is primarily implemented in the military.²⁰⁶ In the 2019 survey, a testimony was collected that a soldier who was caught deserting from a military unit in Cheonnae County, Gangwon Province for three years was brought to a comrade trial in February 2019.²⁰⁷ With respect to comrade trials, a North Korean defector ○○○ responded that their purpose is “to criticize those who fail to do military service well.”²⁰⁸ Comrade trials in the military are conducted starting from the battalion level and always with the

204_ Court Administration Agency, *An Overview of North Korea's Juridical System* (Seoul: Court Administration Agency, 1996), pp. 630-637.

205_ NKHR2016000188 2016-12-27.

206_ NKHR2016000029 2016-03-08; NKHR2017000073 2017-08-28; NKHR2018000107 2018-10-01; NKHR2019000012 2019-04-20.

207_ NKHR2019000115 2019-11-30.

208_ NKHR2016000001 2016-01-12.

presence of an immediate superior. Trial results are predetermined by a higher department, and a comrade trial is carried out to set an example. Most of the comrade trials end with education or criticism, but in serious cases can lead to dishonorable discharge of the accused.²⁰⁹ North Korean people regard dishonorable discharge as a disgrace and perceive it as a heavy punishment.²¹⁰ Those who are dishonorably discharged from the military are relocated to mines or farming villages with their families.²¹¹ Punishment is not imposed on site at comrade trials. Preliminary examination procedures take place after comrade trials, and punishment is imposed thereafter based on the Criminal Law.²¹² For instance, those causing a social disturbance are forcibly expelled from the military and sent to a prison camp (*kyohwaso*).²¹³

(2) Political Criminal Trials by State Security Institutions

North Korea implements a policy that strictly differentiates political crimes from general crimes and imposes punishments according to such distinction. The North Korean Criminal Procedure Law stipulates that cases involving crimes against the

209_ NKHR2013000154 2013-08-20; NKHR2018000107 2018-10-01; NKHR2019000115 2019-11-30.

210_ NKHR2019000012 2019-04-20.

211_ NKHR2015000069 2015-04-07.

212_ NKHR2015000119 2015-09-08; NKHR2015000131 2015-09-22; NKHR2015000172 2015-12-01.

213_ NKHR2016000001 2016-01-12.

state and the people shall be subject to investigation and preliminary examination conducted by state security institutions, and the first instance trial for such crimes shall be held in a provincial (direct-controlled municipality) court. As such, cases involving crimes against the state and the people are handled differently than cases of general crime (Articles 46, 48 and 51).

However, testimonies were collected indicating that contrary to the applicable provisions of the Criminal Procedure Law, trials are conducted by state security institutions. A North Korean defector ○○○ who is a former MSS agent testified that if the facts of a crime are determined to be accurate in a preliminary examination, which includes interrogation of a suspect by an MSS provincial bureau, such finding is reported to the MSS prosecution bureau. According to the testifier, if the prosecution bureau determines that the suspect has in fact committed the criminal act, he/she is tried at the location where the preliminary examination was carried out, and in that trial, a prosecutor from the MSS prosecution bureau renders a judgment in the name of the Central Court. The testifier said that such a trial is held behind closed doors, and a sentence is decided pursuant to the Criminal Law. According to the testifier, the Ministry of State Security also determines whether it would be appropriate to imprison all of the family members of the convicted as well as whether the convicted should be imprisoned for life, and there is no literature that provides a basis for such determination; relevant officials of the

ministry hold a case council meeting to decide how to handle a case, including the scope and duration of imprisonment.²¹⁴ Likewise, a North Korean defector ○○○ who had carried out relevant work at the Ministry of State Security said that after a preliminary examination, a prosecutor from the MSS prosecution bureau comes to render the final judgment. The testifier said that in sum, political prisoners do not undergo formal trial procedures.²¹⁵ A North Korean defector ○○○ who had experienced forcible repatriation from China to North Korea in 2010 explained that after repatriation, political offenders are differentiated from general offenders through investigations conducted by the MSS branch in Sinuiju. According to the testimony, those who have attempted to go to South Korea, the U.S. or Japan and those who have received education from church-related organizations are categorized as political offenders, and unlike general offenders, are sent to political prison camps (*kwanliso*) without any trial process.²¹⁶

(3) Imposition of Administrative Penalties by Various Institutions

In North Korea, administrative penalties are imposed for illegal acts that are not serious enough to be punished under the Criminal

214_ A North Korean defector, 19 April 2005, interviewed in Seoul.

215_ A North Korean defector, 10 October 2005, interviewed in Seoul.

216_ NKHR2016000102 2016-06-28.

Law. Here, illegal acts refer to acts violating domestic legal order that are dangerous enough to be subjected to administrative penalties (Article 8 of the Administrative Penalty Law). Administrative penalties include admonitions/stern warnings, unpaid labor or re-educational labor discipline, demotion/dismissal/removal from jobs, fines, demand for compensation, confiscation, suspensions and suspension/degradation/deprivation of qualifications (Article 15 of the Administrative Penalty Law). Administrative penalties may be imposed not only by judicial institutions, but also by other institutions, such as the Socialist Law-Abiding Life Guidance Committees of various levels, the Cabinet, prosecutorial institutions, arbitral institutions, people's security institutions, censorship and supervision institutions and qualification-granting institutions. Agencies, enterprises and organizations can also impose administrative penalties within the scope prescribed by laws (Article 332 of the Administrative Penalty Law). Administrative penalties are also stipulated in the People's Security Enforcement Law and the Prosecution and Surveillance Law. People's security institutions and the Responsible Workers' Association can impose re-educational labor, suspension/degradation/deprivation of qualifications, suspensions and confiscations for acts violating the legal order (Article 57 of the People's Security Enforcement Law). Prosecutors can also impose labor training (Article 40, paragraph 3 of the Prosecution and Surveillance Law).

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

D. Infringement of the Right to Defense

Article 164 of the North Korean Constitution stipulates that “a trial shall be open and public, and the right to defense of a person accused of a crime shall be guaranteed.” Moreover, the Criminal Procedure Law stipulates that “in handling a criminal case, the right to defense of a preliminary examinee or a person accused of a crime shall be guaranteed” (Article 58). The Criminal Procedure Law also stipulates, “a preliminary examinee or a person accused of a crime shall be entitled to legal assistance from a defense counsel of his/her choice” (Article 60). If a preliminary examinee who has not chosen a defense counsel is prosecuted, the judge shall request the Lawyers’ Association to appoint an attorney (Article 63). The Law on the Protection of the Rights of Children²¹⁷

217_ The Law on the Protection of the Rights of Children of the DPRK revised and supplemented on 5 March 2014 in accordance with Ordinance 3601 of the Presidium of the SPA (hereinafter the Law on the Protection of the Rights of Children).

also stipulates that children aged 14 or older shall be entitled to assistance from an attorney (Article 50).

North Korean defectors have testified that trials are attended by defense attorneys. Testimonies were also collected stating that defense attorneys spoke in favor of the accused. In particular, it appears that defense attorneys tend to play a more active role when the accused is from a good family background (*todae*) or pays a bribe. A North Korean defector ○○○ who had worked at a provincial Prosecutors' Office as a prosecutor until 2013 testified that according to the law, a trial cannot proceed without an attorney present. There are two types of attorneys who participate in trials: private attorneys and public attorneys. Attorneys belonging to the Central Bar Association are public attorneys, and private attorneys refer to those who have studied law and practice law without being employed. Defense counsels undertake the defense of the accused by talking about the degree of remorse (*gaejunseong*) the accused displays. Some attorneys have a high success rate, and there are cases where the defense results in a defendant's acquittal. However, private defense is not accepted in cases of murder or crimes punishable by life imprisonment. If the occurrence of murder is confirmed during trial, the defense counsel is required to stop defending the defendant and resign.²¹⁸

218_NKHR2020000032 2020-08-04.

A North Korean defector ○○○ who was on trial in 2015 after being forcibly repatriated to North Korea from China testified that he/she was defended by a private attorney in the trial process. According to the testifier, the attorney actively defended him/her and sought forgiveness, emphasizing that the testifier went to China because he/she was deceived, and the testifier received a lesser sentence than what the prosecutor had proposed.²¹⁹ A North Korean defector ○○○ who was caught illegally crossing the border in July 2016 said that he/she was able to avoid correctional labor punishment because he/she came from a good family background (*todae*) and did some “business (*saeop*).” According to the testifier, his/her counsel made an argument that the testifier had been devoted to society and community and presented a certificate of state assistance to the judge as evidence, all of which worked in favor of the testifier.²²⁰

However, it has been found that in general, even when defense counsels are present during the trial process, they do not provide assistance or actually defend the accused. A North Korean defector ○○○ who went through a trial in Samjiyeon, Yanggang Province in 2015 testified that the counsel and prosecutor had hired a false witness.²²¹ The testifier said that in North Korea,

219_NKHR2019000043 2019-07-01.

220_NKHR2017000125 2017-11-20.

221_NKHR2017000005 2017-04-10.

defense counsels work in favor of the state, not defendants. In March 2018, two brothers were accused of murder and the younger brother was caught and sentenced to five years of correction while the older brother ran away to China; it was testified that during the younger brother’s trial, the lawyer did not do much to reduce the sentence the defendant was to receive.²²²

Perfunctory operation of the right to be assisted by an attorney is also apparent in the case of public trials. That is, even if a defense counsel attends a public trial, in most cases, he/she would not actively plead for the accused.²²³ According to the North Korean Criminal Procedure Law, the duty of a defense counsel is to “ensure that criminal cases are handled accurately and the rights of a preliminary examinee or a person accused of a crime are guaranteed according to law” (Article 59). In addition, the Lawyer’s Law²²⁴ stipulates the rights and duties of defense counsels, stating that “when a lawyer serves as a defense counsel in a criminal case at the request of a preliminary examinee or a person accused of a crime or as commissioned by a court, he/she shall disclose the facts of the case accurately, help judges conduct an accurate analysis and render a fair judgment, and guarantee the rights and interests of the preliminary examinee or the person

222_ NKHR2018000107 2018-10-01.

223_ NKHR2018000014 2018-04-09; NKHR2018000095 2018-08-27; NKHR2019000020 2019-05-07; NKHR2019000097 2019-10-21.

224_ The Lawyer’s Law of the DPRK adopted on 23 December 1993 as Decision 43 of the Standing Committee of the SPA (hereinafter the Lawyer’s Law).

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

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 that “the selected defense counsel may meet and speak with a preliminary examinee or a person accused of a crime” and “a preliminary examination officer, judge or court shall allow the defense counsel and the preliminary examinee or the person accused of a crime to meet each other upon request” (Article 69). Moreover, the North Korean Lawyer’s Law states that a defense counsel is entitled to converse or correspond with a preliminary examinee or a person accused of a crime (Article 9, paragraph 1). It has been found that the right to access a defense counsel is implemented in some cases, but only in a perfunctory manner. A North Korean defector ○○○ who had been detained in an MPS branch detention center (*guryujang*) in South Pyeongan Province from September 2016 to February 2017 testified that an MPS officer told him/her to meet the defense counsel during the preliminary examination, but threatened “I will kill you if you do anything foolish.”²²⁵ This

225_NKHR2017000096 2017-10-23.

testifier met with the defense counsel 10 days before the trial, and the counsel confirmed with the testifier that the testifier had been beaten and had not been fed well while detained in the center. According to the testifier, upon hearing what had happened, the defense counsel asked the testifier to pay bribes through his/her family, saying that he would reduce the sentence by presenting such facts to the court. The testifier said that when he/she told the defense counsel that he/she could not afford to offer bribes, the counsel sided with the prosecutor during the actual trial.

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

Article 14, paragraph 5 of the ICCPR stipulates that anyone who is convicted of a crime shall have the right to appeal his/her conviction or sentence. In North Korea, judgments in criminal cases can be appealed. The North Korean Criminal Procedure Law stipulates that a person accused of a crime, a lawyer or a claimant for compensation who has an objection to a judgment or decision by the court of first instance may file an appeal with a higher court (Article 356). However, appeals are carried out in a perfunctory manner. Appeals are granted only in exceptional cases.

The most significant problem is that the Criminal Procedure Law stipulates in Article 53 that the Central Court “may, if necessary, directly judge cases of first instance that are under the jurisdiction of any court” and in Article 358 that judgments and

decisions adopted by the Central Court in trials of first instance cannot be appealed or contested. If necessary, the Central Court may decide on any case in the first instance, and the right of appeal is not guaranteed in such case.

A North Korea defector ○○○ who had been tried in Samjiyeon, Yanggang Province in May 2012 testified that he/she had been aware of the appeal procedure but gave up appealing because appealing often leads to harming the appellant.²²⁶ A North Korea defector ○○○ who also had been tried in Samjiyeon, Yanggang Province in 2014 said that he/she was told that an appeal is not possible even if the judgment does not seem right.²²⁷

Some testifiers said that they did not appeal their convictions, thinking that they would not be able to stand staying in the detention center (*guryujang*) during the process of appeal. A North Korean defector ○○○ who had been tried in Samjiyeon, Yanggang Province in August 2014 did not appeal his/her conviction because he/she thought that the appeal process might take another one or two years and that staying for a long time in the detention center (*guryujang*) where proper meals were not provided would cause him/her to suffer from malnutrition.²²⁸ A North Korean defector ○○○ who underwent a trial in Kimjongsuk

226_NKHR2016000014 2016-01-26.

227_NKHR2017000058 2017-07-31.

228_NKHR2016000114 2016-07-12.

County, Yanggang Province in April 2014 testified that he/she gave up an appeal because the process would require three to four months of detention, and he/she was not sure if he/she would be able to stand it.²²⁹ It has been identified that appeals are rarely filed for these reasons. North Koreans perceive that appeals are meaningless.²³⁰

It is understood that appeals are generally not filed in the case of defection from North Korea. However, it is not clear whether this is because an appeal itself is impossible or because the appeal would lead to no practical benefit. There was a testimony indicating that those convicted of illegal border-crossing are not allowed to file an appeal,²³¹ while another testimony stated that those convicted of illegal border-crossing do not appeal their convictions in order to complete their prison term as quickly as possible since there is no ambiguity in admitting a charge of illegal border-crossing and therefore no room for dispute.²³²

F. Infringement of Foreigners' Right to Trial

As of December 2020, 11 foreigners involved in nine cases have been put on criminal trials in North Korea: U.S. citizens including Euna Lee, Laura Ling, Aijalon Mali Gomes, Kenneth

229_NKHR2016000104 2016-06-28.

230_NKHR2015000031 2015-02-10; NKHR2016000055 2016-05-03.

231_NKHR2012000184 2012-09-11.

232_NKHR2014000151 2014-09-23.

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; and Canadian citizen Hyun-soo Lim.

Table II-30 Trials and Enforcement of Judgments Involving Foreigners in North Korea (as of 31 December 2019)

Name	Nationality	Date of Arrest	Date of Trial	Charges	Punishment	Enforcement
Euna Lee, Laura Ling	U.S.A.	17 Mar. 2009	4 June 2009	Hostile acts against the North Korean people, illegal border-crossing	12 years of correctional labor punishment	Specially pardoned and released after the trial (Aug. 2009)
Aijalon Mahli Gomes	U.S.A.	25 Jan. 2010	6 Apr. 2010	Hostile acts against the North Korean people, illegal border-crossing	8 years of correctional labor punishment, 70 million won fine	Specially pardoned and released after the trial (Aug. 2010)
Kenneth Bae	U.S.A.	3 Nov. 2012	30 Apr. 2013	Conspiracy to overturn the state	15 years of correctional labor punishment	Specially pardoned and released while serving in prison (Nov. 2014)
Jeong-uk Kim	S. Korea	8 Oct. 2013	30 May 2014	Conspiracy to overturn the state, espionage, instigation of anti-state propaganda, illegal border-crossing	Unlimited-term correctional labor punishment	Serving in prison
Matthew Todd Miller	U.S.A.	Apr. 2014	14 Sep. 2014	Hostile acts against North Korea	6 years of correctional labor punishment	Specially pardoned and released while serving in prison (Nov. 2014)

Name	Nationality	Date of Arrest	Date of Trial	Charges	Punishment	Enforcement
Guk-gi Kim	S. Korea	1 Oct. 2014	23 June 2015	Conspiracy to overturn the state, espionage, clandestine destruction, illegal border-crossing	Unlimited-term correctional labor punishment	Serving in prison
Chun-gil Choi		Dec. 2014				
Hyun-soo Lim	Canada	2 Feb. 2015	16 Dec. 2015	Conspiracy to overturn the state	Unlimited-term correctional labor punishment	Specially pardoned and released while serving in prison (Aug. 2017)
Otto Frederick Warmbier	U.S.A.	22 Jan. 2016	16 Mar. 2016	Conspiracy to overturn the state	15 years of correctional labor punishment	Specially pardoned and released while serving in prison, died after 6 days (June 2017)
Dong-chul Kim	U.S.A.	2 Oct. 2015	29 Apr. 2016	Conspiracy to overturn the state, espionage	10 years of correctional labor punishment	Specially pardoned and released while serving in prison (May 2018)

Trials of foreigners in North Korea have the following characteristics:

First, as a formality, the North Korean authorities inform defendants of their right to receive legal assistance from an attorney. However, in most cases, foreigners do not appoint an attorney because they suspect that North Korean defense counsels will not provide any substantive aid. In the case of Euna Lee, North Korean officials had informed her of her right to legal

assistance. However, she declined the offer because she was convinced that no North Korean attorney would stand by her side and properly defend her.²³³ Kenneth Bae also declined legal assistance.²³⁴ As for the others, their choices remain unknown as related information has not been released. Putting foreigners in a situation where they have to give up an appointed lawyer is a violation of the right to freely receive defense counsel, as stipulated in Article 14, paragraph 3 (b) of the ICCPR and ultimately violates the overall right to a fair trial.

The second characteristic is the arbitrary limitation of the right of foreigners to consult a consular officer while in detention. Article 36, paragraph 1 of the Vienna Convention on Consular Relations stipulates that when a national of a sending state is in prison, custody or detention within the consular district of a receiving state, upon the request of the national, the authorities of the receiving state shall inform the consular post of the sending state of such facts without delay, and any communication addressed to the consular post shall be forwarded without delay. In the process of investigation and trial, the right to consultation with a consular officer is very important for protecting the human rights of individuals. The right to consular access is a right of individuals and also of a state recognized by customary international

233_ Euna Lee, *The World Is Bigger Now* (New York: Broadway Books, 2010), p. 187.

234_ *Korean Central News Agency*, 9 May 2013.

law.²³⁵ The International Court of Justice (hereinafter ICJ) has ruled that the Vienna Convention on Consular Relations is a codification of existing customary international law on consular relations.²³⁶

Table II-31 Regulations on the Right to Consular Access in the Vienna Convention on Consular Relations

<p>Article 36, paragraph 1</p>	<p>With a view to facilitating the exercise of consular functions relating to nationals of the sending State:</p> <p>(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;</p> <p>(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph.</p>
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North Korea announced that consular access and treatment provided in the process of investigating Matthew Todd Miller and Jeffrey Edward Fowle, two tourists from the U.S. who were detained in 2014, were consistent with the laws of the relevant countries.²³⁷ With no established consular relations between the U.S. and North Korea, Sweden provides consular responsibilities

235_ ICJ, "LaGrand Case (Germany v. U.S.A.)," *Judgment of 27 June 2001*, paras. 89, 128(3).

236_ "Case Concerning United States Diplomatic and Consular Staff in Tehran (U.S.A. v. Iran)," *ICJ/Reports 1980* (24 May 1980), p. 24. (para. 45)

237_ *Korean Central News Agency*, 30 June 2014.

as a protecting power for the U.S. North Korea allowed meetings between the Swedish ambassador and the two female American reporters, Euna Lee and Laura Ling, on 30 March, 15 May, 1 June and 23 June 2009. Representatives of the Swedish embassy in North Korea were also present at the trial for Aijalon Mahli Gomes.²³⁸ In the case of Kenneth Bae, it was said that the Swedish embassy was notified of his detention and that he was able meet with the consul.²³⁹ However, while he was detained in a prison camp (*kyohwaso*) for foreigners near Pyongyang and negotiations for his repatriation were carried out, there were times when the exchange of letters though the embassy was restricted and meetings with embassy representatives were restricted without notification.²⁴⁰ Otto Frederick Warmbier, who died in June 2017, met with representatives of the Swedish embassy once on 2 March 2016; however, subsequent meetings were not granted. Canadian pastor Hyun-soo Lim had his first consultation with a Canadian diplomat on 18 December 2015, two days after he was sentenced to unlimited-term correctional labor punishment. Since the Kenneth Bae incident, foreigners' right to consular access has been hampered.²⁴¹ Such a right is not at all guaranteed for South

238_ *Korean Central News Agency*, 7 April 2010.

239_ *Voice of America*, 1 June 2013.

240_ Kenneth Bae, 7 November 2016, interviewed in Seoul.

241_ "Treatment of the Americans detained in North Korea worsens...The longest blocking of consular access," *Voice of America*, 8 August 2016; "The U.S. Department of State failed to detect the location of Americans detained in North Korea...Consular access blocked for one year and three months," *Voice of America*, 3 June 2017.

Koreans. Such restrictions on the right to consular access may ultimately violate the right to a fair trial stipulated in Article 14 of the ICCPR, which must be guaranteed not only to one's nationals but also to foreigners.

Third, trials of foreigners are always held with the Central Court serving as the court of first instance, the decisions of which are final and cannot be appealed. The reason seems to be that there is a political intention to quickly close such cases, considering the impact such cases might have on the North Korean people. However, concluding a case with a decision of the first instance trial violates foreigners' right to trial because all individuals are entitled to the right to appeal (Article 14, paragraph 5 of the ICCPR).

On the other hand, for South Koreans detained in North Korea, there seems to be an infringement of the overall right to a fair trial, including the right to receive assistance from an attorney. On 12 May 2015, the National Human Rights Commission of Korea announced in a statement that North Korea should allow the communication of South Koreans detained in North Korea with the outside, including phone calls and exchange of letters, and should guarantee the right to receive assistance from defense counsel appointed by the South Korean government.²⁴² To date,

242_ National Human Rights Commission of Korea, "Statement by the Chairman of National Human Rights Commission of Korea to protect the human rights of citizens of the Republic of Korea detained in North Korea," 12 May 2015.

however, North Korean authorities have not taken any measures in this regard. On 9 October 2015, international human rights organization Amnesty International pointed out in a statement that the details of the trials of South Koreans detained in North Korea were not disclosed and that showing only the scenes of them confessing to anti-state crimes, including espionage and conspiracy to overturn the state, constitutes an infringement of the right to a fair trial.²⁴³ As of December 2020, it is known that six South Koreans are detained in North Korea.

G. Evaluation

North Korea guarantees judicial independence in its law but denies it in practice. Judicial institutions in North Korea are only delegated bodies with limited power that are managed and supervised by higher authorities (i.e., the SPA and the KWP). This could constitute a violation of the right to be tried by an “independent” tribunal. Considering that trials are held in a perfunctory manner and that the roles of judges, prosecutors, lawyers and people’s jurors are merely passive, it is difficult to say that trials are conducted fairly in North Korea. The current on-site public trial system is also assessed to be contrary to the principle of a fair trial. Moreover, the operation of quasi-judicial

243_ *Voice of America*, 9 October 2015.

systems, including the comrade trial system, Ministry of State Security’s political criminal trials and the Socialist Law-Abiding Life Guidance Committee, causes a violation of the right to be tried by a “tribunal established by law.” The perfunctory operation of the appeals system continues as well. In addition, with respect to the right of foreigners to a fair trial, North Korea allows the appointment of a defense counsel only as a formality, infringes upon the individuals’ right to receive legal assistance from a defense counsel of one’s own choosing stipulated in Article 14, paragraph 3 of the ICCPR and violates the right to a fair trial stipulated in Article 14 of the ICCPR by arbitrarily restricting foreigners’ right to consular access while in detention. Moreover, North Korea also infringes upon the right to appeal as stipulated in Article 15, paragraph 5 by not allowing foreigners to appeal their convictions. With regard to South Korean people, there is an overall infringement of the right to a fair trial and the right to receive assistance from an attorney. In the 2020 survey, no testimony has been collected indicating meaningful changes in this regard.

8

Right to Privacy

Every human being has the right to privacy. This right encompasses the right not to be subjected to interference with or attacks on one’s personal life, space and information. Article 12 of the UDHR stipulates the right to privacy as follows: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.” Article 17 of the ICCPR also stipulates the right to privacy.

Table II-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 norms on human rights state the right to prevent others from interfering with one’s own space, the right not to be forced to disclose information that one does not wish to

disclose and the right to prevent one's personal information from being leaked and distributed without permission. The concept of the right to privacy can be understood passively as a legal guarantee to protect one's private affairs from being arbitrarily disclosed and to demand the tranquility and confidentiality of one's private life. It can be understood actively as the legal ability to manage and control information about oneself.

However, in North Korea, the privacy of people is routinely infringed upon in a systematic and overlapping manner. Laws related to the protection of privacy exist in North Korea, but they are easily ignored in practice. In this chapter, the invasion of privacy in North Korea will be examined, focusing on the resident monitoring system, illegal home investigations and communication interference.

A. Infringement of Privacy through the Resident Monitoring System

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 ensuring the overall protection the right to privacy is the existence and operation of a resident monitoring system through state organizations and institutions. Infringement of privacy through state organizations and institutions

can be viewed as a serious human rights violation comparable to physical violence by the state, if not worse. Organizational and institutional surveillance by a state of people's privacy, which is the fundamental basis of human life, constitutes a serious threat to the independence, autonomy and unique personality of individuals and constitutes a form of psychological violence that leads to self-censorship.

North Korea prohibits the invasion of privacy in Article 79 of its Constitution, which stipulates that “the inviolability of person and home and the secrecy of correspondence of citizens shall be guaranteed. Citizens shall not be detained or arrested and their homes shall not be searched except in accordance with law.” To this end, an illegal search of one's house by law enforcement personnel is defined as a criminal offense (Article 241 of the Criminal Law), and search and seizure are required to be subjected to the approval of a prosecutor (Article 216 of the Criminal Procedure Law). In addition, with respect to the freedom of communication, mail correspondence and electronic communications are guaranteed by law (Articles 5 and 11 of the Communications Law²⁴⁴), the violations of which shall be subjected to administrative penalties and/or criminal punishment (Article 153 of the Administrative Penalty Law, Article 158 of the

244. The Communications Law of the DPRK revised and supplemented on 27 September 2001 in accordance with Ordinance 2593 of the Presidium of the SPA (hereinafter the Communications Law).

Criminal Law). However, contrary to these legal guarantees, in reality, the state has been extensively monitoring and controlling the daily lives of people in an organized and systematic manner. Representative examples of such monitoring and control are the five-household surveillance system (*oho damdangje*), the People's Unit (*inminban*) system and the Life Review Sessions (*saenghwalchonghwa*) system.

The first and most representative example of resident monitoring is the five-household surveillance system (*oho damdangje*). Under this system, five households are grouped into one unit, and the head of one household that is most loyal to the Party is designated as the propagandist in charge of the five households, having the authority to intervene and control all aspects of the family life of the rest of the households, including affection between husband and wife and problems between parents and their children. This system originated from a statement by Kim Il Sung made in early July 1958 during his visit to the Democratic Propaganda Office in Yaksu-ri, Changseong County, North Pyeongan Province. He said, "A paid official should assume responsibility over just five households and promote village (*ri*)-level projects by giving them guidance on all kinds of educational projects and economic tasks, and if the Party Committee of a village (*ri*) gathers the households around and assigns tasks and manages their performance, things will go well." This system was implemented throughout North Korea

under the name “Red Family Creation Campaign” in the 1960s. Since early 1974, it has been implemented as the “People’s Unit (*inminban*) sub-work group system,” under which the number of households within a unit subject to joint responsibility is 10 instead of five. North Korea uses the five-household surveillance system (*oho damdangje*) as a means not only of exploiting labor but also of interfering in people’s private lives.

The second example is the People’s Unit (*inminban*) system. The Resident Administration Law²⁴⁵ enacted in 2010 specifies in Article 9 that “a People’s Unit (*inminban*) is the basic unit of the state and society and the base of residents’ life in North Korea.” The People’s Unit (*inminban*) system first started as a nationwide social cooperation unit of the People’s Committee in the early stages of land reform in 1946. In North Korea, everyone registered as resident is automatically registered to a local People’s Unit (*inminban*). According to Article 9 of the Resident Administration Law, the number of households to be grouped in a People’s Unit (*inminban*) shall be determined by the Cabinet. In general, a People’s Unit (*inminban*) consists of 30 to 40 households; in the case of apartments in large cities where 70 to 80 households live in one building, all households in one building are often grouped into one People’s Unit (*inminban*).

245_ The Resident Administration Law of the DPRK revised and supplemented on 8 July 2010 in accordance with Ordinance 944 of the Presidium of the SPA (hereinafter the Resident Administration Law).

In North Korea, a People's Unit (*inminban*) is the base of residents' life and the lowest unit in the administrative structure. In particular, the monitoring role of People's Units (*inminban*) has been further strengthened under the Kim Jong Un regime. A People's Unit (*inminban*) provides life guidance for its member residents, identifies ideological trends among such residents and engages in the surveillance of external visitors. A People's Unit (*inminban*) has a chief, a vice chief, a chief of the heads of households, a chief of sanitation, instigation agents and security officers (an MPS officer and an MSS agent).²⁴⁶ A People's Unit (*inminban*) handles diverse issues within the residential area concerned, including childcare, labor mobilization, cleaning, maintenance of public order and dissemination of news on events and accidents and acts as a channel to deliver relevant instructions.²⁴⁷

246. According to Article 10 of the Resident Administration Law enacted on 8 July 2010, the chief and the vice chief of a People's Unit (*inminban*) are elected through elections at a People's Unit (*inminban*) meeting. The People's Unit (*inminban*) chief is responsible for the surveillance of the movements of all residents of his/her People's Unit (*inminban*). The chief of the heads of households is appointed directly by the Party and is in charge of monitoring husbands separately. The chief of the heads of households holds meetings and lectures for husbands, mobilizes husbands for events, controls the affiliated People's Unit (*inminban*) during elections and monitors the movements of husbands after work. The sanitation chief is in charge of the People's Unit (*inminban*) environment, while instigation agents are in charge of ideology education for member residents and take responsibility for managing the Party sub-work group, which is composed of Party members of the affiliated People's Unit (*inminban*). The security officers (an MPS officer and an MSS agent) are surveillance agents dispatched by the Ministry of Social Security and the Ministry of State Security.

247_NKHR2015000014 2015-01-27.

Article 30 of the Resident Administration Law stipulates that “people shall voluntarily participate in the activities of their People’s Unit (*inminban*) and make their family life sound and humble and consistent with the socialist lifestyle.” North Korean people’s life as People’s Unit (*inminban*) members is closely linked with their family life. The People’s Unit (*inminban*) chief usually visits each household without warning to carry out sanitary inspections, portrait inspections and inspections of books related to Kim Il Sung’s family. This technically constitutes an illegal home search. Moreover, the People’s Unit (*inminban*) system forces people to publicly criticize the misdeeds of each household through numerous meetings, monitors and controls ideological trends and the intimate privacy of families and imposes tasks on people, such as road cleaning, labor mobilization in farming villages and military support. The People’s Unit (*inminban*) system is a representative example of surveillance and control of people’s privacy.

The third example is the Life Review Sessions (*saenghwalchonghwa*) system. Life Review Sessions (*saenghwalchonghwa*) are used as a means of thoroughly dominating and controlling people’s privacy. Life Review Sessions (*saenghwalchonghwa*) are weekly, monthly, quarterly or annual meetings that are held within the organizations people are affiliated with, such as the Party or a labor group, where they conduct self and mutual criticism regarding their work

and public and private life.²⁴⁸ The system of “new Party Life Review Sessions” re-established by Kim Jong Il in 1967 was devised as a means of strictly dominating and controlling people’s privacy. In the “Ten Principles for the Establishment of the Party’s Unitary Ideology System” declared in 1974, North Korea further strengthened its control over the people by specifying that people should actively participate in these sessions. All North Korean people in the second year of elementary school or older must unconditionally participate in Life Review Sessions (*saenghwalchonghwa*), regardless of their age and gender.²⁴⁹ In Life Review Sessions (*saenghwalchonghwa*), people criticize and reflect on their mistakes through self-criticism and criticism of others. Life Review Sessions (*saenghwalchonghwa*), where people self-inspect and self-criticize how they have led their lives over the past week as part of an organization or the People’s Unit (*inminban*) and point out others’ mistakes, function as a system under which people are forced to disclose and criticize their private life. Right after a Life Review Session (*saenghwalchonghwa*), people are instructed to write what was criticized on that day based on the “message of Kim Il Sung and Kim Jong Il” in a Life Review Sessions (*saenghwalchonghwa*) notebook.²⁵⁰ If someone

248_ Institute for Unification Education, *Dictionary of Knowledge on North Korea* (Seoul: Institute for Unification Education, 2016), pp. 416-417. (In Korean)

249_ *Ibid.*, p. 415.

250_ NKHR2015000102 2015-05-19.

is absent, sometimes that person has to have a one-on-one “individual session (*gaebyulchonghwa*)” with the Party cell secretary.²⁵¹

Although Life Review Sessions (*saenghwalchonghwa*) have become somewhat of a formality or irregular in operation after the 1990s food crisis, they still work as a strong mechanism to control people’s lives. In particular, Life Review Sessions (*saenghwalchonghwa*) for those working in military logistics are intense compare to those for general workers.²⁵² The right to privacy of the North Korean people is seriously infringed upon as each Life Review Session (*saenghwalchonghwa*) forces them to self-inspect, disclose and receive criticism on their private life throughout their lives.

In addition, invasions of privacy also occur by “safety agents” who secretly monitor North Korean people. In North Korea, these so-called “safety agents” operate in secret in all organizations and routinely monitor colleagues and people of the organization with which they are affiliated. People mostly call them “spies” or “informers.”²⁵³ Safety agents are secretly selected from among people belonging to state agencies, factories and enterprises, farms and People’s Units (*inminban*). In every organization, one

251_NKHR2015000053 2015-03-10.

252_NKHR2019000070 2019-08-26.

253_Safety agents are said to be divided into informers who take a written oath and those who take a verbal oath. NKHR2015000040 2015-02-24.

out of every 20 to 30 people is a safety agent. People who are secretly selected as safety agents take a written or verbal oath where they will report each and every irregularity in the organization to which they belong. Approximately every 15 days, secret agents submit policy and trend reports of approximately half of an A4 piece of paper to their superiors through secret contact. They secretly report all the trends found in the words and actions of people, such as who said what during the labor mobilization period in farming villages, who made excessive profit by doing business or which section head or committee chairman embezzled subsidies. These safety agents serve as a powerful means of maintaining the regime. Through these safety agents, all actions as well as the overall private life of the people are monitored and controlled.

It has been found that the surveillance of residents and invasion of privacy through People's Units (*inminban*) and Life Review Sessions (*saenghwalchonghwa*) have intensified since Kim Jong Un came to power. Similar testimonies have continuously been reported in the 2020 survey. In particular, the monitoring and wiretapping of residents whose family members are missing or have defected to or reside in South Korea, residents who smuggle goods and individuals dispatched to foreign countries are more intensively carried out.

Testifiers whose family members were defectors when they lived in North Korea commonly said that monitoring by neighbors

such as the chief and members of their People's Unit (*inminban*) was routinely carried out and that direct surveillance by MPS officers and MSS agents was also overtly conducted.²⁵⁴ People who travel frequently to China are also subject to surveillance. A testifier from Bocheon County, Yanggang Province who had been engaged in smuggling goods from China said that he/she had always been monitored by MSS agents; according to him/her, things like what he/she ate for meals and what he/she bought from a market were monitored, and some of the smugglers were selected as monitors so that the smugglers could watch each other.²⁵⁵ Overseas dispatched workers are also not free from surveillance. A testifier who had been dispatched to Russia from 2013 to 2019 said that he/she did not make any phone calls nor write specific details in letters since it was 100% certain that all letters exchanged with his/her family would be censored by the Ministry of State Security.²⁵⁶

254_ NKHR2020000006 2020-05-15; NKHR2020000014 2020-06-15; NKHR2020000028 2020-07-06; NKHR2020000024 2020-07-06.

255_ NKHR2020000006 2020-05-15.

256_ NKHR2020000050 2020-11-28.

Table II-33 Cases of Resident Monitoring and Social Control

Testimonies	Testifier ID
The testifier once received a letter from his/her sister who defected from North Korea in February 2017, and the letter was already opened when it arrived as it was censored by the Ministry of State Security.	NKHR2019000021 2019-05-07
The testifier felt insecure as it was possible to be reported if relationships with people, even someone he/she knew well, worsen. Apart from the People's Unit (<i>inminban</i>) chief, there were monitors from the Ministry of State Security or an MPS branch, and the testifier became more careful about what he/she said when such people were present.	NKHR2019000020 2019-05-07
Since the first year of advanced middle school the testifier joined the Youth League as it was mandatory and attended Life Review Sessions (<i>saenghwalchonghwa</i>) held every week by the League's cell unit to carry out self and mutual criticism.	NKHR2019000060 2019-07-29
The testifier was always monitored as his/her mother was in South Korea. The authorities knew that his/her mother was sending money and the people around him/her monitored whom the testifier met and what conversations he/she had, how he/she spent the money and how he/she spent his/her day.	NKHR2019000068 2019-08-26
Monitoring for social control is continuously conducted. There are many spies from the Ministry of State Security and MPS branches in addition to the chair of the Socialist Women's Union of Korea (hereinafter Women's Union) and People's Unit (<i>inminban</i>) chiefs. Life Review Sessions (<i>saenghwalchonghwa</i>) of the Youth League were conducted on a weekly basis.	NKHR2019000084 2019-10-05
When a family member disappears, a monitor is assigned. Every single movement is watched and the monitor tries to uncover any illegal behavior.	NKHR2019000110 2019-11-18
The testifier had been engaged in smuggling goods from China. People who travel frequently to China are routinely monitored by the Ministry of State Security. Things like what one eats for meals and what one buys from a market are also monitored. Officers of the Ministry of State Security select some smugglers as monitors so that smugglers watch over each other.	NKHR2020000006 2020-05-15
The testifier, who was a family member of a defector, was monitored by the Ministry of State Security. Every time the MSS agents were replaced, newly assigned agents visited the testifier's home to make a list of his/her assets.	NKHR2020000012 2020-06-15
Due to his/her aunt's defection from North Korea, the testifier was continuously monitored in daily life by the chief and members of his/her People's Unit (<i>inminban</i>). The testifier was directly monitored by the MSS agents, and sometimes, the officers came to see the testifier's face while he/she was working on the farm.	NKHR2020000014 2020-06-15

Part I

Part II
The Reality of Civil and Political Rights

Part III

Part IV

Part V

Testimonies	Testifier ID
Monitoring intensified after the testifier's daughter entered South Korea in 2017. The neighbors next door frequently monitored and wiretapped the testifier's house and reported to the MSS city branch. One day, the testifier was away from his/her home for one night because his/her mother-in-law died; the neighbor spread the rumor that the testifier had fled to China, and as a result, the MSS agents visited to check on him/her.	NKHR2020000028 2020-07-06
The Ministry of State Security began to monitor the testifier in 2018 as his/her spouse went missing. When the testifier was away from home, the chief of his/her People's Unit (<i>inminban</i>) came over to the house to find out what was going on. The MSS agents asked about the testifier's spouse and told the testifier to turn himself/herself in.	NKHR2020000026 2020-07-06
The broker who helped the testifier's son enter South Korea was arrested. As a result, the testifier was monitored by the Ministry of State Security up until April 2019.	NKHR2020000024 2020-07-06
The testifier had been dispatched to Russia from 2013 to 2019. While in Russia, the testifier did not make any phone calls nor write specific details in letters since all letters exchanged with his/her family would be censored by the Ministry of State Security.	NKHR2020000050 2020-11-28

B. Invasion of Privacy through Illegal Home Investigations and Communication Interference

Article 17, paragraph 1 of the ICCPR stipulates that no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence. The right to prevent others from entering into one's private space without permission is the most fundamental element in guaranteeing and protecting the confidentiality of one's private life. In particular, illegal home searches conducted by the state in an organized manner constitute serious infringement of the inviolability of personal residential

space. Article 79 of the North Korean Constitution guarantees the inviolability of residential space by stipulating that home searches that are not based on the law shall not be conducted.

There is a wide gap between legal provisions and reality, as has been confirmed by multiple testimonies. In North Korea, illegal home investigations by judicial and police agents of the Ministry of Social Security (formerly the MPS), the Ministry of State Security, the Prosecutors' Office and permanent and non-permanent investigation organizations (*geuruppa*) have long been common practice.

Many North Korean defectors have testified that illegal home searches are common. In North Korea, home searches are supposedly only possible when a search warrant is issued by the Director of the Prosecutors' Office and approved by the local Safety Committee. However, in most cases, MPS officers, MSS agents or Group 109 (109 Permanent Committee) members enter and search homes without a warrant and prior notice for the purpose of censoring "impure" video recordings or smuggled items.²⁵⁷ Under the Kim Jong Un regime, there are frequent cases where crackdowns are covered up by providing bribes or meals after home searches.

257_NKHR2019000013 2019-05-07; NKHR2019000044 2019-07-01; NKHR2019000045 2019-07-01; NKHR2019000046 2019-07-01; NKHR2019000052 2019-07-20; NKHR2020000011 2020-06-15; NKHR2020000023 2020-07-06; NKHR2020000030 2020-08-03; NKHR2020000048 2020-11-28 and many other testimonies.

A testifier said that his/her house was searched without prior notice in 2017, and the search squad demanded money or 20 kg of gasoline saying that the testifier was in possession of unapproved Chinese films; however, the incident was covered up by giving the search squad two puppies.²⁵⁸ Another testifier also said that his/her house was searched by a search squad in October 2018 to inspect whether the testifier possessed stolen crops. After impure video recordings (Indian and Chinese films) were found, the testifier covered up the case by giving the search squad 30,000 won.²⁵⁹ A testifier whose house was searched in May 2018 also said that Korean music on his/her computer was discovered, but he/she sent the Group 109 members away by giving them meals and cigarettes.²⁶⁰

A testifier who defected from North Korea in 2019 explained that since search squads earn a living from bribes and must meet their quota assigned by their affiliated agencies, any problems arising during a home search can be solved by doing “business (*saeop*)” (providing bribes).²⁶¹ Beginning in approximately 2015, cases have been reported where people raised objections or protested against illegal home investigations. It has been found that in some cases, when strongly protested against for not

258_ NKHR2019000052 2019-07-20.

259_ NKHR2019000045 2019-07-01.

260_ NKHR2019000071 2019-08-26.

261_ NKHR2020000030 2020-08-03.

showing a warrant or searching for items not on the search item list, the search squad gives up the search and returns to its station.

A North Korean defector ○○○ said that his/her house had been searched by Group 109 members in 2017 and 2018 and that he/she protested because the search squad did not show a search warrant and recklessly searched the house; according to the testifier, he/she knew that there is a regulation stipulating that in a home search, a search squad may look at items that are only shown to them by the homeowner.²⁶² Another testifier also said that he/she underwent a sudden home search by six MSS agents in November 2018, and the agents demanded the testifier give them his/her mobile phone, saying that the testifier was engaged in smuggling; the testifier said that he/she strongly protested and told the agents that he/she did not have a mobile phone because he/she knew that it was illegal to conduct a home search without an inspection ticket of the MSS agents in charge, the attendance of the People's Unit (*inminban*) chief and a search warrant.²⁶³

262_NKHR2019000085 2019-10-05.

263_NKHR2019000095 2019-10-21.

Table II-34 Cases of Being Subject to Illegal Home Searches

Testimonies	Testifier ID
The Ministry of State Security conducted a home search to find mobile phones in 2015.	NKHR2019000013 2019-05-07
In 2017, the testifier's house was searched without prior notice and the testifier was ordered to give money or 20 kg of gasoline for possessing unapproved Chinese films and music of a North Korean singer who became a problem; however, the testifier gave the search squad two puppies (worth 50 yuan) instead.	NKHR2019000052 2019-07-20
In 2018, the testifier was caught possessing impure video recordings in a home search but covered it up by giving the search squad 30,000 won.	NKHR2019000045 2019-07-01
In May 2018, the testifier underwent a home search, and the Group 109 members came into the house and checked if there were computers and USB drives. The search squad found that the testifier's computer had South Korean music as accompaniment music, so the testifier sent them away by giving them meals and cigarettes.	NKHR2019000071 2019-08-26
In November 2018, six MSS agents came and carried out a home search, demanding the testifier give them the mobile phones that the testifier used for smuggling, but the testifier firmly denied the charge and gave the agents 500 yuan and meals. There was no home search thereafter.	NKHR2019000095 2019-10-21
Since Bocheon County, Yanggang Province is a hotbed for smuggling, the MPS officers in charge often conduct home searches. When caught, all smuggled items are confiscated.	NKHR2019000044 2019-07-01
The testifier mediated smuggling with his/her mother. His/her house was searched without a warrant after his/her aunt went missing.	NKHR2019000110 2019-11-18
One cannot protest when Group 109 members search his/her house without a warrant. In a home search, Group 109 members check to see if the television is warm or if there are flash memory devices; mobile phones are inspected as well if found.	NKHR2020000023 2020-07-06
Group 109 members come to one's house unannounced to conduct spot checks to crack down on foreign recordings. The testifier always felt insecure as he/she could not know when they would come to his/her house. If one does not let Group 109 members into his/her house, they would knock on the door or climb over the walls.	NKHR2020000026 2020-07-06

Testimonies	Testifier ID
Group 109 members come into one's house without a warrant to inspect his/her computer and books. Even if some irregularities are found in the process, they can be covered up by doing "business (<i>saeop</i>)" (providing bribes) with the search squad before the squad leaves the house. Any problems can be solved by doing "business (<i>saeop</i>)" since search squads earn a living from bribes.	NKHR2020000030 2020-08-03
The testifier said that MPS officers came to his/her house to inspect the accommodation and search for impure video recordings, but the testifier was never presented with a warrant. Home searches involve the People's Unit (<i>inminban</i>) chief knocking on the door and MPS officers conducting crackdowns; however, there were cases where the search squad was not accompanied by the People's Unit (<i>inminban</i>) chief.	NKHR2020000048 2020-11-28

C. Evaluation

Although the right to privacy is stipulated in the Constitution, in reality, the privacy of North Korean people is not properly protected. Since Kim Jong Un came to power, not only has surveillance along the border regions been intensified but also daily social control has been tightly maintained. Illegal home searches and arbitrary communication interference are carried out to track down fugitives, uncover illegal recordings and crack down on illegal economic activities.

Moreover, the extensive and organized surveillance and control over the people's private lives by the state have been in place for a long time, demonstrating the seriousness of the invasion of privacy in North Korea. Privacy surveillance systems still exist at an institutional level as seen in the five-household surveillance

system (*oho damdangje*), the People's Unit (*inminban*) system, and the Life Review Sessions (*saenghwalchonghwa*) system. In particular, numerous testimonies regarding illegal home searches of people's residential spaces show that the inviolability of residential space is seriously infringed upon in everyday life. Moreover, with regard to the increase in the number of illegal home searches under the Kim Jong Un regime, many testifiers perceived that home searches have been degenerating into a means of stealing money and valuables by public safety agency workers. This shows increasing distrust in public power.

The Law on Rejecting Reactionary Ideology and Culture was adopted at the 14th Standing Committee of the Presidium of the SPA held in December 2020, and the report to the 8th Party Congress of the KWP put an emphasis on carrying out a powerful mass struggle against “non-socialist and anti-socialist practices” and “the practices unfit for the socialist lifestyle” as well as on the role of law enforcement authorities, social safety institutions and state security institutions. Taking these measures into consideration, invasions of privacy by public authorities are expected to be intensified throughout society under the pretext of establishing a law-abiding ethos and a socialist lifestyle.

9

Right to Freedom of Thought, Conscience and Religion

The right to freedom of thought, conscience and religion, which is a right related to the liberty of one's inner world, is one of the most basic human rights. The basic rights of citizens in a democracy, including the right to freely express their beliefs and the freedom to make decisions based on their conscience, are closely related to the right to freedom of thought, conscience and religion. Article 18 of the UDHR stipulates that “everyone has the right to freedom of thought, conscience and religion,” and Article 18 of the ICCPR refers to the right to freedom of thought, conscience and religion.

Table II -35 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.

In this chapter, the situation in North Korea related to the right to freedom of thought, conscience and religion will be examined through major issues.

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

Article 18, paragraph 2 of the ICCPR stipulates that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” The UN Human Rights Committee has stated that if a set of beliefs is treated as official ideology in a state, this shall not result in any disadvantage or any discrimination against persons who do not accept the official ideology.²⁶⁴ In a state-individual relationship,

264_ UN Human Rights Committee, General Comment, No. 22 (1993), para. 10.

individuals' inherent right to freedom of thought must be guaranteed. Whereas a state may establish official ideology, the very existence of such ideology should not be used as grounds to infringe upon the freedom of thought and conscience of individuals. North Korea does not currently allow any ideology other than *Juche* Ideology, which is the official ideology of the state. In addition, North Korea further infringes upon individuals' freedom of ideology and conscience by not tolerating any exception to the official ideology of the state ever since the Ten Principles for the Establishment of the Party's Unitary Ideology System (hereinafter Ten Principles of Unitary Ideology) was declared in 1974.

Freedom of thought and conscience does not exist in North Korea. Even the basic concepts of such freedom have not been established in the laws or institutions. The key reason North Korea does not guarantee freedom of thought and conscience is because of the cult of personality that originated from the Unitary *Suryeong* Ruling System. Any ideology other than *Juche* ideology centered around *Suryeong* is regarded as a serious threat to the Unitary *Suryeong* Ruling System. The North Korean Constitution declares that *Juche* ideology is the one and only "basic guarantee" for the operation of the state (Preamble), and that *Juche* ideology is a leading principle for all state activities (Article 3).

The reinforcement and idolization of the Unitary *Suryeong* Ruling System is embodied through the Ten Principles of Unitary

Ideology. Spelled out in this document are the principles that mandate that everyone owes unconditional loyalty to Kim Il Sung and shall follow Kim Il Sung's instructions as absolute guidance. Since they were first announced in 1974, the Ten Principles of Unitary Ideology have sought to deify "the Great Leader" Kim Il Sung and have spiritually commanded the behaviors of North Koreans more than any other law and regulation. In June 2013, North Korea revised the Ten Principles of Unitary Ideology for the first time in the 39 years since it was enacted on 14 April 1974. The name was changed to "Ten Principles for the Establishment of the Party's Unitary Leadership System" (hereinafter the Ten Principles). In North Korea, the Ten Principles have superiority over the Constitution or the Statutes of the KWP and govern the rules that systematically safeguard Kim Jong Un's unitary dictatorship. The Ten Principles can be considered as guidelines that ideologically govern the North Korean system.²⁶⁵

The revised Ten Principles focuses on the unitary leadership of Kim Jong Un. It demands that the entire Party strengthen its "unified ideological resolve and revolutionary unity around the leader" (Principle No. 6) in order to safeguard the unitary leadership system. Kim Jong Un himself gave a speech on

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

safeguarding the unitary leadership system on 19 June 2013 in front of high-ranking officials of the Party, the military and the Cabinet. The KWP has published a collection of his speeches in a booklet titled *On Absolutely Safeguarding the Unitary Leadership System Befitting the Needs for Revolutionary Development*.²⁶⁶ The revised Ten Principles are particularly noteworthy because they seek to tighten ideological control over North Korean people.

Table II -36 Ten Principles for the Establishment of the Party's Unitary Leadership System (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 Supreme Leader (<i>Suryeong</i>) of our Party and people and as the sun.
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 the revolutionary ideology of Great Leader Kim Il Sung and Dear Leader Kim Jong Il and with the Party's lines and policies, which are the specifics of that ideology.
Principle No. 5	All must absolutely observe the principle of unconditional obedience 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 centered on 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, revolutionary working methods and people-oriented working styles.

266_ In this booklet, Kim Jong Un emphasizes that the Ten Principles for the Establishment of the Party's Unitary Leadership System is newly "enacted," succeeding and further developing the "Ten Principles for the Establishment of the Party's Unitary Ideology System." See Kim Jong Un, *On Absolutely Safeguarding the Party's Unitary Leadership System Befitting the Needs for Party Development* (Pyongyang: KWP Publisher, 2013), pp. 5-6. (In Korean)

Principle No. 8	All must cherish the political life handed down by the Party and Supreme Leader (<i>Suryeong</i>) and must repay the Party's trust and consideration with enhanced political awareness 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 achievement of the <i>Juche</i> revolution and the great achievement of military-first revolution that Great Leader Kim Il Sung launched and Great Leader Kim Il Sung and Dear Leader Kim Jong Il implemented.

Since the Ten Principles are open to arbitrary interpretation, North Korean authorities actively use them to penalize those who are politically dissatisfied by labeling them as political or ideological criminals. The Ten Principles made it possible for an entire family to disappear because a second grade elementary school student (nine years old) scribbled on the faces of Kim Il Sung and Kim Jong Il in his/her textbook or because an elderly woman used pages of the *Rodong Sinmun*, which contained pictures of Kim Il Sung and Kim Jong Il, as wallpaper. North Korean authorities carry out ideological education based on the Ten Principles, forcing people even to sacrifice their lives to save portraits of Kim Il Sung and Kim Jong Il.

However, in spite of North Korean authorities' emphasis on the Ten Principles, it seems rare that ordinary people, who are not Party members, are systematically taught about the Ten Principles. There also were testimonies claiming that no special education is provided for the Ten Principles that have been

revised since Kim Jong Un took office.²⁶⁷ Most North Korean defectors testified that they have learned about the Ten Principles during Life Review Sessions (*saenghwalchonghwa*) held at schools or enterprises but no longer remember their details.²⁶⁸

However, the Ten Principles affect the real life of North Korean people as North Korean authorities carry out portrait inspections. A North Korean defector ○○○ testified that portrait inspections have intensified since 2019. According to the testifier, inspectors crack down on people who do not wear portrait badges on the street, and officials select one or two households for portrait inspections.²⁶⁹ In some cases, portrait inspections were carried out only as a formality. In 2018, portrait inspections were announced in advance, so the residents could be prepared.²⁷⁰ A North Korean defector ○○○ testified that the People's Unit (*inminban*) had announced a few times it would carry out portrait inspections, but the testifier had never been subjected to one²⁷¹ and that residents are not punished as severely compared to the past.²⁷²

267_NKHR2019000014 2019-05-07; NKHR2019000016 2019-05-07.

268_NKHR2019000008 2019-04-08; NKHR2019000012 2019-04-20; NKHR2019000047 2019-07-01; NKHR2019000048 2019-07-01 and many other testimonies.

269_NKHR2020000022 2020-07-06.

270_NKHR2020000024 2020-07-06.

271_NKHR2020000013 2020-06-15.

272_NKHR2020000021 2020-07-06.

It seems that North Korean people do not actively apply the Ten Principles in real life. There were many testimonies reporting that there are no cases where the Ten Principles are observed in real life.²⁷³ On the other hand, the situation is different in the military. A North Korean defector ○○○ testified that the Ten Principles are to be memorized by heart by members of the military.²⁷⁴ Intensive education on the Ten Principles is given to North Korean people who are dispatched to foreign countries for the purpose of ideological control. For instance, a North Korean defector ○○○ said that he/she memorized each and every line of the Ten Principles before being dispatched to Oman.²⁷⁵

Table II-37 Cases Related to the Ten Principles

Testimonies	Testifier ID
The testifier learned the Ten Principles in the military and labor training camp (<i>rodongdanryundae</i>) instead of schools.	NKHR2016000167 2016-11-01
The testifier recited the Ten Principles while he/she was in the military before joining the Party.	NKHR2016000178 2016-11-29
The testifier does not remember the Ten Principles well. The testifier studied them twice a year by organizing a study review session in a question-and-answer format.	NKHR2017000053 2017-07-31
The testifier did learn the Ten Principles at the Women's Union after its revision but does not remember them. People do not actively apply the Ten Principles in real life.	NKHR2017000060 2017-07-31
The testifier referred to the Ten Principles during Life Review Sessions (<i>saenghwalchonghwa</i>) and studied them with related materials. People tend to work hard to learn them in the military.	NKHR2017000087 2017-09-25

273_ NKHR2020000021 2020-07-06; NKHR2020000022 2020-07-06; NKHR2020000026 2020-07-06; NKHR2020000048 2020-11-28.

274_ NKHR2020000035 2020-09-05.

275_ NKHR2018000113 2018-10-13.

Testimonies	Testifier ID
A book on the Ten Principles was distributed in the workplace, but the testifier can barely remember anything.	NKHR2018000056 2018-07-02
The testifier learned the Ten Principles in a question-and-answer format, and although the testifier worked hard to memorize them, he/she does not remember much.	NKHR2018000070 2018-07-14
The testifier had never read the Ten Principles that were revised since Kim Jong Un came to power. Only the Party member candidates receive education on the Ten Principles before they join the Party.	NKHR2019000013 2019-05-07
There was no special education on the revised Ten Principles.	NKHR2019000014 2019-05-07
Education on the Ten Principles was intense in the past, but today, even schools do not teach them to the students.	NKHR2019000016 2019-05-07

B. Restriction of Religious Freedom

Article 18, paragraph 1 of the ICCPR stipulates that “everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” Article 68 of the North Korean Constitution stipulates that “citizens shall have freedom of religion,” and it elaborates that “this right is guaranteed through allowing the construction of religious buildings and religious rituals, etc.” However, the provision also stipulates that “religion cannot be used for involving foreign powers or harming the social order of the state,” which is used as the grounds for suppressing freedom of religion. As a matter of fact, North Korea regards all religion-related acts as acts

to overthrow the North Korean system. It is practically impossible for North Korean people to practice religion. In the 2020 survey, most North Korean defectors testified that they had never heard of religion when they were in North Korea.²⁷⁶

The North Korean authorities monitor the people to prevent them from practicing religion. A North Korean defector ○○○ who defected in 2019 testified that the Ministry of State Security always monitors people who travel frequently to China and that if anything “strange” is detected, the resident concerned is immediately reported.²⁷⁷ A North Korean defector ○○○ who defected in 2019 testified that he/she was told at a lecture meeting that if a Bible was found in a certain place, the person concerned would be subjected to a certain kind of punishment and that he/she must not read it.²⁷⁸

Suppression of Christianity in North Korea is particularly severe. In some cases, people are regarded as political criminals and sent to prison camps or executed simply for possessing the Bible.²⁷⁹ A North Korean defector ○○○ who defected in 2019 testified that he/she had witnessed two people being publicly executed for possessing the Bible in Pyeongseong, South Pyeongan

276_ NKHR2020000014 2020-06-15; NKHR2020000021 2020-07-06; NKHR2020000023 2020-07-06; NKHR2020000040 2020-10-31.

277_ NKHR2020000006 2020-05-15.

278_ NKHR2020000023 2020-07-06.

279_ NKHR2019000054 2019-07-29; NKHR2019000051 2019-07-20; NKHR2019000021 2019-05-07.

Province in 2018.²⁸⁰ A North Korean defector ○○○ who defected in 2018 testified that people are punished as political criminals just for their personal religious life even if they do not attempt to spread Christianity.²⁸¹

Religious freedom in North Korea can be evaluated from three different perspectives. First, there are no religious facilities, including Protestant and Catholic churches in North Korea except in Pyongyang. This reflects the reality that religious freedom is *de facto* restricted in North Korea. As for the family churches that the North Korean authorities claim to exist, it is questionable how freely they are actually being operated in provincial towns. Not one North Korean defector among those who have been interviewed knew about a family church.

The reason as to why religious activities are restricted in North Korea is because the authorities have consistently persecuted religion since the founding of the state based on Kim Il Sung's instruction that "religion is the opiate of the people."²⁸² North Korea views religion as an "imperialistic tool for invasion," which helps the ruling class to exploit the masses. The North Korean Dictionary on Philosophy specifies "Religion has historically

280_NKHR2019000024 2019-05-18.

281_NKHR2019000020 2019-05-07.

282_ "Religion is a reactionary and unscientific world view. Religion is like an opium."
See, Korean Workers' Party Publishers, *Selections from Kim Il Sung's Writings* (Pyongyang: Korean Workers' Party Publishers, 1972), p. 154. (In Korean)

been seized by the ruling class and used as a tool to deceive, exploit and oppress the people, and in modern times, it is used by the imperialists as an ideological tool to invade the people of underdeveloped countries.”²⁸³

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

Second, while North Korea continues its religious persecution, it uses Protestant churches, Catholic churches and temples as facilities for political propaganda targeting religious people and visitors from abroad. According to testimonies, entry or access to the newly established religious facilities by local citizens is strictly prohibited, and ordinary citizens generally perceive these religious places as “sightseeing spots for foreigners.” In the case

283_ 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)

of Bongsu Protestant Church in Pyongyang, which was built in September 1988, it is said that usually only the building manager and his/her family live there, but when foreign guests come to visit, several hundred citizens aged 40 to 50 years old are carefully selected and gathered to participate in fake church services. Foreign Christians who visited North Korea testified that they witnessed the door of the church being closed on Easter Sunday when they visited the church without prior consultation. Many foreign visitors said that church activities seemed to be staged.

Third, all North Korean defectors consistently testified that practicing religion on a personal level is harshly persecuted. As stated in the Constitution, the fundamental reason that religious freedom is not guaranteed in North Korea is the perception that religion is abused as a means of foreign encroachment and that religion inflicts harm on North Korea's social disciplines. In particular, in the 1990s when the movement of people increased due to the food crisis, North Korea strictly suppressed Christian mission activities on the belief that the religion had a detrimental impact on the maintenance of the North Korean system.

The fact that freedom of religion is restricted is also reflected in punishments imposed on the residents and defectors who are forcibly repatriated to North Korea. Increased control over defection under the Kim Jong Un regime reflects the concern that the North Korean system will grow unstable due to the inflow of external influence. It is also said that the punishment is heavier for

those who had been in contact with Christians in China or South Koreans. North Korean defectors ○○○ and ○○○ said that they did not get a chance to experience religion in North Korea, but by the time they defected from North Korea, they came to realize that punishment is severe when caught getting involved in religious activities.²⁸⁴

Table II-38 Cases of Infringement on the Freedom of Religion

Testimonies	Testifier ID
In 2013, the testifier's colleague's father, who learned about Buddhism from South Korea and believed in it for around 10 years, introduced it to the people around him. Of the 1,200 employees who had worked with the testifier, 70% visited the colleague's house to practice Buddhism, bowing and praying every night. Sometimes the colleague's father read people's fortunes by physiognomy. The testifier also saw books on Buddhism in that house. 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 (<i>kyohwaso</i>).	NKHR2016000056 2016-05-03
In 2015, a computer file of the Bible was circulated in Kimhyeongjik County, Yanggang Province, and the testifier understood religion as "an organization that follows God."	NKHR2015000091 2015-05-12
In December 2015 in Samjiyeon, Yanggang Province, the testifier witnessed a neighbor getting arrested by the MSS provincial bureau after the Bible was found during a home search. The testifier assumes the neighbor was sent to a political prison camp (<i>kwanliso</i>) as the testifier did not get any news about the neighbor thereafter.	NKHR2017000012 2017-04-10
In 2018, the testifier witnessed two people being publicly executed for the charge of spreading Christianity in Gilseongpo Port, North Hwanghae Province. Public trials and public executions were conducted together, and the trials were held by the Ministry of State Security.	NKHR2019000054 2019-07-29

284_ NKHR2017000106 2017-11-11; NKHR2017000109 2017-11-20.

Testimonies	Testifier ID
In April 2018, the testifier's cousin was caught by the Ministry of State Security for receiving copies of the Bible from China and distributing them to people for missionary purposes and was sent to a political prison camp (<i>kwanliso</i>).	NKHR2019000051 2019-07-20
Regarding smuggling, there were cases where copies of the Bible were included among smuggled items. Smugglers caught possessing a Bible were mostly given correctional labor punishment.	NKHR2015000067 2015-04-07
The testifier first learned about religion during an interrogation at the Ministry of State Security. There were many cases where forcibly repatriated people were interrogated at the Ministry of State Security for charges related to Christianity.	NKHR2015000122 2015-09-08

C. Punishment for Acts of Superstition

As freedom of religion is *de facto* restricted in North Korea, superstitions are prevalent among the general public. North Korean defectors testified that acts of superstition such as divination have been increasing.²⁸⁵ According to the North Korean Criminal Law, a person who commits acts of superstition shall be subject to labor training punishment of one year or less, and a person who teaches superstition or causes serious consequences shall be subject to correctional labor punishment of three years or less; in cases where the act committed by the person is serious, the person shall be subject to three years or more and up to seven years of correctional labor punishment (Article 256). However, in reality, the North Korean authorities do not punish

285_ NKHR2020000013 2020-06-15; NKHR2020000021 2020-07-06; NKHR2020000028 2020-07-06.

acts of superstition at the same level as acts of practicing other religions. It has been found that most North Korean residents or defectors who are caught engaged in acts of superstition receive labor training punishment of up to one year.²⁸⁶ Such punishment can even be avoided by offering bribes.²⁸⁷

However, there are cases where people who directly commit acts of superstition are heavily punished. A North Korean defector ○○○ testified that the punishment for fortune tellers is more severe than the punishment for those who ask for their fortune to be told. According to the testifier, as crackdowns on acts of superstition are severe, avoiding punishment is difficult once caught, and in some cases, the accused are executed by shooting. The testifier said that many fortune tellers were arrested in Hyesan in 2019, and two female fortune tellers were executed by shooting.²⁸⁸ A North Korean defector ○○○ testified that crackdowns on acts of superstition have intensified since 2019. The testifier said that those who told fortunes for others were arrested and sent to prison camps (*kyohwaso*), while those who asked for their fortune to be told were also punished although not as severely.²⁸⁹

286_ NKHR2017000040 2017-06-05 and many other testimonies.

287_ NKHR2017000046 2017-07-03; NKHR2017000133 2017-12-18; NKHR2018000107 2018-10-01.

288_ NKHR2020000024 2020-07-06.

289_ NKHR2020000013 2020-06-15.

A North Korean defector ○○○ testified that crackdowns on acts of superstition intensified around 2017 and 2018. The testifier said that since people who commit acts of superstition could be subjected to correctional labor punishment, the number of people engaged in fortune telling largely decreased and that he/she was told that some were sentenced to three years of imprisonment, while others were released after paying bribes. The testifier also said that those who asked for their fortune to be told are also subject to legal punishment.²⁹⁰ A North Korean defector ○○○ said that he/she was arrested by Group 109 members and detained for a month for lending a South Korean book on fortune telling to his/her cousin's sister-in-law but was released after paying bribes.²⁹¹ A North Korean defector ○○○ testified that in 2017, he/she witnessed two to three people undergoing a public trial after being caught committing acts of superstition. The testifier said that one was sentenced to five years of correctional labor punishment while the other was sentenced to eight years of correctional labor punishment, and the people who asked for their fortune to be told were sentenced to labor training punishment.²⁹²

There are many testimonies on cases where people were punished for committing acts of superstition. Testimonies including

290_NKHR2020000005 2020-05-15.

291_NKHR2020000024 2020-07-06.

292_NKHR2020000022 2020-07-06.

fortune tellers being sentenced to correctional labor punishment after public trials in 2018,²⁹³ a woman in her 70s being caught and shot to death for passing on superstitions to 20 pupils in 2018²⁹⁴ and a person practicing *bangto* (a kind of exorcism) being sentenced to unlimited-term correctional labor punishment in 2018²⁹⁵ are representative examples of such testimonies.

D. Evaluation

The right to freedom of thought, conscience and religion of North Korean people is seriously violated. Above all, *Juche* ideology and the Ten Principles are fundamentally incompatible with the right to freedom of thought, conscience and religion. As can be seen from North Korea's legal reality, in which the Constitution makes no reference to freedom of thought and conscience, it is clear that the concept of freedom of thought and conscience itself is unfamiliar to North Korean people.

Although freedom of religion is stipulated as a legal right in the Constitution, it is severely restricted, which can be seen from the fact that most North Korean people have never heard the word "religion." In reality, North Korea maintains its policy of restricting freedom of religion and imposes strong punishment and control

293_ NKHR2019000033 2019-06-03.

294_ NKHR2019000071 2019-08-26.

295_ NKHR2019000071 2019-08-26.

over certain religions, such as Christianity. Meanwhile, acts of superstition including fortune telling and *gut* (a kind of exorcism) are prevalent in North Korea, and the level of punishment against those engaging in acts of superstition seems very high.

Part I

Part II
The Reality of Civil and Political Rights

Part III

Part IV

Part V

10

Right to Freedom of Expression

Freedom of expression, which is an essential right necessary for the full development of a democratic and free society and the person, is one of the most basic rights.²⁹⁶ 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.

296_ UN Human Rights Committee, General Comment, No. 34 (2011), para. 2.

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

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

A. Restrictions on Forming and Expressing Political Opinions

Article 19, paragraph 1 of the ICCPR stipulates the right to have opinions without interference. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature, and any form of effort to coerce the holding or not holding of any opinion is prohibited.²⁹⁷ In general, the right to hold an opinion is infringed upon when a person is under undue influence while forming an opinion, and when this is carried out by coercion, threat or other similar means.²⁹⁸

297_ UN Human Rights Committee, General Comment, No. 34 (2011), paras. 9–10.

298_ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary*, 2nd rev. ed., (Kehl am Rhein: N.P. Engel, 2005), p. 442.

Article 67 of the North Korean Constitution provides for freedom of the press and publication. In addition, the “DPRK Association for Human Rights Studies Report” strongly emphasizes that as freedom of the press and publication is an indispensable element of democracy and an important aspect of political rights, all citizens exercise the right to freely express their opinions and intentions in various manners through diverse media.²⁹⁹ However, as the North Korean Constitution emphasizes aspects such as the “whole,” “unification of political ideology,” “revolutionary awakening,” and “security of the state” in its Article 10,³⁰⁰ and Articles 63,³⁰¹ 81³⁰² and 85³⁰³ that stipulate the basic rights and obligations of citizens, violating the rights specified in Article 19, paragraph 1 of the ICCPR is institutionally possible. The People’s Unit (*inminban*) system that monitors and directs the lives of people is deeply rooted in daily life, making it difficult, and even fearful, for people to express political opinions even to their families.³⁰⁴

299_ DPRK Association for Human Rights Studies, “DPRK Association for Human Rights Studies Report,” in Materials by the Center for North Korean Human Rights Studies, KINU (13 September 2014), p. 49. (In Korean)

300_ “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.”

301_ “In the Democratic People’s Republic of Korea, the rights and duties of the citizens are based on the principle of collectivism of ‘one for all, all for one’.”

302_ “Citizens shall devotedly advocate the political and ideological unification and solidarity of the people.”

303_ “Citizens shall at all times raise the revolutionary alertness and fight with personal devotion for the security of the state.”

304_ NKHR2015000123 2015–09–08.

In reality, expressions of political opinion that differ from those of the North Korean authorities, negative references to the family of Kim Il Sung, Kim Jong Il and Kim Jong Un and positive references to South Korea are all prohibited. There is a perception among people that those who criticize the Supreme Leader (*Suryeong*) or politics will be sent to political prison camps (*kwanliso*).³⁰⁵ The fear of political prison camps (*kwanliso*) causes people to speak cautiously.³⁰⁶ 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. The provisions of the North Korean Criminal Law are vaguely written so that harsh sentences can be imposed by criminalizing certain political statements or actions. Such statements or actions identified as constituting an “act of treason against the people” are punishable by unlimited-term correctional labor punishment or death. Due to the fear of being sent to a political prison camp (*kwanliso*), there is a widespread culture of self-censorship of statements and actions that could be viewed as criticizing the state or national policy.³⁰⁷ In addition, there was a testimony claiming that since Kim Jong Un came to power, matters related to South

305_ NKHR2019000020 2019-05-07.

306_ NKHR2019000020 2019-05-07; NKHR2019000104 2019-11-09 and many other testimonies.

307_ Situation of Human Rights in the Democratic People’s Republic Korea, Report of the Secretary-General. UN Doc. A/75/271 (30 July 2020), para. 20.

Korea, such as making phone calls to South Korea or engaging in the brokerage of defection, are punished more severely.³⁰⁸ There were testimonies stating that calls with China are also subject to wiretapping and that since crackdowns on phones that can make and receive international calls are intensifying,³⁰⁹ a person could become a political criminal for using a telephone.³¹⁰ In North Korea, political remarks such as criticism of the regime are fundamentally unacceptable, and even the expression of private opinions by individuals is strictly controlled.

B. Arbitrary Censorship and Control of the Press and Publications

According to Article 19, paragraph 2 of the ICCPR, the press, publications and other media that are used as a means of expression should be free and not be subjected to interference and disturbance. However, in North Korea, publications, the press and broadcasting are used to mobilize the people to idolize Kim Il Sung, Kim Jong Il and Kim Jong Un and reinforce *Juche* ideology.

All North Korean newspapers are mouthpieces for the Party and the Cabinet and are official media published by various state-sponsored propaganda organizations of culture and art. They are written and published under the supervision of the Newspaper

308_ NKHR2019000043 2019-07-01.

309_ NKHR2020000026 2020-07-06.

310_ NKHR2020000010 2020-05-16.

Department of the Propaganda and Agitation Division of the KWP and the administrative guidance of the Newspaper Department of the Publication Division of the Cabinet.³¹¹ The contents of all articles aim to remind people of the superiority of the North Korean system, and criticism of the KWP or discussion on basic issues are non-existent. Indeed, any information that might enhance people's right to information or promote critical thinking is strictly prohibited.

Broadcasting in North Korea is operated under the direction of the Korean Central Broadcasting Committee, which is affiliated with the Cabinet. Similar to newspapers, broadcasting is used for propaganda and reporting of Party policies and domestic and international affairs. The Korean Central Broadcasting Committee is an institution that plans and oversees all broadcasting tasks that performs both broadcasting and regulating functions; with respect to the contents of broadcasting, the Committee is under the direction and control of the Propaganda and Agitation Division of the KWP and the United Front Department.³¹²

The North Korean Publication Law³¹³ stipulates that “citizens shall have the right to freely engage in writing or creative activities”

311_ Institute for Unification Education, *2020 Understanding North Korea* (Seoul: Institute for Unification Education, 2019), pp. 297-298. (In Korean)

312_ *Ibid.*, p. 304.

313_ The Publication Law of the DPRK revised and supplemented on 21 January 1999 in accordance with Ordinance 372 of the Presidium of the SPA (hereinafter the Publication Law).

(Article 6). However, it limits the purpose of such activities to “safeguarding and promoting great socialist projects based on a revolutionary tradition of publication” (Article 2). In order to operate a publishing business, the publisher must register with the Cabinet or the Publication Guidance Agency (Article 12); all printing facilities used without registration shall be subject to confiscation (Article 49). The Publication Law controls publications by stipulating that “the Publishing Guidance Agency and related agencies must ensure that state secrets are not leaked and any reactionary ideas, culture and lifestyles are not circulated through publications and register all public facilities and supervise and control their use” (Article 47). Moreover, by stating that “all publications 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.

Individual citizens and responsible workers at agencies, enterprises or organizations, whose actions have caused serious consequences by violating the Publication Law, shall be subject to administrative or criminal responsibility (Article 50). The Administrative Penalty Law mandates the imposition of administrative penalties on those who violate the orders of publishing, printing and circulation (Article 195). The North Korean Criminal Law also stipulates that acts that violate

publication rules may be punishable by up to one year of labor training punishment (Article 214). Consequently, any work that is written must ultimately be censored by the KWP's Propaganda and Agitation Division. If a North Korean person publishes materials in violation of the censorship standards, authorities can charge him/her with the crime of anti-state propaganda and agitation stipulated in Article 62 of the Criminal Law and impose up to five years of correctional labor punishment; if the case is serious, the person may be subject to five years or more and up to 10 years of correctional labor punishment. Consequently, it is practically impossible to publish materials that criticize the KWP or the Supreme Leader (*Suryeong*) through the press or publication.

Meanwhile, in its national report submitted for the third cycle of the UPR in 2019, North Korea stated that there was “a marked increase in the variety and number of publications” that contributed to enhancing the people’s cultural appreciation, various events were held several times every year to give people a chance to show their creative talents and that state commendations and other incentives were awarded to stimulate public enthusiasm for creative activities.³¹⁴ However, publications that are actually accessible by people are those with certification stamps that have been approved by the state, and all other publications are subject to crackdowns.³¹⁵ Given that the basic requirement for people

314_UN Doc. A/HRC/WG.6/33/PRK/1(2019), para. 32.

315_NKHR2015000141 2015-10-06.

who participate in contests or various daily events is to act as a faithful mouthpiece of the state and the Party,³¹⁶ freedom of expression that the authorities claim to legally and socially guarantee is restricted in reality.

However, many people secretly borrow and read foreign books from the U.S., China or Russia from book rental shops run by individuals,³¹⁷ 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.³¹⁸ It seems that the experience of having contact with external publications is mostly through acquaintances.³¹⁹ Numerous testimonies indicated that North Koreans have been deprived of freedom of the press as well as the opportunity to freely choose and read the books they want to due to the strict controls of the political authorities. However, it has also been confirmed that many of them gain access to foreign books, including those from South Korea, through a variety of illegal methods. With the inflow of information through digital devices, censorship and crackdowns on people having contact with external publications have decreased recently.

316_ "The trumpeter of the Party's ideological front line – the broadcasters on broadcast and propaganda vehicles," *Rodong Sinmun*, 28 October 2020.

317_ NKHR2014000219 2014-12-30 and many other testimonies.

318_ NKHR2014000098 2014-07-15; NKHR2014000148 2014-09-23.

319_ NKHR2016000023 2016-01-26; NKHR2016000064 2016-05-03; NKHR2016000186 2016-12-13.

Table II -40

Testimonies of Crackdowns on South Korean/Foreign Publications

Testimonies	Testifier ID
In 2015, the testifier was arrested by Group 109 members and detained for a month for lending a South Korean book on fortune telling to his/her cousin's sister-in-law but was released after paying bribes. The testifier would have not been released had he/she been in possession of the entire book. Things were resolved because he/she was caught with only a few pages in his/her possession.	NKHR2020000024 2020-07-06
When the testifier was living in Hyesan, Yanggang Province, he/she rented foreign books from libraries run by individuals. These books included books from the U.S. such as <i>Gone with the Wind</i> , detective stories from Japan and books from China and Russia. Crackdowns were not intense.	NKHR2014000219 2014-12-30
The testifier read many foreign books in electronic form stored on USB drives when he/she lived in Wonsan, Gangwon Province. Books like <i>The Godfather</i> and the autobiography of Chung Joo-young were popular.	NKHR2015000137 2015-09-22
The testifier experienced books from South Korea and other countries and foreign art/music through acquaintances when living in Hyesan, Yanggang Province. The testifier was caught during a crackdown by the anti-socialism monitoring group (<i>bisa-geuruppa</i>) but avoided punishment through bribery.	NKHR2016000048 2016-04-19

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

Article 19, paragraph 2 of the ICCPR stipulates that freedom of expression includes “freedom to seek, receive and impart information and ideas of all kinds.” The people of North Korea, which is a State Party to the ICCPR, must be able to seek, receive and impart a variety of information and ideas using various media. In the third cycle of the UPR in 2019, North Korea reported that the rights of citizens to freedom of expression and access to

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information are protected by relevant laws.³²⁰ North Korea also reported that it has continued to invest in the IT environment, which made it possible for not only adults but also children to explore and share information of all kinds.³²¹ However, in reality, North Korean people cannot freely access external information and are punished if they are found to have acquired and/or transmitted information and ideas (including video recordings) not authorized by the authorities.

Under such circumstances, there is only very limited access to external information. TV channels and radio frequencies are fixed to Korea Central Television, which is the public TV and radio broadcaster, and there are regular inspections of the seals on the dials to ensure they have not been broken.³²² As information that North Korean people can access through TV broadcasts and radio are mostly programs that idolize Kim Il Sung, Kim Jong Il and Kim Jong Un, field guidance, documentary films and negative propaganda on South Korea, it is difficult for people to obtain outside information. North Korean people have limited communication with the outside world through illegal video recordings and mobile phones, and even this outlet is not free from authorities' control and surveillance.

320_ UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 30.

321_ Ibid., para. 33.

322_ NKHR2015000123 2015-09-08; NKHR2015000133 2015-09-22; NKHR2015000137 2015-09-22; NKHR2015000145 2015-10-06.

(1) Crackdowns and Punishments for Video Recordings

North Korean authorities strictly restrict the distribution of information through images such as illegal video recordings. The North Korean Criminal Law punishes those who bring from foreign countries or produce, distribute or retain music, dances, paintings, photographs, books, video recordings or electronic media that contain corrupt, sensual or inappropriate content without permission (Article 183), and those who listen to enemy broadcasts or collect, retain or distribute enemy leaflets even without anti-state purposes (Article 185). Acts of introducing, using and distributing corrupt culture are also punishable under the Administrative Penalty Law (Article 208). Offenders are mostly subject to labor training punishment or correctional labor punishment. The North Korean Criminal Law of 2013 stipulates in Article 183 (Crime of introducing/distributing corrupt culture) that up to 10 years of correctional labor punishment can be imposed on acts of introducing corrupt external culture. Considering that the Criminal Law of 2012 had stipulated that the same acts are subject to up to five years of correctional labor punishment, it seems that the North Korean authorities have strengthened overall control on the introduction of external culture since 2013, when Kim Jong Un came to power.

Table II-41 Changes in the Provisions Related to the Introduction and Distribution of Corrupt Culture in the North Korean Criminal Law

<p>Criminal Law of 2012</p>	<p>Article 183 (Crime of introducing/distributing corrupt culture) A person who brings from foreign countries or produces, distributes or illegally retains paintings, photographs, books, video recordings and/or electronic media that contain corrupt, sensual and/or inappropriate content without permission shall be subject to up to one year of labor training punishment. In cases where the act in the above paragraph is serious, the person shall be subject to up to five years of correctional labor punishment.</p>
<p>Criminal Law of 2013</p>	<p>Article 183 (Crime of introducing/distributing corrupt culture) A person who brings from foreign countries or produces, distributes or illegally retains paintings, photographs, books, video recordings and/or electronic media that contain corrupt, sensual and/or inappropriate content without permission shall be subject to up to one year of labor training punishment. A person who repeatedly introduces or distributes or retains large amounts of video recordings and/or electronic media that contain corrupt, sensual and/or inappropriate content shall be subject to up to five years of correctional labor punishment. In cases where such act is serious, the person shall be subject to five years or more and up to 10 years of correctional labor punishment.</p>
<p>Criminal Law of 2015</p>	<p>Article 183 (Crime of introducing/distributing corrupt culture) A person who brings from foreign countries or produces, distributes or illegally retains paintings, photographs, books, music and/or movies that contain corrupt, sensual and/or inappropriate content without permission shall be subject to up to one year of labor training punishment. A person who repeatedly introduces, produces, distributes or retains the said materials or introduces, produces, distributes or retains the said materials in large amounts shall be subject to up to five years of correctional labor punishment. In cases where such act is serious, the person shall be subject to five years or more and up to 10 years of correctional labor punishment.</p>

North Korea defines content introduced from outside as “non-socialist corrupt culture” and has continuously strengthened its censorship and crackdowns against them. The North Korean Criminal Law and Administrative Penalty Law severely punish

those who introduce, produce, distribute or retain external cultural content. In addition, Group 109, which is a separate organization established to regulate foreign media and publications, is allowed to conduct home searches without prior notice or warrant.³²³ A North Korean defector ○○○ testified that Group 109 members frequently search peoples' homes such that people are preoccupied by potential crackdowns.³²⁴ There were testimonies claiming that in home searches, People's Unit (*inminban*) chiefs knock on the door and MPS officers come inside the house without prior notice to inspect the accommodation and search for impure video recordings. There were many testimonies reporting that a warrant was never presented in home searches and that random inspections not accompanying a People's Unit (*inminban*) chief are so frequently conducted that they have become a daily routine.³²⁵

North Korean authorities operate a separate organization to crack down on illegal video recordings. Initially, inspections had been conducted jointly by five groups (*geuruppa*) composed of the MPS, Ministry of State Security, the Prosecutors' Office, the KWP and administrative agencies affiliated with each of the institutions. As the number of people watching illegal video

323_UN Doc. A/75/271 (2020), para. 18.

324_NKHR2020000029 2020-07-05.

325_NKHR2020000029 2020-07-05; NKHR2020000048 2020-11-28.

recordings increased, Group 109 was established as a permanent organization to conduct inspections.³²⁶

Group 109 is generally known as the organization in charge of crackdowns. There was a testimony stating that cases involving South Korean video recordings (so-called “red” video recordings) are sent to the Ministry of State Security and people involved are usually sentenced to eight to 10 years of correctional labor punishment.³²⁷ It has been said that recently, crackdowns by Group 109 members on video recordings have been continuously carried out and the punishment has intensified.

It has also been said that people cannot avoid crackdowns because Group 109 members carry electric wave detectors that allow them to find out what kind of video recordings people subject to inspections were watching.³²⁸ However, many North Korean defectors have consistently testified that the practice of people secretly watching video recordings such as South Korean dramas or movies is spreading. In particular, as the number of people with mobile phones and computers has increased, the frequency of crackdowns has also been increasing. It is said that people purchase cheap recording devices from China and secretly sell or pass around video recordings made from using such

326_NKHR2017000054 2017-07-31.

327_NKHR2016000069 2016-05-17.

328_NKHR2019000089 2019-10-19.

devices. North Koreans who watch South Korean video recordings mostly develop admiration for South Korea and a negative perception toward North Korea.³²⁹ In some cases, admiration towards South Korea's economic affluence and freedom in everyday life leads to defection.³³⁰

In many cases, people who watch and distribute South Korean video recordings are sentenced to labor training punishment. However, testimonies that such people are sentenced to correctional labor punishment have been steadily increasing since the Criminal Law was revised. There were many testimonies indicating that those caught with Chinese music or video recordings are sentenced to labor training punishment, while those caught with Korean dramas are sentenced to correctional labor punishment.³³¹ It is said that once a person is caught during a crackdown, the authorities interrogate the person and use all means to force the person to confess who the distributor is.³³² There was a testimony stating that being caught watching South Korean movies is punished more severely than being caught using drugs (*bingdu*); according to the testimony, the former will be sentenced to correctional labor punishment or forced deportation,

329_NKHR2015000009 2015-01-13 and many other testimonies.

330_NKHR2015000090 2015-05-12.

331_NKHR2020000026 2020-07-06; NKHR2020000029 2020-07-06 and many other testimonies.

332_NKHR2020000013 2020-06-15.

or sent to a political prison camp (*kwanliso*).³³³ A North Korean defector ○○○ testified that his/her neighbor was sentenced to three years of correctional labor punishment for mass producing and selling South Korean video recordings.³³⁴ In particular, those who are caught with pornography are sentenced up to 10 years of correctional labor punishment³³⁵ or sometimes deported.³³⁶ In addition, there was a testimony reporting that a proclamation was issued stating that those watching/distributing South Korean video recordings would be sentenced to death³³⁷ and a testimony claiming that those who are caught would be shot to death.³³⁸ There was also a testimony indicating that the Criminal Law was revised in 2018 and those watching Korean dramas or video recordings would be sentenced to five years in prison.³³⁹

However, regardless of the authorities' tightened control over illegal video recordings, there are still many cases where people avoid punishment through personal connections and bribery, and it has been found that these methods allow North Korean people

333_NKHR2020000021 2020-07-06.

334_NKHR2018000060 2018-07-02.

335_NKHR2019000016 2019-05-07.

336_NKHR2019000003 2019-04-08.

337_NKHR2015000099 2015-05-19.

338_NKHR2019000084 2019-10-05.

339_The text of the relevant provisions cannot be confirmed as the Criminal Law, which allegedly had been revised in 2018, is currently not available. However, some parts of the said law have been introduced by the press. "North Korea revised part of the Criminal Law on the punishment of human traffickers," *Radio Free Asia*, 26 June 2019.

to continue to watch such recordings.³⁴⁰ A North Korean defector ○○○ testified that whether a person who is caught with illegal video recordings would be punished depends on whether the person could offer bribes on the spot. According to the testifier, a person who is supposed to be punished by correctional labor punishment could be released within a few days or months, and a person from a rich family could cover up the case with money.³⁴¹ There was also a testimony reporting that the testifier had been told that a person who was caught with unique music on his/her mobile phone was able to cover up his/her case by paying 100 dollars.³⁴² On the other hand, there were many testimonies of people being caught with South Korean video recordings or music and being sentenced to correctional labor punishment, and the amount of bribe that must be paid to avoid such punishment is very high, which is approximately 2,000 dollars or 10,000 yuan per recording or song.³⁴³ There was a testimony claiming that punishments for watching or distributing American films vary depending on each case; for example, one year of correctional labor punishment is ordered per film, but people are often released by paying bribes and the amount of the bribe is also

340_NKHR2020000005 2020-05-15; NKHR2020000022 2020-07-06 and many other testimonies

341_NKHR2020000014 2020-06-15.

342_NKHR2020000048 2020-11-28.

343_NKHR2020000005 2020-05-15; NKHR2020000013 2020-06-15; NKHR2020000022 2020-07-06; NKHR2020000030 2020-08-03 and many other testimonies.

standardized.³⁴⁴ There was also a testimony reporting that the testifier avoided punishment by giving one carton of cigarettes to three search squad members when he/she was caught with a DVD and memory cards during an unannounced inspection by Group 109.³⁴⁵ It was said that charges related to South Korean dramas or films are not resolved by offering bribes, and people who are caught while watching such video recordings would be sent to a prison camp (*kyohwaso*) or a political prison camp (*kwanliso*) no matter how much they paid as a bribe.³⁴⁶

Table II-42 Watching Recordings and Related Punishments

Testimonies	Testifier ID
In 2016, the testifier was sentenced to six months of labor training punishment for listening to South Korean music saved on a memory card and served his/her her sentence.	NKHR2018000028 2018-05-08
In 2016, the testifier’s elder cousin was caught watching a South Korean drama with his/her friends. Although two of the four friends were minors, all were sentenced to two years of correctional labor punishment.	NKHR2018000102 2018-10-01
In May 2016, the testifier witnessed a person imprisoned in Jeongeori <i>Kyohwaso</i> after being sentenced to six years of correctional labor punishment for listening to South Korean music and watching impure video recordings.	NKHR2017000006 2017-04-10
Eight students were caught while watching South Korean pornography and were deported in 2017.	NKHR2019000003 2019-04-08

344_ NKHR2019000026 2019-05-18.

345_ NKHR2019000093 2019-10-21.

346_ NKHR2019000076 2019-08-26; NKHR2019000089 2019-10-19; NKHR2019000097 2019-10-21.

Testimonies	Testifier ID
<p>In 2017–2018, the testifier was caught with a Chinese film but was able to avoid punishment through personal connections and bribery, which was possible because he/she was caught with a Chinese film. For South Korean movies, 1,000 yuan must be paid as a bribe, and there are cases where people who are caught are punished anyway even if they paid a large sum of money. The testifier was told that a person who got caught with a 25-episode South Korean drama and five South Korean movies had paid 30,000 yuan as a bribe. If one pays a bribe immediately at the scene of a crackdown, he/she needs to pay a relatively small amount of money, but after time passes and the case is reported to a higher authority, the amount the person needs to pay increases as well as the number of people to whom he/she needs to pay.</p>	<p>NKHR2020000005 2020-05-15</p>
<p>The testifier was caught possessing impure video recordings (Indian and Chinese films) during a home search in October 2018 but was able to cover up the case by paying 30,000 won.</p>	<p>NKHR2019000045 2019-07-01</p>
<p>In 2018, one of the testifier’s acquaintances was caught watching a South Korean movie during a home search for illegal video recordings. He/she had been detained in the Ministry of State Security for about six months, but avoided being sent to a labor training camp (<i>rodongdanryundae</i>) by offering a large amount of money as a bribe. People who are caught with South Korean movies could be sentenced to correctional labor punishment, and approximately 2,000 dollars must be paid as a bribe in such a case.</p>	<p>(NKHR2020000022 2020-07-06)</p>
<p>In February 2019, a directive was issued that strengthened crackdowns to prevent people from watching not only South Korean video recordings but also Chinese and Russian video recordings. A Group 109 member went to every house for inspection. The testifier was told that a woman living in Hyesan, Yanggang Province was caught watching a South Korean video recording by Group 109 members during an unexpected home search initiated by a neighbor who alerted authorities about her. The testifier heard that the woman was arrested and could not cover up her case although she paid 20,000 yuan as a bribe. The testifier was also told that while punishment for cases involving Chinese movies is relatively weak, cases involving South Korean dramas cannot be covered up through bribery, and those caught with South Korean video recordings are sent to a prison camp (<i>kyohwaso</i>) or a political prison camp (<i>kwanliso</i>).</p>	<p>NKHR2019000076 2019-08-26</p>

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Testimonies	Testifier ID
<p>In 2019, the testifier's cousin-in-law fled to his/her house after being caught watching Korean dramas. The cousin-in-law had watched approximately 100 episodes of recent Korean dramas. The testifier almost went to a labor training camp (<i>rodongdanryundae</i>) for protecting his/her cousin-in-law. The cousin-in-law was interrogated but was able to avoid legal punishment and expulsion from his/her school by paying approximately 10,000 yuan as a bribe. People who are caught and without money are sent to a prison camp (<i>kyohwaso</i>). The testifier and his/her family were not punished as the cousin-in-law's case was covered up.</p>	<p>NKHR2020000030 2020-08-03</p>
<p>The testifier had been dispatched to Russia between 2013 and 2019. The testifier's company prevented the workers from using a mobile phone, but the workers secretly used stick-type mobile phones. The testifier secretly watched numerous YouTube videos using his/her mobile phone. The testifier watched the 2018 Inter-Korean Summit and listened to South Korean music through YouTube. These phones were not censored.</p>	<p>NKHR2020000050 2020-11-28</p>
<p>A testifier who defected in 2019 said that the Youth League carries out crackdowns on people with mobile phones on the street. According to the testifier, approximately 10,000 yuan must be paid per film to cover up cases involving South Korean movies.</p>	<p>NKHR2020000013 2020-06-15</p>

(2) Crackdown on and Punishments for Illegal Use of Mobile Phones

Mobile phones are a major means through which external information is introduced and transmitted to North Korean people. The number of North Korean people subscribed to wireless communications surpassed 0.5 million in 2010, 1 million in 2012, 3 million in 2013 and more than 3.7 million in 2017.³⁴⁷

347_Young-ja Park *et al.*, *Eight Changes in North Korea's Economy and Society under the Kim Jong Un Era* (Seoul: KINU, 2018), p. 149. (In Korean)

As of 2020, the number of mobile phone subscribers is approximately 6 million, and 3G telecommunication services are provided by three telecommunication companies, including a joint venture between companies from Egypt and Thailand. Considering that one person, such as a person working at a marketplace (*jangmadang*), owns a multiple number of mobile phones, the number of people who actually use mobile phones is estimated at 4.5 million, which is about 20% of the total population. Smartphones are being used as a one-way information delivery tool, but Internet connection is not provided for information control purposes.³⁴⁸

In addition, other restrictions are imposed for information control purposes. For example, wiretapping and security check functions are installed on mobile phones to prevent information leakage.³⁴⁹ There was a testimony reporting that mobile phones produced in China are sold in North Korea after their operating system is changed so that they can only be used in North Korea.³⁵⁰ There was also a testimony indicating that there were no crackdowns on mobiles phones because everything that might be illegal was blocked due to such change in the system.³⁵¹

348_Min-kwan Kim, *Recent Trends and Implications of Smartphone Use in North Korea* (Seoul: KDB Future Strategy Institute, 2020). (In Korean)

349_ *Ibid.*

350_NKHR2020000048 2020-11-28.

351_NKHR2020000044 2020-10-31.

While the number of mobile phones supplied in North Korea has increased, most of the calls made are domestic calls. It is said that around August 2019, North Korea had newly installed near the border wiretapping equipment and facilities producing electronic jamming signals that completely block international calls.³⁵² This change has been confirmed in the testimonies of North Korean defectors.³⁵³ Moreover, surveillance of mobile phones is carried out at all times. It is common for Youth League members or inspectors to conduct inspections on mobile phones while monitoring clothing worn on the street.³⁵⁴ Group 109 members inspect mobile phones when they see one during a home search.³⁵⁵ Moreover, authorities from different provinces cross-censor mobile phones, and deleted data are restored for inspection.³⁵⁶

The ways in which North Korean people evade crackdowns have also diversified. Testimonies were collected indicating that people usually hide their mobile phones and go to a mountain or the top of an apartment to make short calls.³⁵⁷ There also were

352_ "North Korea imposes hefty fines on those who makes external phone calls," *Radio Free Asia*, 8 October 2019.

353_ NKHR2020000026 2020-07-06; NKHR2020000030 2020-08-03.

354_ NKHR2020000005 2020-05-15; NKHR2020000023 2020-07-06; NKHR2020000029 2020-07-06 and many other testimonies.

355_ NKHR2020000023 2020-07-06; NKHR2020000001 2020-05-15.

356_ NKHR2020000030 2020-08-03.

357_ NKHR2020000017 2020-07-04; NKHR2020000026 2020-07-06; NKHR2020000028 2020-07-06.

testimonies stating that people use WeChat installed on Chinese smartphones or use text messages and delete any messages immediately after they have sent or received them.³⁵⁸

Items subject to crackdowns on mobile phones include the content of text messages, content of calls and mobile phone memory. Not only South Korean songs, dramas and games, and text messages with South Korean words or pronunciation, but also various Chinese content such as games and calls to/from China are subject to crackdowns. Music and movies of North Korean entertainers who have defected are prohibited, and people sometimes store only instrumentals in their mobile phones as inspectors would recognize songs with lyrics as South Korean music.³⁵⁹ A North Korean defector ○○○ whose child went to school in 2020 testified that as the number of students possessing mobile phones has increased, the school inspects students' mobile phones every morning to check if impure video recordings or South Korean songs are stored on them.³⁶⁰

Punishments for illegal use of mobile phones vary depending on the situation in each case. However, there were many testimonies reporting that the testifiers were able to lower sentences or avoid punishment through bribery. The amount of

358_NKHR2020000013 2020-06-15; NKHR2020000024 2020-07-06.

359_NKHR2020000010 2020-05-16; NKHR2020000029 2020-07-06; NKHR2020000030 2020-08-03.

360_NKHR2020000038 2020-09-26.

the bribe one must pay for cases involving mobile phones has been increasing. A testimony was collected indicating that the bribe amount that must be paid with respect to crackdowns on mobile phones in Hyesan is larger compared to other areas.³⁶¹ There was also a testimony claiming that one can cover up his/her case if he/she pays approximately 10,000 yuan as a bribe at the scene of a crackdown, and even if one is sent to a prison camp (*kyohwaso*), he/she can solve the problem by paying bribes.³⁶²

Table II-43 Mobile Phone Usage and Related Punishments

Testimonies	Testifier ID
In 2016, the testifier was detected and caught while talking on the phone with his/her daughter in China and interrogated by the Ministry of State Security for 20 days.	NKHR2018000058 2018-07-02
In 2016, the testifier was cracked down by an MPS officer while talking on the phone on the street. The testifier was told by the MPS officer that some humorous stories he/she had exchanged were impure and based on bourgeois ideology. Thereafter, the testifier deleted text messages immediately after receiving them.	NKHR2019000071 2019-08-26
In 2017, the testifier's son was arrested by the military for calling a relative in South Korea and was handed over to the Ministry of State Security. The testifier gave 6,000 yuan to three people in the Ministry of State Security to share. The son was released after 13 days, and the mobile phone was confiscated.	NKHR2019000033 2019-06-03
In December 2017, the testifier was caught while talking on the phone. Songs stylized with South Korean singing techniques or rearranged in a South Korean style are also subject to crackdowns, even if they are North Korean songs.	NKHR2018000076 2018-07-30

361_NKHR2020000006 2020-05-15.

362_NKHR2020000019 2020-07-04.

Testimonies	Testifier ID
<p>In May 2017, the testifier climbed up a mountain and tried to call his/her son in South Korea with a borrowed phone made in China. The testifier was caught even before he/she had a chance to call his/her son as he/she was reported by people who were plowing the nearby land, who found the testifier suspicious looking around the area. The testifier was interrogated at the MSS city detention center (<i>guryujang</i>) in Hyesan from 5 May to 15 May 2017. Then, the testifier was transferred to the City Security Department of Hyesan and detained and interrogated for 22 days. The mobile phone owner who was arrested as well was also detained in the same detention center (<i>guryujang</i>). The testifier was sentenced to three months in a disciplinary labor center (<i>rodonggyoyangdae</i>) and was forced to work while detained in the center. The testifier became sick and was released after paying 1,100 yuan.</p>	<p>NKHR2020000027 2020-07-06</p>
<p>In 2018, the testifier was detained by Group 109 members while talking on the phone on the street. One must show his/her mobile phone no matter what when caught by Group 109 members. If not, people usually show their mobile phones only after asking for the ID of the MSS agents. South Korean words, foreign words and emoticons are subject to crackdowns. The testifier was sentenced to three months in a labor training camp (<i>rodongdanryundae</i>), but was released on the same day with help of his/her partner, who was an MSS agent, after paying money.</p>	<p>NKHR2019000068 2019-08-26</p>
<p>In March 2018, the testifier was inspected by a search squad and was caught with a South Korean song “Three Bears” on his/her phone. The testifier gave 100,000 won as a bribe on the spot.</p>	<p>NKHR2018000117 2018-10-22</p>
<p>In April 2018, the testifier’s mother was detained at the Ministry of State Security for around 20 days for calling the testifier’s daughter in China. The mother was interrogated about the location of the testifier’s daughter.</p>	<p>NKHR2019000047 2019-07-01</p>
<p>In September 2018, the testifier was arrested in the act while answering a phone call from his/her daughter in South Korea due to wiretapping by four MSS agents who raided the site. After 15 days of investigation in the province holding center (<i>jipkyulso</i>), the testifier was able to avoid heavy punishment and was sentenced to three months in a labor training camp (<i>rodongdanryundae</i>) as the call was only about how the daughter was worried about the testifier and the daughter asking the testifier to take care of the other parent’s grave. The testifier did not actually work at the labor training camp (<i>rodongdanryundae</i>) because his/her son paid 1,500 yuan as a bribe.</p>	<p>NKHR2019000069 2019-08-26</p>

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Testimonies	Testifier ID
<p>In 2019, one had to pay 1,500-2,000 yuan to avoid punishment for possessing mobile phones. The amount of the bribe one must pay varies from region to region. With respect to Hyesan, one must pay at least 5,000 yuan. When the testifier was caught during a crackdown in 2015, he/she was able to settle the matter for 500 yuan.</p>	<p>NKHR2020000006 2020-05-15</p>
<p>The testifier’s brother-in-law was caught during a crackdown on mobile phones in 2019. Mobile phones are strictly monitored even on the street and in markets. The city or district Youth League and Group 109 members carry out inspections, and authorities from different provinces cross-censor mobile phones. Data that have been deleted are restored for inspection. However, punishments for cases involving mobile phones vary depending on how the person who catches the offender reports on the offense concerned.</p>	<p>NKHR20200000030 2020-08-03</p>
<p>The testifier’s child went to school until 2020. Every morning, the child’s homeroom teacher and the Youth League members inspected students’ mobile phones to check for impure video recordings or South Korean songs.</p>	<p>NKHR20200000038 2020-09-26</p>

D. Evaluation

The North Korean Constitution stipulates freedom of expression, and the North Korean authorities claim that they guarantee the right. However, it appears that North Korean people’s right to freedom of expression is seriously restricted in reality. Most of the North Korean defectors testified about the risk of expressing one’s political opinion in everyday life. In addition, the press and publications, which are supposed to function as a means of expressing diverse opinions, are subject to arbitrary censorship and control by North Korean authorities. In particular, crackdowns on and censorship and punishment for possessing digital devices, such as computers and mobile phones, that can store external cultural contents have been continuously strengthened.

Due to the revision of the Criminal Law in 2015, the crackdowns on and punishments for the use of mobile phones in border areas have been intensified; and this has been confirmed in the testimonies of North Korean defectors collected in the 2020 survey. In particular, crackdowns on and punishments for the use of mobile phones and various contents that are regarded as anti-socialist and corrupt – in particular, South Korean broadcasts and video recordings – have been further intensified in order to prevent the relaxation of the ruling system that might occur as a result of the inflow of external culture. Despite the strong control, censorship and crackdowns by the authorities, it has been found that the North Korean people’s desire and demand for access to information is not decreasing.

11

Right to Freedom of Assembly and Association

The right to freedom of assembly and association means individuals' freedom to assemble to express their opinions. It is an indispensable part of a democratic society and a right that must be guaranteed for citizens to exercise their sovereignty.

Major international human rights norms refer to 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 that “no one may be compelled to belong to an association.” Moreover, Articles 21 and 22 of the ICCPR refer to freedom of assembly and association as follows.

Table II -44 Articles 21 and 22 of the ICCPR

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

Opportunities to participate in peaceful assembly or to belong to a trade union or interest groups, which are guaranteed under the right to freedom of assembly and association, should lead to the legal and institutional guarantee of and substantive protection for voluntary assembly and association. Details about trade unions will be discussed in III. The Reality of Economic, Social and Cultural Rights, 3. Right to Work. This chapter will examine the right to peaceful assembly and matters related to organizational life.

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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 the right to peaceful assembly. The right of peaceful assembly allows individuals to express themselves collectively and to participate in shaping their societies and protects individuals so that they can exercise individual autonomy. A failure to respect and guarantee this right is a marker of repression.³⁶³ However, assemblies held in North Korea are mostly group assemblies, which is social mobilization aiming to provide ideology and political education and promote people’s patriotism.

Article 209 of the North Korean Criminal Law stipulates that “any person who does not comply with the instructions of a state agency and causes collective disturbance” shall be subject to criminal penalties even if such acts do not entail an anti-state

363_ Human Rights Committee, General Comment No. 37, Article 21: Right of Peaceful Assembly, Advance Unedited Version. UNHRC Doc. CCPR/C/G/37 (27/July/2020), paras. 1, 2, 9.

purpose, providing legal grounds to prevent the possibility of demonstrations in North Korea. The Administrative Penalty Law also stipulates that a person who does not comply with legitimate instructions of a state agency shall be subject to up to three months of re-educational labor discipline; in cases where the act committed by the person is serious, the person shall be subject to three months or more of re-educational labor discipline. (Article 252). The phrase “who does not comply with the (legitimate) instructions of a state agency” in these provisions emphasizes the jurisdiction of the state over individuals. In other words, these provisions can be interpreted as disallowing individuals from having the right to lawfully assemble or protest. It has been confirmed through the testimonies of North Korean defectors that any form of assembly other than government-led assemblies and crowd mobilization is not only disallowed in North Korea but also unthinkable.³⁶⁴ Freedom of assembly is not recognized in North Korea because the recognition of such freedom itself can be regarded as an act of denying the system, which adheres to the principle of collectivism and the Unitary *Suryeong* Ruling System. It seems that the very perception of the right to peaceful assembly and to freedom of assembly has not yet been established among North Korean people.

364_ NKHR2016000001 2016-01-12; NKHR2016000047 2016-04-19; NKHR2016000063 2016-05-03.

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

Regarding freedom of association, Article 22, paragraph 1 of the ICCPR stipulates that “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.” Article 67 of the North Korean Constitution stipulates that “citizens (···) shall have freedom of assembly/demonstration and association. The state shall guarantee conditions for free activities of democratic parties and social organizations.” However, in reality, only assemblies and associations that are needed by the KWP are allowed, and assemblies or associations that are based on the free will of the general public are not permitted. As a result, the concept of freedom of assembly does not exist in the minds of ordinary North Koreans. In the 2020 survey, no testimony was reported concerning an association that represents the opinion or interests of North Korean people.³⁶⁵ Some testified that they had never seen an assembly protesting against the state and thought protesting would mean death. There was a testimony indicating that in 2018, people paid a lot of money – some even borrowed money – to the immigration office of the MSS provincial bureau

365_ NKHR2019000008 2019-04-08; NKHR2019000011 2019-04-10; NKHR2019000020 2019-05-07; NKHR2019000055 2019-07-29; NKHR2019000068 2019-08-26; NKHR2019000078 2019-09-25.

in Yanggang Province, but as the issuance of their river-crossing passes (*dogangjeung*) and passports was delayed, people got angry and protested in front of the immigration office; according to the testimony, this incident led the Central Ministry of State Security to carry out an inspection.³⁶⁶ There was also a recent incident where an entire group of people did not show up to work on the railway as ordered by the authorities, and the authorities launched an investigation to identify which person had triggered such rebellious behavior.³⁶⁷ Assemblies and associations that are not permitted by the state, including ones that are incidental, are strictly censored, and group actions are regulated as group resistance.

While any association based on the free will of individuals or groups is not permitted, all the residents are forced to participate in organizational life. All North Korean residents, from the age of six until retirement, are required to join organizations including those in kindergartens, the Korean Children's Union (*sonyeondan*), various educational institutions, the Youth League, the General Federation of Trade Unions, the Agricultural Workers' Union, the Women's Union and the KWP. With regard to such organizational life, North Korean defectors have consistently testified that the activities and duties in these extra-Party

366_NKHR2019000091 2019–10–21.

367_ "Group absences despite a mobilization order in Yanggang Province, North Korea," *Radio Free Asia*, 24 June 2019.

organizations are far from the autonomy one can experience in associations voluntarily organized by individuals with common interests.³⁶⁸

The Report of the Working Group of the UPR on North Korea issued in 2019 states that North Korea has been examining the recommendation to “end the practice of forcing all married women to join the [Women’s Union].”³⁶⁹ However, it is expected that the practices of organizational life that North Korea, which pursues collectivism, has established will continue to be maintained in all sectors, including society, home and work. Considering that forming organizations or groups that are independent from the state and the Party is extremely difficult in North Korea, organizational life that North Korean authorities forcibly impose on the people cannot be interpreted to be in harmony with freedom of association.

Table II-45 Cases of Infringement of the Freedom of Assembly and Association

Testimonies	Testifier ID
Social discipline was imposed in some cases where people were absent from public trials or government-led assemblies; such discipline included requiring absentees to fulfill a substantial part of the quota assigned to his/her People’s Unit (<i>inminban</i>).	NKHR2015000112 2015-06-02
A person who is absent from important government-led events such as No. 1 Events (events attended by top leaders) would be subject to imprisonment at a political prison camp (<i>kwanliso</i>).	NKHR2015000119 2015-09-08

368_ NKHR2015000133 2015-09-22 and many other testimonies.

369_ UN Doc. A/HRC/42/10 (2019), para. 127.47.

Testimonies	Testifier ID
Compulsory assemblies included people's meetings, Life Review Sessions (<i>saenghwalchonghwa</i>) and group assemblies. Group assemblies were convened when certain events occurred regarding the relationship between South Korea and North Korea. Persons who were absent from these events were suspected of ideological deviation. Absence from people's meetings or Life Review Sessions (<i>saenghwalchonghwa</i>) did not lead to substantial disadvantage.	NKHR2015000133 2015-09-22
People mandatorily join the Youth League from the first grade of advanced middle school and they are required to participate in all assemblies. People attend assemblies only because it is mandatory, not because they like attending assemblies. Most people just shut their mouths and imitate slogans being chanted.	NKHR2019000053 2019-07-29
When there is a missile launch or test, the Party secretary would gather people saying it is an important broadcast and immediately inform them of the situation. People gather by groups to attend rallies organized in a city. Workplaces are closed to guarantee attendance in such rallies. Sometimes, workers complain to the Party secretary since their work is disrupted and get exempted from mobilization. However, it would be unfavorable for people if they missed such rallies one or two times.	NKHR2019000060 2019-07-29
Attending political events is mandatory for students and people working at enterprises. Considering the nature of the North Korean system, the testifier thought that attending such events was necessary.	NKHR2020000017 2020-07-04
The testifier participated in the Youth League only as a formality.	NKHR2020000029 2020-07-06
Members of the Youth League are mainly mobilized to work in potato fields; they are also mobilized for elections. When the testifier was mobilized by the Women's Union, he/she avoided attendance by giving the chair of the union 100-150 yuan per year.	NKHR2020000038 2020-09-26

While many testimonies have confirmed that control over people's participation in organizational life continues to exist in North Korean society, there were other testimonies of people only participating in organized events as a formality and avoiding

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events mobilized by the Youth League or the Women's Union through bribery.³⁷⁰ People mandatorily participate in political events but avoid attending events if possible using their economic power. It can be seen that the authority of organizations and groups that unite and integrate North Korean people is weakening.

C. Evaluation

North Korean people are not guaranteed the right to freedom of assembly and association. Based on Articles 21 and 22 of the ICCPR, North Korean people have the right to peaceful assembly and the right to form and join voluntary associations to promote their interests. However, the reality in North Korea is that the right to freedom of assembly and association is not recognized and people are forced to participate in assemblies approved by the authorities and join organizations that are institutionalized. While social control by the state continues to exist, such control is weakening with people using various methods to avoid forced participation. Given that North Korean people have long been living under the control of the state and thus are accustomed to an organizational or group-oriented lifestyle, it seems unlikely that the awareness of freedom of assembly and association will expand among North Korean people.

370_NKHR2020000038 2020-09-26; NKHR2020000044 2020-10-31.

12

Right to Political Participation

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

Table II-46 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 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 shall exercise their sovereign power through their representative organs, which are the Supreme People’s Assembly and the local People’s Assemblies.” Article 6 of the Constitution also stipulates that “organs of state power at all levels, from the County People’s Assemblies to the Supreme People’s Assembly, are elected based on the principle of universal, equal and direct suffrage by secret ballot.” In addition, North Korean Law on the Delegates Election for All Levels of the People’s Assembly (hereinafter the Election Law)³⁷¹ stipulates the principle of general, equal, direct and secret votes (Articles 2–5). As such, North Korean 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, must be elected in accordance with the principle of democratic elections.³⁷² However, the North Korean Constitution also provides that the SPA and local People’s Assemblies, which are legislative bodies, should be under the control of the KWP. Article 5 of the Constitution states that “all state agencies” in North Korea are organized and operated “in accordance with the principle of democratic centralism.” In

371_ The Law on the Delegates Election for All Levels of the Peoples’s Assembly of the DPRK revised and supplemented on 11 May 2010 in accordance with Ordinance 835 of the Presidium of the SPA (hereinafter the Election Law).

372_ The election of deputies to the SPA is held every five years, and the election of deputies to the People’s Assemblies of provinces (direct-controlled municipality), cities (districts) or counties is held every four years (Article 8 of the Election Law).

addition, Article 11 stipulates that state agencies must “conduct all activities under the leadership of the Korean Workers’ Party.” As can be seen above, North Korea’s political system based on a one-party dictatorship inevitably restricts the right to political participation of the North Korean people.

The major issues related to the situation in North Korea regarding the right to political participation will be examined below. Many testimonies regarding North Korean people’s right to political participation were collected in recent surveys as the election of deputies to the SPA and the Regional People’s Assembly were held in March and July 2019, respectively.

A. Distortion of the Nature of Democratic Elections

Article 25 (a) of the ICCPR stipulates that all citizens shall be guaranteed the right “to take part in the conduct of public affairs, directly or through freely chosen representatives.” The fundamental nature of a democratic election presupposes that voters can freely acquire and distribute information about the representative they elect. While some testifiers said that it was possible to know who the candidates were beforehand as their photographs and names were on the posters displayed at the election site a few days before the election day,³⁷³ most North Korean people vote without

373_ NKHR2019000016 2019-05-07; NKHR2019000069 2019-08-26; NKHR2019000072 2019-08-26.

knowing who the candidates are that they are voting for.³⁷⁴ As freedom of expression and freedom of assembly and association are not guaranteed, access to and dissemination of information about candidates and elections are restricted. In other words, there is a lack of freely formed political opinions on candidates and policies, which are crucial aspects for any election process.

In democratic countries, elections are the processes by which people with diverse views and demands elect their representatives who will express ideas on their behalf. However, in North Korea, elections are only a perfunctory procedure to approve personnel appointments that the KWP wants.

In addition, elections are merely a means of political mobilization to elicit people's support for the Party policies and goals. In particular, North Korea has utilized elections of deputies as a process to confirm North Korean people's absolute loyalty towards Kim Jong Un, the continuation of the *Baekdu* bloodline and the regime led by the KWP. Moreover, since the establishment of the regime, North Korea has propagandized the fact that Party candidates receiving 100% of the votes cast as evidence of the absolute support of the North Korean people to the Party. This phenomenon is clearly impossible in a free and competitive election where multiple candidates run for office.

374_NKHR2019000049 2019-07-01 and many other testimonies. It also includes cases where people vote without knowing who the candidates are not only because the North Korean authorities do not actively promote candidates but also because voters do not try to seek information about candidates due to their indifference to politics.

Such election results show that in North Korea, elections are used as a tool to reinforce and legitimize the rule of the KWP, rather than a process through which voters freely choose their political representatives. In other words, in North Korea, the right to participation in elections, which is a representative example of the right to political participation, does not play its role as a procedure conveying people's intentions to the government. Without the freedom and opportunity to choose from various candidates and policies, North Korean people's right to political participation is seriously restricted.

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 opinions at periodic elections based on the principle of universal, equal and secret ballot. North Korea also guarantees in its Constitution a secret ballot based on the principle of general, equal and direct suffrage. Article 6 of the North Korean Constitution stipulates that "organs of state power at all levels, from the County People's Assemblies to the Supreme People's Assembly, are elected based on the principle of universal, equal and direct suffrage by secret ballot." The legislative arrangement of the right to political participation in the North Korean Constitution is not very different from that of the ICCPR.

In the 2020 survey, many testimonies on the elections of deputies held in March and July 2019 were collected. It was identified that administrative power is actively invested to encourage people to vote. The election schedules and voting venues were announced through TVs and newspapers,³⁷⁵ and some People's Unit (*inminban*) chiefs visited each and every house under the unit to inform residents of the election date and instruct people who had lost their People's Registration Cards to have them reissued in advance.³⁷⁶ Deceased people whose deaths had not been reported are reported and registered as dead during the election period.³⁷⁷

The People's Registration Card is an important identification tool that is used for proving that its holder is a registered voter of a certain electoral district and for identifying the number of voters. Those who have lost their People's Registration Cards shortly before an election can get their People's Registration Cards reissued relatively easily. A few days before election day, People's Unit (*inminban*) chiefs visit each household to collect People's Registration Cards and return them on the day of the election with certain serial numbers written on the cards. These numbers are identical to the numbers written in the voter registry of the Election Commission.³⁷⁸

375_ NKHR2019000105 2019-11-09.

376_ NKHR2019000072 2019-08-26.

377_ NKHR2019000073 2019-08-26.

378_ NKHR2019000072 2019-08-26.

In North Korea, those who are eligible to vote must vote, and voting is perceived as a duty, not an individual choice.³⁷⁹ People fear that they might face legal punishments or be accused of being a political criminal (or traitor) if they do not vote.³⁸⁰ Mobile voting is guaranteed by law for voters not able to cast their vote on election day at a polling station for personal reasons. Article 67 of the Election Law provides that “if a person is unable to go to a polling place due to reasons such as serious illness, old age or physical disability, members of the Election Commission of the electoral district concerned may visit the person with a mobile ballot card and a sealed mobile ballot box to facilitate his/her vote.” In fact, many testifiers have confirmed that North Korean people are aware of the mobile voting system. The testifiers confirmed that if a person cannot go to a polling place due to illness or disability, Election Commission members personally visit that person with a portable ballot box so that the person could vote,³⁸¹ and if a person is out of town on a business trip, that person can still vote from a polling place located in the electoral district that person is in using a mobile ballot card obtained in advance.³⁸²

379_NKHR2019000047 2019-07-01 and many other testimonies.

380_NKHR2019000037 2019-06-15; NKHR2019000070 2019-08-26; NKHR2019000073 2019-08-26.

381_NKHR2020000011 2020-06-15; NKHR2020000021 2020-07-06; NKHR2020000028 2020-07-06 and many other testimonies.

382_NKHR2019000073 2019-08-26; NKHR2019000085 2019-10-05.

The North Korean Election Law also guarantees a secret ballot. Article 5 of the Election Law stipulates that “voters are guaranteed the freedom to vote either affirmatively or negatively.” However, most testifiers commonly said that in reality, there was no one who would vote negatively on candidates, and they were afraid of punishments they would have to face if they voted negatively.³⁸³

While a secret ballot is guaranteed to some extent, many cases have been identified where the principle of secret ballot is violated in different steps in the voting process. When voters go to a polling place, they show their People’s Registration Card to the Election Commission members, check their names on the voter registry and receive their ballots. On a ballot, the word “*seongeopyo*” (vote) and the names of the candidates are written. Then, voters enter a space surrounded by a white cloth screen, bow to the portrait of the Supreme Leader (*Suryeong*) and put their ballots in the ballot box.³⁸⁴ As there is only one ballot box installed and each ballot contains serial numbers that are identical to the numbers written in the voter registry, it is possible to know who did not put their ballot in the ballot box.³⁸⁵

While many testimonies stated that there was no one monitoring inside the screened area, some testimonies reported that there was

383_NKHR202000028 2020-07-06; NKHR2019000086 2019-10-05 and many other testimonies.

384_NKHR2019000072 2019-08-26; NKHR2019000073 2019-08-26.

385_NKHR2019000071 2019-08-26; NKHR2019000095 2019-10-21.

an observer sitting inside the screened area.³⁸⁶ There were also testimonies reporting that surveillance cameras were installed in some polling places.³⁸⁷

A unique case was reported where voters were instructed to vote either affirmatively or negatively on all of the candidates running for office rather than to cast a vote for one of the listed candidates. In general, there is one candidate in one electoral district, and voters cast a yes or no ballot. However, according to a testimony, there was an electoral district where three candidates ran for office in the election of deputies to the SPA held in March 2019, and people put yes votes in the ballot boxes that had the names of the three candidates written.³⁸⁸

There is no ballot box for no votes, expressing opposition on a ballot itself is not possible, and the monitoring system is operated in a polling place. Thus, voters are in principle blocked from voting negatively on candidates.

In sum, whereas general, equal, direct and secret suffrage is institutionally guaranteed in North Korea and most North Korean people regularly participate in elections, in reality, most North Korean people must vote affirmatively for candidates pre-decided by the authorities, and it is practically impossible for them to express opposition as they fear possible punishments.

386_ NKHR2019000068 2019-08-26.

387_ Above testimony; NKHR2019000086 2019-10-05.

388_ NKHR2019000069 2019-08-26.

In addition, most North Korean people participate in elections only in a perfunctory manner, with little or no knowledge of the candidates (i.e., candidates for the deputies of People's Assemblies at each level). According to various testimonies, although photographs and names of candidates are included in posters displayed near the election site, most people are indifferent to the candidates and vote without knowing who the candidates are.³⁸⁹

Furthermore, North Korean people are not guaranteed the right to autonomously decide whether or not to participate in elections. There is widespread fear that there would be legal or political retaliation if one decides not to or refuses to cast a vote. The mobile voting system, which is applied for those having difficulties going to a polling place due to business trips, illness or disabilities, has two sides. The system provides convenience in voting on one hand, but on the other hand, people's freedom is restricted as the system contributes to disallowing people from avoiding participation in elections.³⁹⁰ Considering the various factors mentioned above, the principle of secret and free ballot in their true sense is not guaranteed in North Korea.

389_ NKHR2020000005 2020-05-15; NKHR2020000021 2020-07-06; NKHR2020000024 2020-07-06; NKHR2020000048 2020-11-28 and many other testimonies.

390_ In addition to the mobile voting system, voting by proxy is legally permitted for people who cannot personally cast a vote for reasons such as illness, disability or old age. Article 67 of the Election Law provides that "a person who is unable to cast a vote personally may designate a third person to vote according to his/her intention."

C. Limited Application of Electoral Eligibility

Article 25 (c) of the ICCPR includes the right “to have access, on general terms of equality, to public service in his country” as a major part of the right to political participation. In a democratic system, every citizen has the right to have access to public service. However, in North Korea, such right is limited only to those nominated by the KWP. As a result, ordinary North Korean people are not aware of their eligibility to run for elections.

For the general public, deputy candidates are perceived as those “designated by the state.”³⁹¹ As shown in a North Korean defector’s testimony that “even Party members cannot run in an election of deputies unless selected by the Supreme Leader (*Suryeong*),”³⁹² the right to political participation cannot be considered fully realized in North Korea. The North Korean Constitution guarantees all citizens aged 17 or older the right to vote and the right to stand for election. However, it can be said that while the right to vote is guaranteed for ordinary North Korean people, the right to be elected (i.e., the right to stand for election) is almost absent.

Although Article 35 of the Election Law provides that “candidates for deputies of the People’s Assembly at each level shall be

391_NKHR2019000085 2019-10-05.

392_NKHR2019000037 2019-06-15.

recommended directly by voters or jointly or independently by political parties or social organizations,” in most cases, such candidates are determined by the Party. In addition, those who are recommended as candidates of deputies must undergo qualification screenings at a voters’ meeting composed of at least one hundred voters before they are registered with the Election Commission as candidates. It is said that it is legally stipulated that voters’ meetings must be held in areas of residence or places such as agencies, enterprises, cooperative farms, schools or military units, but most people are reluctant to attend such meetings.³⁹³

Table II-47 Cases of Infringement of the Right to Political Participation

Testimonies	Testifier ID
The testifier participated in the 2019 election and did not have any prior knowledge about the candidate. As there was an observer and a surveillance camera, it was not possible to cast a no vote.	NKHR2019000086 2019-10-05
The testifier voted on 10 March 2019, and voting entailed putting the given ballot in the ballot box without marking yes or no.	NKHR2019000052 2019-07-20
The testifier voted on 10 March 2019 and could not talk about the election and was careful about his/her behavior since the MSS agents were watching.	NKHR2019000064 2019-08-17
The testifier voted in the election of deputies to the SPA held in March 2019. Without any knowledge about the candidate, the testifier put his/her ballot in the only ballot box that was installed, which did not have a yes or no mark on it. There was an MPS officer standing beside the voting booth. If the number of people listed in the voter registry and the number of ballots put in the ballot box do not match, those who did not vote are tracked down.	NKHR2019000071 2019-08-26

393_NKHR2020000011 2020-06-15.

Testimonies	Testifier ID
The testifier participated in the election of deputies to the SPA on 10 March 2019. Since certain numbers are written on each ballot, authorities can check who casted votes and who voted affirmatively. It is not possible to refrain from participating in voting.	NKHR2019000095 2019-10-21
There were three candidates running for office in an electoral district. People put three yes votes in three ballot boxes that each had one of the names of the three candidates marked, instead of casting a vote for one of the three candidates.	NKHR2019000069 2019-08-26
The testifier participated in elections held in March and July 2019. Photographs of candidates were displayed in front of the polling place (neighborhood (<i>dong</i>) office) in advance. People must cast yes votes. The testifier did not cast a no vote even though there was cloth screen installed in the voting booth because a person from the neighborhood (<i>dong</i>) office was standing one meter next to the screen.	NKHR2020000005 2020-05-15
Before the election of deputies, voters' meetings are held to review candidates' qualifications. Most people do not want to attend such meetings.	NKHR2020000011 2020-06-15
Although MSS agents are present at polling places, voting is carried out alone inside a screened area. What is important is whether one participates in voting. Whether one would cast a yes vote or no vote is not an issue; participation in voting means a yes vote will be cast.	NKHR2020000013 2020-06-15
The testifier participated in the elections held in March and July 2019. He/she voted without knowing the candidate's name or face.	NKHR2020000021 2020-07-06
The testifier participated in the election of deputies in 2019. One can simply mark his/her ballot with an "X" and place it in the ballot box if he/she opposes the candidate. However, everyone voted in favor of the candidate because a person casting a no vote could be considered problematic.	NKHR2020000028 2020-07-06

D. Evaluation

North Korean people participate in elections in accordance with the Constitution and the Election Law. However, the principle of direct, universal, equal and secret ballots stipulated in the

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Constitution and the Election Law are not fully upheld. It is difficult for most North Korean people to acquire and exercise the right to stand for election by their own will, and even when exercising the right to vote, most North Korean people are forcibly mobilized by the authorities to cast votes without knowing who the candidates are. Moreover, they only vote in favor of candidates recommended by the Party. As a result, the majority of North Korean people do not even realize that the principle of democratic elections exists. In a democratic society, citizens have the right to vote and the right to run for election through free competition. However, in North Korea, elections are used as a means of reinforcing the regime and legitimizing the system, rather than electing representatives who will speak for the people in the political process.

Following the 2019 survey, the 2020 survey collected many testimonies about the elections held in March (election of deputies to the SPA) and July (the election of deputies of Regional People's Assembly) of 2019. Many testimonies stated that while there was no observer inside the voting booth, a coercive atmosphere was created as there were MPS officers standing near polling places and surveillance cameras were installed. Testimonies revealing that official media and People's Unit (*inminban*) chiefs actively encouraged people to vote, that the testifiers know about the candidates before the election, and that voters' meetings to review candidates' qualifications are held are noteworthy. However,

considering that it is still impossible for people to run for election by their own will, that people are not guaranteed the right to autonomously decide whether or not to participate in elections and that an environment where people could express their opinions for or against candidates is not guaranteed, it cannot be said that the right to political participation is sufficiently guaranteed in North Korea.

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 of discrimination. Non-discrimination, together with “equality before the law” and “equal protection of the law without discrimination,” constitute the basic principle of the protection of human rights.³⁹⁴ The situation in North Korea regarding discrimination based on background (*songbun*) and class, which are the characteristics of the North Korean system, will be examined in this chapter. Classification based on background (*songbun*) and class is a covert discrimination system that infringes on North Korean people’s right to equality and affects the lives of North Korean people, including admission to the Party, enlistment in the military, entrance to schools, employment, promotion, marriage and residence.

394_ UN Human Rights Committee, General Comment, No. 18 (1989), para. 1.

Table II -48 International Human Rights Norms 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>

A. Continued Discrimination Based on Background (*Songbun*) and Class

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

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international human rights norms stipulate equal protection by law for everyone without discrimination of any kind, and particularly prohibit discrimination based on arbitrary and customary divisions, such as those based on social origin, birth or class.

Article 65 of the North Korean Constitution that stipulates “all citizens shall have equal rights in all spheres of state and social life” clearly guarantees equal rights without discrimination. In reality, however, a unique social classification system based on background (*songbun*) or family background (*todae*) exists, according to which all residents are discriminatorily treated. After liberation from Japanese colonial rule, North Korea carried out a series of citizen registration projects to divide its people into three classes and 56 categories and also separately into 25 types of background (*songbun*).³⁹⁵ North Korea proclaims 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 family background (*todae*) of his/her family and its influence, his/her own social and political activities, the particularities of

395. It had been previously understood that there were three classes in North Korea: the core class, the wavering class, and the hostile class. However, it has been confirmed by the *Reference Book for Citizen Registration Projects (Strictly Confidential)* published in 1993 by the Ministry of Social Security Press that in North Korea, people are divided into three classes—the basic masses, the complex masses and remnants of the hostile class—which are then subdivided into 56 categories and also separately into 25 types of background (*songbun*). Sang-son Kim and Sang-hui Lee, *Reference Book for Citizen Registration Projects (Strictly Confidential)* (Pyongyang: Ministry of Social Security Press, 1993) (In Korean). Based on this information, In-ae Hyun’s “A Study of North Korea’s Resident Registration System,” (M.A. dissertation, Ewha Womans University, 2008) (In Korean) was published.

[the] nation’s historical development and class relations and class policies that the Party has implemented at each phase of the Revolution.”³⁹⁶ Background (*songbun*) is divided into two types – personal and social –and serves as basic data for determining people’s classes.³⁹⁷ There are three classes: the basic masses, the complex masses and the remnants of the hostile class. Finally, there are 56 categories under these three classes.

Table II -49 Classification of North Korea’s Residents by Class and Background (*Songbun*)

Classes and Backgrounds (<i>Songbun</i>)		Categories (56 in total)
Three Classes	Basic masses	1. Revolutionaries; 2. Families of revolutionaries; 3. Bereaved families of revolutionaries; 4. Honored veterans wounded in service; 5. Honored veterans wounded in action; 6. Persons who have met <i>Suryeong</i> (<i>Jeobgyeonja</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 workers, farmers, soldiers and intellectuals with sound class background, family circumstances and socio-political activities)

396_In-ae Hyun, *Ibid.*, p. 25. (In Korean)

397_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 and Backgrounds (<i>Songbun</i>)	Categories (56 in total)
Complex masses	1. Draft dodgers from the KPA; 2. Deserters from the KPA; 3. Repatriated soldiers; 4. Repatriated citizens; 5. Those who cooperated with reactionary groups; 6. Those who served in Japanese organizations before liberation; 7. Liberated soldiers (non-repatriated South Korean POWs); 8. Discharged construction workers; 9. Defectors to the North; 10. Personnel associated with No. 10 Guerilla Operations Area; 11. Personnel associated with Geumgang School; 12. Former political prisoners; 13. Religious personnel; 14. Families of traitors who have fled to South Korea; 15. Families of the executed; 16. Families of arrestees; 17. Families of former political prisoners; 18. Families of non-repatriated North Korean POWs; 19. Families of defectors overseas; 20. Families of landowners; 21. Families of rich farmers; 22. Families of comprador capitalists; 23. Families of pro-Japanese collaborators; 24. Families of pro-American collaborators; 25. Families of evil religious personnel; 26. Families of factionalists; 27. Families of those complicit with factionalists; 28. Families of spies; 29. Families of agricultural foremen; 30. Families of entrepreneurs; 31. Families of merchants
Remnants of the hostile class	1. Landowners 2. Rich farmers; 3. Comprador capitalists; 4. Pro-Japanese collaborators; 5. Pro-American collaborators; 6. Evil religious personnel; 7. Factionalists; 8. Those complicit with factionalists; 9. Spies; 10. Agricultural foremen; 11. Entrepreneurs; 12. Merchants
Backgrounds (<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)

North Korean authorities use this class and background (*songbun*)-based classification system to strictly control the

people; any movement between classes is also controlled in a very closed manner. One who makes a brilliant achievement, for example, may see his class upgraded from “remnants of the hostile class” to “the complex masses,” but it is virtually impossible to climb all the way up to “the basic masses” either from “remnants of the hostile class” or “the complex masses.” Those in the “remnants of the hostile class” and “the complex masses” face discriminatory treatment across the entire span of their social life, including their occupation, education, residence and military duties. The problem is that such discriminatory treatment occurs in the form of guilt by association on both horizontal and vertical levels.

In North Korea, discrimination based on guilt by association is mostly directed towards those with experience as South Korean civil police agents after liberation, families of Korean War POWs, families of returnees from Japan and those with records of family members escaping to South Korea. First of all, North Korea treats separated families as part of the complex masses, categorized into “traitors who have fled to South Korea” or “families of traitors who have fled to South Korea.” They are still denied their basic rights or face various disadvantages due to the “wrongdoings” of their ancestors under Japanese colonial rule or during the Korean War. If one has a family member who served as a South Korean civil police agent during the Korean War³⁹⁸ or was a Korean War

398_NKHR2015000053 2015-03-10.

POW, he/she may be deported to a remote area or forced into hard physical labor. A testifier said that his/her family was deported from Gangwon Province where they used to live to Onsong County, North Hamgyeong Province for the reason that his/her grandfather had been a landowner before liberation.³⁹⁹

Discrimination based on guilt by association is serious against people involved in important political incidents in North Korea. A testifier said that his/her father had been involved in the *Kapsan* Faction incident in the 1960s, and as a result, he/she lived under surveillance for over 30 years and could not enter university.⁴⁰⁰ Another testifier also said that his/her entire family was forcibly deported to Yanggang Province due to a relative's involvement in a sectarian incident called the "Kim Chang-bong incident" in the 1960s, and as his/her family was accused of being a reactionary family, the testifier was seriously discriminated against since birth, and although the false accusation was cleared in the early 1970s and the relative was reinstated as an honored veteran of war, the testifier could only work as a clerk.⁴⁰¹

In addition, there are separate medical facilities used only by Party officials and those working in political agencies such the Ministry of State Security or the Ministry of Social Security, and

399_ NKHR2014000015 2015-01-27.

400_ NKHR2019000069 2019-08-26.

401_ NKHR2019000074 2019-08-26.

differentiated medical services are provided to such people.⁴⁰² As such, discrimination based on background (*songbun*) and family background (*todae*) still continues until today. In this regard, the UNHRC report on North Korea of the UPR in 2019 expresses serious concern in light of the continuous reports of human rights violations such as discrimination based on background (*songbun*).⁴⁰³

B. Discrimination in Social Life by Background (*Songbun*) and Class

According to recent testimonies, it has been found that since Kim Jong Un came to power, discrimination based on family background (*todae*) has been somewhat mitigated compared to the past with the increasing influence of economic power on social life.⁴⁰⁴ However, discrimination based on background (*songbun*) and class is an undeniable reality in North Korea. Discrimination is taking place not only in public areas of one's life including appointment as an official, admission to the Party, entrance to college and job placement, but also in private areas such as marriage.

First, one's background (*songbun*) and class play a significant role in being able to join political agencies like Party organizations,

402_ NKHR20200000014 2020-06-15 and many other testimonies.

403_ UNHRC, "Compilation on the Democratic People's Republic of Korea", Working Group on the Universal Periodic Review Thirty-Third Session, 6-17 (May 2019), p. 3.

404_ NKHR20200000011 2020-06-15 and many other testimonies.

the Ministry of State Security or the Ministry of Social Security as an official. A testifier said that because his/her father was a returnee from a foreign country, the testifier could not enter Kim Il-sung University, could not join agencies under the Ministry of State Security and could not become a Party worker but only an administrative worker.⁴⁰⁵ In contrast, a North Korean defector ○○○ could have served in the Supreme Guard Command because he/she had a good family background (*todae*) as his/her grandfather participated in the Korean War as a military officer and because there was no one in his/her family who was sent to a prison camp (*kyohwaso*) or went to South Korea.⁴⁰⁶ Another testifier said that in the case of his/her spouse's family, his/her spouse and sister-in-law were not selected as officials of the Central Party because they had relatives in China.⁴⁰⁷ As such, while family background (*todae*) does not matter much in one's daily life, it remains unchanged that family background (*todae*) plays the most significant role in appointing officials.⁴⁰⁸

Second, there were many testimonies indicating that from the mid/late 2000s, people with economic power could join the Party, enter a college or be selected as a lower-level official even if they had an unfavorable background (*songbun*) and class. A testifier

405_ NKHR2019000011 2019-04-20.

406_ NKHR2019000086 2019-10-05.

407_ NKHR2019000035 2019-06-03.

408_ NKHR2020000011 2020-06-15.

said that whereas the influence of family background (*todae*) was 100% in the past, it seems to have decreased to about 50% today.⁴⁰⁹ Many testimonies were collected revealing that although the influence of family background (*todae*) cannot be said to have completely disappeared, family background (*todae*) is not the most important factor in college admissions, job placements and marriage.⁴¹⁰ It is said that instead, bribery is the most important factor in college admissions, and while family background (*todae*) is reviewed up to third cousins in the case of Party officials, family background (*todae*) is not as important in the case of low-level workers or administrative workers as its influence has diminished.⁴¹¹ Another testifier said that his/her spouse's family background (*todae*) was very bad as his/her father-in-law was involved in the *Kapsan* Faction incident in the 1960s, but the testifier's spouse could join the Party by paying 350 kg in pigs in 1997, which was the time of "the Arduous March."⁴¹² Another testifier said that his/her father who was originally from Pyongyang was forcibly deported to Yanggang Province due to faults of the grandfather and elder uncle but did not experience difficulties caused by family background (*todae*) in the military, graduation from college and working as a manager.⁴¹³

409_NKHR202000011 2020-06-15.

410_NKHR202000035 2020-09-05 and many other testimonies.

411_NKHR2019000011 2019-04-20.

412_NKHR2019000069 2019-08-26.

413_NKHR2019000044 2019-07-11.

The level of discrimination based on background (*songbun*) and class in college entrance differs between central universities and local universities. Such difference is found between central universities including Kim Il-sung University, People's Economy College and Pyongyang University of Foreign Studies and general local universities at the provincial/city level. While people with an unfavorable family background (*todae*) can still enter general local universities based on their ability, people cannot enter central universities without a good family background (*todae*), regardless of their abilities.⁴¹⁴ The influence of family background (*todae*) has gradually decreased in job placements as well. As such, discrimination based on family background (*todae*) and one's origin has been somewhat eased, but personal background still exerts a significant influence on one's entire life in North Korean society.

A North Korean defector ○○○ testified that under the Kim Jong Un regime, one still needs to have a good family background (*todae*) to join the provincial or city KWP or become a teacher, and those with an unfavorable family background (*todae*) give up applying for good jobs.⁴¹⁵ Another testifier also said that discrimination based on background (*songbun*) or class is common, and people are subject to discrimination not only in joining the

414_NKHR2014000015 2015-01-27.

415_NKHR2019000016 2019-06-07.

Party or appointment as an official but also in being dispatched overseas.⁴¹⁶ Under the Kim Jong Un regime, many private companies have been established; however, even in the trade sector, those without a good family background (*todae*) cannot run a company.⁴¹⁷ Families of those sent to political prison camps (*kwanliso*) are considered of a bad personal background and discriminated against in terms of joining the Party, earning a promotion or entering marriage. A testifier even said that his/her father and brother had a difficult social life because the testifier's grandfather committed suicide.⁴¹⁸

Third, although one's family background (*todae*) or background (*songbun*) still has influence in private areas such as marriage, the influence of economic power has gradually increased. A testifier said that he/she was a child of a returnee, and although that testifier did not feel discriminated against based on his/her background (*songbun*), he/she encountered many obstacles when getting married; according to the testifier, in particular, families of those working in the Ministry of State Security never marry children of returnees.⁴¹⁹ Another testifier said that people consider money (economic power) important as well as background (*songbun*) or family history in choosing a potential spouse to

416_NKHR2019000031 2019-06-03.

417_NKHR2019000108 2019-11-18.

418_NKHR2020000028 2020-07-06.

419_NKHR2019000021 2019-05-07.

eliminate obstacles to future opportunities.⁴²⁰ Another testifier also said that these days people consider economic power more than background (*songbun*) in marriage.⁴²¹

C. Discriminatory Assignment of Residential Area by Background (*Songbun*) and Class

North Korean people are assigned residential areas or forcibly deported based on their background (*songbun*) and class. In North Korea, those with an unfavorable background (*songbun*) and class are primarily those formerly of South Korea or those who once belonged to the landowner or capitalist class, and the authorities have concerns that they may escape from North Korea because of their admiration for South Korea. For this reason, North Korean authorities limit the areas of residence for these people to prevent escape. For example, people with unfavorable backgrounds (*songbun*) are not allowed to live in Pyongyang, Nampo, near the coast and areas bordered by the enemy (*jeonyeonjidae*).

The North Korean authorities discriminate against people based on their background (*songbun*) and class more strictly in Pyongyang. The city is divided into central Pyongyang and surrounding districts, and the surrounding districts are further divided into protective zones, satellite cities and farming areas (Article 7 of the

420_NKHR2019000048 2019-07-01.

421_NKHR2019000011 2019-04-20.

Law for the Management of Pyongyang⁴²²). In order for a North Korean to live in Pyongyang, he/she must file for residence registration in accordance with the procedures and methods set by the Cabinet (Article 30). In addition, one has to acquire residence approval of relevant authorities in order to move into central Pyongyang from surrounding districts (Article 31). Discrimination even exists between those living in central Pyongyang and those living in surrounding districts. For example, those living in certain surrounding districts, such as Yongseong District, are allowed to pass through central Pyongyang but cannot get a job there.⁴²³ The authorities strictly examine the background (*songbun*) and class of individuals when granting permission to live in Pyongyang. Even those living in Pyongyang are divided into three groups by background (*songbun*) and class, based on which discriminatory treatment is given. Groups 1 and 2 constitute about 80–90% of Pyongyang residents who have no problems in terms of background (*songbun*), while Group 3 includes Koreans repatriated from Japan, those who had formerly lived in South Korea and those who have missing family members, accounting for 10–20% of the city's population.

The discrimination between residents of Pyongyang and of other regions is also severe. First, there is discrimination with

422_ The Law for the Management of Pyongyang of the DPRK revised and supplemented on 22 October 2014 in accordance with Ordinance 191 of the Presidium of the SPA (hereinafter the Law for the Management of Pyongyang).

423_NKHR2018000037 2018-05-08.

regards to freedom of residence and movement. People living in provinces need to obtain residential approval from relevant authorities to reside in Pyongyang (Article 31 of the Law for the Management 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. Pyongyang citizenship cards are issued only to those aged 17 or older (Article 7 of the Citizen Registration Law⁴²⁴). In practice, access to Pyongyang is granted in a discriminatory manner to those living in other cities or provinces as such people must undergo complicated procedures and face a variety of constraints. In contrast, it is said that Pyongyang citizens can more freely move to other cities or provinces. Third, it is said that there is also discrimination with regard to food rations, which will be discussed in III. The Reality of Economic, Social and Cultural Rights, 1. Right to Food.

Meanwhile, testimonies have been collected reporting that the movement of people from cities and rural areas has been more strictly controlled since Kim Jong Un came to power. It is said that it was previously possible for someone from a rural area to move to a city for a job as a teacher at a university or for joining the military, and a woman from a rural area could move to a city if

424. The Citizen Registration Law of the DPRK revised and supplemented on 27 October 2015 in accordance with Ordinance 750 of the Presidium of the SPA (hereinafter the Citizen Registration Law).

she married a man from a city. Now, however, when a man from a city marries a woman from a rural area, he needs to move to the rural area.⁴²⁵ Moreover, in order for people from the provinces to become Pyongyang residents, they need to go through a complicated process involving five to six agencies because of their personal background, and some even get divorced due to disadvantages in job placement.⁴²⁶

D. Discrimination against Ethnic Chinese and Returnees from Japan

In the past, there was a perception in North Korea that ethnic Chinese and returnees from Japan have superior economic power and enjoy more affluent lives due to their relatives in China and Japan. However, as trade between North Korea and Japan was terminated and returnees from Japan have lost their connections with Japan, the living conditions of returnees from Japan have deteriorated and how they are viewed in society is changing.⁴²⁷

Mixed perceptions exist in the treatment of ethnic Chinese. While some testified that people are envious of ethnic Chinese as they generally have higher economic power and enjoy comfortable lives,⁴²⁸ a testifier said that ethnic Chinese are negatively perceived

425_NKHR2015000052 2015-03-10.

426_NKHR2016000054 2016-04-19.

427_NKHR2020000011 2020-06-15; NKHR2020000021 2020-07-06.

428_NKHR2019000011 2019-04-20; NKHR2020000021 2020-07-06.

because they tend to boast about their wealth.⁴²⁹ There are conflicting testimonies about social discrimination against ethnic Chinese people. Some testifiers said that they did not experience discrimination in school or daily life as ethnic Chinese,⁴³⁰ while one testifier said that he/she experienced discrimination in joining the KWP, entering college, being selected as an official, seeking marriage and even in entering the Korean Children's Union (*sonyeondan*).⁴³¹

A North Korean defector ○○○, who has a Chinese maternal grandmother, a maternal grandfather who is ethnic Korean in China and maternal relatives living in China, was discriminated against and despised in terms of job placement and military service because of his/her connections with China and his/her ethnic origin.⁴³² In addition, a child of a North Korean defector ○○○ could not join the Party because the defector's parents are from China and migrated to North Korea in the 1960s.⁴³³ Some testimonies show that discrimination against people with connections to China has been intensifying since Kim Jong Un came to power. A testifier whose spouse is ethnic Chinese said that while it was possible to enter college in the past, his/her children could not

429_NKHR2019000111 2019-11-18.

430_NKHR2019000011 2019-04-20; NKHR2019000107 2019-11-18; NKHR2019000111 2019-11-18.

431_NKHR2019000054 2019-07-29.

432_NKHR2015000101 2015-05-19.

433_NKHR2018000017 2018-04-09.

enter college as the current relationship with China is sour.⁴³⁴ According to another testimony, while those with cousins in China were subject to discrimination under Kim Jong Il, the scope of people subject to discrimination was expanded to those with second cousins since Kim Jong Un came to power. Those with connections to China are not allowed to serve in military units in border areas and are dispatched rear guard units.⁴³⁵ This case shows the discriminatory perception of North Korean authorities that those with connections to China are likely to defect from North Korea and engage in smuggling, based on which the authorities regard them as potential criminals.

Meanwhile, there were also testimonies stating that discrimination against returnees from Japan or those with connections to Japan is intensifying. In the past, such people were treated considerably well. A testifier whose father was a returnee from Japan said that his/her father was treated fairly well; for instance, he became a middle school teacher after graduating from a university and was assigned to a job in Musan County, North Hamgyeong Province, and he was also allowed to join the Party.⁴³⁶ However, the treatment of returnees from Japan has been recently worsening, and it appears that the major reason is the weakening of such

434_NKHR2019000054 2019-07-29.

435_NKHR2016000146 2016-09-06.

436_NKHR2016000023 2016-01-26.

people's financial capability caused by their loss of connection to Japan.⁴³⁷ According to another testimony, a child whose father is a returnee could not become a Party worker or law enforcement personnel.⁴³⁸ There are cases where a person having family members who have fled to South Korea also experiences disadvantages in joining the Party, getting recommendations for colleges and being selected as an official.⁴³⁹

According to a testimony, a testifier's father, who was a returnee from Japan, experienced discrimination at work, had his letters to Japan censored and had to endure hostile attitudes and accusations from people around him.⁴⁴⁰ Another testifier testified that his/her spouse's family members were returnees from Japan, and while returnees from Japan cannot be promoted to high-ranking Party posts, anything else is possible for them.⁴⁴¹ Similarly, according to a North Korean defector ○○○ who had a partner whose parents were returnees from Japan, the partner was rejected from joining the Party despite the fact that he/she had served in the military for eight years. The partner's father also could not find a job and was engaged in vending because he is a returnee

437_NKHR2016000061 2016-05-03; NKHR2016000111 2016-07-12; NKHR2017000113 2017-11-20.

438_NKHR2019000021 2019-05-07.

439_NKHR2019000031 2019-06-03.

440_NKHR2016000127 2016-08-09.

441_NKHR2014000212 2014-12-30.

from Japan, despite the fact that he had graduated from Gimchaek Engineering University.⁴⁴²

E. Evaluation

In North Korea, discrimination based on background (*songbun*) and class continues to function as a key system that creates inequality in diverse aspects of people's lives. Discrimination by background (*songbun*) and class remains unchanged with regard to admission to the Party, job placement, appointment as and promotion to an official, entrance to schools, enlistment in the military and assignment of residential area. After Kim Jong Un came to power, the system of discrimination operated on the basis of "family background (*todae*)," on which the classification by background (*songbun*) and class is based, has been partially relaxed. However, in the midst of the intensification of corruption, injustice and the gap between the rich and poor, another form of discrimination, based on economic power, is emerging. Moreover, given that movement of people between Pyongyang and the provinces is still strictly controlled since Kim Jong Un came to power, and surveillance on and discrimination against ethnic Chinese and returnees from Japan continue to occur, it is difficult to say that the existing discrimination based on family background

442_NKHR2014000085 2014-07-01.

(*todae*) and background (*songbun*) has been mitigated, but rather, new forms of discrimination and inequality based on economic power coexist with the existing system of discrimination.



White Paper on Human Rights
in North Korea 2021



Part III

The Reality of Economic, Social and Cultural Rights

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

Right to Food

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

Table III-1 Article 11 of the ICESCR

Paragraph 2	The States Parties to the present Covenant recognize the fundamental right of everyone to be free from hunger.
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Article 7 of the North Korean Food Policy Law⁴⁴³ states that “it is the consistent policy of the DPRK to be responsible for supplying grain foods” and that “the state shall supply food to the people in a timely manner.” In North Korea, the state guarantees the right to food by law while officially maintaining a food ration

443_ The Food Policy Law of the DPRK revised and supplemented on 25 February 2015 in accordance with Ordinance 389 of the Presidium of the SPA (hereinafter the Food Policy Law).

system. However, in reality, the right to food of North Korean people is not adequately protected. In this chapter, the situation in North Korea regarding the right to food will be examined, focusing on the continued food shortages, problems in agricultural production methods and discrimination in food distribution.

A. Continued, Chronic Food Shortages

The food situation appears to have stabilized since the outset of the Kim Jong Un regime. This is the case when compared to not only the period of the “Arduous March” when North Korea experienced a serious food crisis that led to mass victims of starvation, but also the 2000s. For instance, one can find by comparing UNICEF’s 2017 DPRK Multiple Indicator Cluster Survey (hereinafter referred to as “MICS survey”) and the national nutrition survey of 2012 that the nutrition situation of infants and young children has rapidly improved since Kim Jong Un came to power.

However, the outlook on the food situation in North Korea is not very positive. The International Food Security Assessment 2020–30 issued on 13 August 2020 by the Economic Research Service under the U.S. Department of Agriculture estimated that 59.8% of North Korea’s population, or approximately 15.3 million people, would be food insecure in 2020.⁴⁴⁴

444. USDA, *International Food Security Assessment, 2020–30*, (Washington DC: USDA, 2020), p. 50.

Article 11, paragraph 2 (a) of the ICESCR stipulates that there is a need “to improve methods of production, conservation and distribution of food [...] by developing or reforming agrarian systems in a way to achieve the most efficient development and utilization of natural resources.” Accordingly, the States Parties are required to take active measures to increase food availability in the event of a food shortage. North Korean authorities have also taken legal and policy measures to expand food production. The “paddy unit responsibility” system introduced after Kim Jong Un took office is a key example. In 2012, North Korea introduced as a pilot program the “paddy unit responsibility system within the framework of the team management system,” under which a small production unit consisting of a minimum of two people, which belongs to a production team (*bunjo*) consisting of 10–25 people, is responsible for farming land of a certain size (*pojeon*) on a cooperative farm. Since then, the Farm Law⁴⁴⁵ was revised annually in 2013, 2014 and 2015 to institutionalize the “paddy unit responsibility” system. The Farm Law revised in 2015 stipulates that “Farms shall accurately execute the “paddy unit responsibility” system and a reward and punishment system within the framework of team management system so that work on land management, agricultural process execution, production plan execution, and

445_The Farm Law of the DPRK revised and supplemented on 25 June 2015 in accordance with Ordinance 555 of the Presidium of the SPA (hereinafter the Farm Law).

procurement plan execution are accurately assigned by team (*bunjo*) and farm members, and that reviews on such work are timely and substantially carried out to ensure the correct distribution and handling of grain products” (Article 22, paragraph 2).

In the report submitted for the third cycle of the UPR in 2019, North Korea emphasized that it had authorized innovative farm management led by farm members and encouraged farm members to fulfill their responsibilities and roles in production and management by introducing the “paddy unit responsibility” system in 2015. It assessed that due to this measure, grain production had steadily increased every year and made great progress in resolving food issues.⁴⁴⁶

Furthermore, together with the “paddy unit responsibility” system, North Korean authorities introduced various policies that would incentivize farmers to increase production. For example, a policy was implemented under which farmers are given the right to freely dispose of the remaining crops harvested once they achieve the amount set by the national production plan and pay back the state the costs for seeds, fertilizer and agricultural equipment in crops.⁴⁴⁷ Accordingly, “the farms have earned the right to manage crops as they wish, as long as they achieve the goal of the national production plan and pay back the state the

446_ UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 49.

447_ *The Choson Sinbo*, 7 June 2013.

costs for land, irrigation facilities, farming supplies, fertilizer, etc.”⁴⁴⁸

An important point is whether these measures taken by North Korean authorities to increase food availability actually leads to an increase in food production. Considering the testimonies of North Korean defectors, it seems that the “paddy unit responsibility” system is actually being implemented in most cooperative farms.⁴⁴⁹ While there were some testimonies in previous surveys reporting that the food situation has improved due to the increase in food production, in the 2020 survey, most testimonies stated that the amount distributed to farm members has decreased after the implementation of the “paddy unit responsibility” system.⁴⁵⁰ It has been identified that the implementation of the “paddy unit responsibility” system has not contributed much to improving the food situation due to diverse factors including the unfair allotment of paddies, insufficient supply of farming materials and excessive government procurement.

One of the reasons that the “paddy unit responsibility” system has not been very effective is the excessive production plan set by the authorities. A North Korean defector ○○○ who had worked as a farm member said that the authorities set a plan in advance as

448_ *Ibid.*, 19 April 2013.

449_ NKHR2020000022 2020-07-06 and many other testimonies.

450_ NKHR2019000029 2019-06-03; NKHR2020000022 2020-07-06 and many other testimonies.

to the amount that should be harvested from one's allotted paddies, and since the target is often set too high, there is very little left after one pays back the state and, in some cases, production did not meet the plan so the testifier had to pay for the shortage another way.⁴⁵¹ The unfair allotment of paddies and insufficient supply of farming materials such as fertilizer are also major factors hindering the effectiveness of the “paddy unit responsibility” system. A testifier complained that the good land is taken by the People's Unit (*inminban*) chiefs or team (*bunjo*) leaders and barren land is given to general farm members⁴⁵² and said that the amount of fertilizer actually distributed to individual farm members is small as officials or transportation agents embezzle and sell the fertilizer supplied by the state; according to the testifier, some farm members sold the supplied fertilizer when they were in need of money or used the supplied fertilizer for their personal farming.⁴⁵³

It appears that the North Korean leadership is also aware of the aforementioned drawbacks present in the operation of the “paddy unit responsibility” system. At the 4th National Meeting of Enthusiasts in Agricultural Field held in Pyongyang during 25–26 December 2018, Pak Pong Ju, the premier of the Cabinet pointed

451_NKHR2020000003 2020-05-15.

452_NKHR2019000023 2019-05-18.

453_NKHR2019000057 2019-07-29.

out the drawbacks that prevent people from taking full advantage of the “paddy unit responsibility” system.

B. Food Shortages for Farmers Due to Excessive Government Collection

It has been identified through many testimonies that the “paddy unit responsibility” system has not contributed much to resolving food shortages for farmers. A testifier who had worked as a farm member explained that although farm members were told that under the “paddy unit responsibility” system they would be able to take 30% of the production, in reality, it was difficult for farm members to even take 1% of the amount harvested. According to the testifier, after deducting costs for fertilizer, fuel and labor (farm members must pay part of the personnel expenses for people sent by the state), there is actually nothing remaining for farm members.⁴⁵⁴

A testifier said that since the production was very low, he/she was only given an amount sufficient for around three to four months,⁴⁵⁵ while another testifier said that as there was little left to be distributed to farm members since the implementation of the “paddy unit responsibility” system and that it had become more difficult to secure access to food in regions with poor harvests.⁴⁵⁶

454_ NKHR2020000040 2020-10-31.

455_ NKHR2019000046 2019-07-01.

456_ NKHR2019000072 2019-08-26.

Only a few testimonies stated that work efficiency improved as the portion distributed to individuals increased due to the implementation of the “paddy unit responsibility” system.⁴⁵⁷ It has been found that the “paddy unit responsibility” system has not been very effective in a considerable number of farms as the system is not enforced by the rules. In particular, the food situation of farm members has hardly improved because official skimming continues to occur under various pretexts such as the Rice for the Military (*gullyangmi*), Patriotic Rice (*aegukmi*), Rice for the Needy (*wonhomì*) and Rice for the Shock Troops (*dolgyeogdae*) campaigns.

A North Korean defector ○○○ testified that even when the production plan is not 100% fulfilled, Rice for the Military is collected unconditionally, and there was almost nothing left after it was collected.⁴⁵⁸ Another testifier said that after Rice for the Military (*gullyangmi*) is collected, usually there is almost nothing left in the output from jointly cultivated farms to be distributed to individual farm members, and if the target quota for Rice for the Military (*gullyangmi*) is not filled with the output from jointly cultivated farms, individual farm members share the burden to fill the quota as the total target quota must be met unconditionally.⁴⁵⁹

457_NKHR2019000057 2019-07-29; NKHR20190000077 2019-09-25.

458_NKHR2019000025 2019-05-18.

459_NKHR2020000040 2020-10-31.

Another testifier said that those who used the state land had to submit 40% as Rice for the Military (*gullyangmi*), and even those who did not use the state land had to submit Patriotic Rice (*aegukmi*).⁴⁶⁰ A North Korean defector ○○○ testified that he/she submitted 15 kg of corn in the name of his/her child, and some rich families submitted one to two tons of corn and received certificates of merit.⁴⁶¹

In addition to Rice for the Military (*gullyangmi*) and Patriotic Rice (*aegukmi*), farmers submit food under diverse “support” campaigns. There were cases where around 10–20 kg of grain was collected from each farm member under the name of support for the military, school and village⁴⁶² and cases where rice and firewood were also collected for the 4.15 Support Project.⁴⁶³ A North Korean defector who defected in 2019 said that there were many cases where each household was instructed to submit a certain amount of cash assigned for national construction projects such as the Baekdusan Samjiyeon construction project, and those who could not submit cash had to provide labor instead.⁴⁶⁴ A North Korean defector submitted 2 kg of corn for a support fund for flood damage in the northern regions, 5,000 won for the Kim

460_NKHR2019000032 2019-06-03.

461_NKHR2019000057 2019-07-29.

462_NKHR2019000027 2019-06-03.

463_NKHR2019000041 2019-07-01.

464_NKHR2020000002 2020-07-04.

Il Sung/Kim Jong Il Fund project, 80 kg of corn as Rice for the Military (*gullyangmi*), 2 kg of beans as Patriotic Rice (*aegukmi*) and 2 kg of scrap metal per month for 005 (task of submitting scrap metal to produce military supplies), and when there was no scrap metal to submit, he/she paid 1,000 won in cash. In addition, he/she submitted dog fur (30,000 won) and rabbit fur (4,000–5,000 won) once every year.⁴⁶⁵ Under the Kim Jong Un regime, official skimming to support large-scale construction projects has become more frequent. Heavy official skimming is taking place at workplaces, the People’s Unit (*inminban*), the Women’s Union and schools for construction support for residences in the Wiyeon Construction District and construction support for the Samjiyeon District.⁴⁶⁶

On the other hand, some testimonies were collected stating that recently, there is almost no skimming by the state, and if it happens, it is not compulsory. A testifier who defected in 2019 said that people are told to submit Patriotic Rice (*aegukmi*) and Rice for the Capital City (*sudomi*), but collection was not unconditional, and it was more like a suggestion asking those who could to submit; the testifier said that he/she did not submit anything.⁴⁶⁷ Another testifier said that he/she never experienced

465_ NKHR2019000045 2019-07-01.

466_ NKHR2019000039 2019-07-01 and many other testimonies.

467_ NKHR2020000044 2020-10-31.

skimming by the state but submitted small amounts of cash time to time.⁴⁶⁸

Farm members who suffer from excessive collection by the state secure food through personal farming, such as farming vegetable gardens, paddy fields and small plots of land, or raise cash or purchase daily necessities by selling agricultural products.⁴⁶⁹ There were many testimonies stating that procuring food has become difficult as the farmland available for private farming has decreased due to the re-forestation projects recently pursued under the Kim Jong Un regime, under which land where trees are not planted are reclaimed by the state or prohibited for farming.⁴⁷⁰

C. Disparities in Food Rations

North Korea officially maintains a ration system. Although it is difficult to ascertain the exact situation as the North Korean authorities do not disclose relevant statistics, numerous testimonies of North Korean defectors suggest that food rations are provided in a differential and discriminatory manner to specific regions or specific occupational groups and that the supply of food rations is far below the actual demand.

The present food situation faced by North Korean people varies widely. Some can make a living with the rations, some need to

468_ NKHR2020000022 2020-07-06.

469_ NKHR2020000025 2020-07-06 and many other testimonies.

470_ NKHR2020000026 2020-07-06 and many other testimonies.

make up for the insufficient ration amount by cultivating small plots of land or through market activities and some rarely receive the rations that they need to be completely self-sustaining. Furthermore, there are variations in the ration amount and distribution cycle with some receiving rations for their own selves, some for the whole family, some regularly and some irregularly. The kinds of foods that are rationed also vary greatly, including non-glutinous rice, corn, potatoes and flour. In particular, recently, there were many cases in several workplaces where only one potato ration in a year was received.⁴⁷¹

Table III-2 Recent Receipt of Food Rations

Testimonies	Testifier ID
The testifier's mother was a doctor, but there was no food ration, so she earned money by secretly giving people injections.	NKHR2020000001 2020-05-15
The testifier worked at an honored veteran's factory, and potatoes were rationed, but the testifier did not take them because the quality was bad. The testifier's son worked at a train station, and some potatoes and corn were given as rations.	NKHR2020000019 2020-07-04
The testifier worked at two different workplaces. When working at a mine under the trade bureau, the testifier received 15-25 kg of soybean oil, ducks, eggs and rice. When working at a food factory under the military, where workers produced gifts for Kim Il Sung, Kim Jong Il and Kim Jong Un's birthdays, the testifier received food rations sufficient for two people.	NKHR2020000021 2020-07-06
The testifier worked as a nurse from 2013 to 2015 but did not receive any rations. Doctors also did not receive any.	NKHR2020000023 2020-07-06

471_NKHR2020000019 2020-07-04 and many other testimonies.

Testimonies	Testifier ID
The testifier worked as an advanced middle school teacher in a city in Yanggang Province from 2000 to 2009 and received 336 kg of potatoes (56 kg per month for six months) once in the fall.	NKHR2020000027 2020-07-06
The testifier's father was a middle school teacher but did not receive any rations.	NKHR2020000035 2020-09-05
The testifier's spouse was an MSS agent, and before the spouse died in 2014, the whole family received about 50 kg of white rice. Special rations for holidays were also sufficient.	NKHR2020000038 2020-09-26
The testifier worked at a food supply station in a coal mine from November 2017 to June 2019 and received 23.25 kg of rice as rations, but it was only enough for 15 days, considering the amount of moisture that would evaporate while transporting the rice and the amount lost while rice is processed.	NKHR2020000042 2020-10-31
The testifier's spouse was a doctor and received a rice ticket from his/her workplace (hospital), which was to be submitted at a food ration center. Corn and flour were provided as rations. Rations were provided once every 15 days, and each time, approximately a week's worth of food was rationed. As sanctions were imposed on North Korea, rations were not provided many times.	NKHR2020000047 2020-11-28
The testifier worked as an MSS agent at a political prison camp (<i>kwanliso</i>) in a city in South Pyeongan Province and received exactly 15 kg of corn per person once every month. Food rations were provided for farm members in the camp.	NKHR2020000048 2020-11-28

(1) Discriminatory Rations Based on Occupation

North Korea's rations system is not functioning properly in general. In areas where it does function, the benefits seem to be centered mainly on elite groups, preferentially to specific sub-groups within the elite group itself.

First of all, it appears that food is well distributed to Party officials, managers, MPS officers and MSS agents compared to general workers and farm members. However, it was found that

within these groups, some are able to make a living with the rations alone, while some need to make up for the insufficient ration amount by carrying out additional economic activities.⁴⁷² The Party and legal and administrative agencies have their quota (*ppont*), according to which food supplied directly from a farm is distributed among their employees.⁴⁷³ According to an explanation by a testifier, Party officials receive the largest amount, followed by Ministry of State Security employees, prosecutors and MPS officers, and their ration amount is around three to five times that for doctors or teachers. They also receive subsidiary food as well as staple food.⁴⁷⁴ It is also discriminatory because the elite group mostly receives white rice only.⁴⁷⁵ A testifier who defected in 2019 said that his/her spouse was an MSS agent, and the whole family received about 50 kg of white rice as rations, and special rations for holidays were also sufficient.⁴⁷⁶

On the other hand, it has been identified that doctors, teachers and researchers, who are generally regarded as professionals, have very poor rations compared to those working for political agencies, despite also belonging to an elite group. Among the testifiers who recently defected from North Korea, many testified

472_NKHR202000048 2020-11-28 and many other testimonies.

473_NKHR2018000006 2018-03-12.

474_NKHR2019000029 2019-06-03.

475_NKHR2019000041 2019-07-01.

476_NKHR2020000038 2020-09-26.

that they did not receive any rations although their parents were teachers or doctors.⁴⁷⁷ Some testifiers said that potatoes were given as rations once in the fall. A testifier who had worked as an advanced middle school teacher in a city in Yanggang Province from 2000 to 2009 said that he/she received 336 kg of potatoes (56 kg per month), which was six months' worth of food, once in the fall.⁴⁷⁸ A testifier whose father was a teacher also said that his/her father received one ton of potatoes per year until 2017.⁴⁷⁹ A testifier who had worked as a feldsher at a hospital said that although potato rations were given in fall, the testifier did not receive them because he/she had to bear the transportation cost and the quality of the potatoes was poor.⁴⁸⁰ A testifier who had worked as a nurse from 2013 to 2015 also testified that he/she did not receive any rations and the doctors also did not receive any.⁴⁸¹

(2) Differential Rations Based on Enterprise

Given that the food rations system does not function properly, the phenomenon where organizations such as enterprises secure food on their own for rationing has become widespread. As a result, the difference in the amount of rations that workers of each

477_NKHR2020000001 2020-05-15 and many other testimonies.

478_NKHR2020000027 2020-07-06.

479_NKHR2019000079 2019-09-25.

480_NKHR2019000029 2019-06-03.

481_NKHR2020000023 2020-07-06.

enterprise can receive is widening. Therefore, workers of enterprises that are well run or in favorable conditions receive relatively more rations. Conversely, workers of poorly performing enterprises receive less rations or none at all. Under the Kim Jong Un regime, it seems that the rations status is relatively secure for workers working at enterprises such as those engaged in businesses that earn foreign currency, exports or trade.⁴⁸² However, due to the recent reinforcement of sanctions on North Korea, there are cases where even enterprises that have provided normal rations are now experiencing a sudden aggravation of their rations situation.⁴⁸³

Workers in mines receive relatively favorable rations. North Korea has emphasized coal production in order to overcome the energy crisis. With anthracite and iron ore as North Korea's major export items, the management situation at mines has been relatively good. A testifier who defected in 2019 said that he/she had worked at a mine under the provincial trade bureau; the testifier said that he/she received good rations consisting of 15–25 kg of soybean oil, white rice, ducks and eggs, and the monthly wage was about 300,000–500,000 won.⁴⁸⁴ However, in the case of a mine in Musan, there was a testimony claiming that rations

482_NKHR202000021 2020-07-06 and many other testimonies.

483_NKHR2019000035 2019-06-03 and many other testimonies.

484_NKHR2020000021 2020-07-06.

were not provided as the export of iron ore was blocked from 2017 due to sanctions against North Korea.⁴⁸⁵

Table III-3 Cases of Deteriorating Rations from Enterprises after Sanctions against North Korea

Testimonies	Testifier ID
The testifier's spouse worked for a branch office of a tire company, and due to sanctions, the enterprise could not trade lumber and earned money through smuggling to provide food rations to workers. Until 2019, right before defecting from North Korea, the testifier received 55 kg of brown rice every month.	NKHR2019000035 2019-06-03
The testifier was working for an overseas construction enterprise and received 10 kg of rice every month, but the rations' quality worsened, and he/she received corn or potatoes from 2015 with some rotten ones mixed in.	NKHR2019000050 2019-07-20
The testifier was working for the Musan mine, and rations were not properly given as iron ore exports to China were blocked from 2017 due to sanctions.	NKHR2019000057 2019-07-29
Due to the souring relationship with China, customs closed, and oil (fuel) was not imported. As a result, the Musan mine did not operate, and there were no rations for workers from winter 2017 due to sanctions.	NKHR2019000065 2019-08-17
The testifier worked at a food supply station in a coal mine from November 2017 to June 2019. During Jang Song-thaek's lifetime, the coal mine was running well as it exported coal. As coal is no longer exported, the quality and quantity of food rations have gradually deteriorated.	NKHR2020000042 2020-10-31
The testifier who had lived in Hyesan and defected in 2019 said that as the situation worsened after trade with China was blocked, many companies closed and people's lives have deteriorated as factory enterprises are not operating.	NKHR2020000020 2020-07-04

The rations situation was found to be relatively good in the case of workers at enterprises or factories in some special fields. A testifier who defected in 2019 said that he had worked at a food

485_NKHR2019000057 2019-07-29.

factory under the military, where workers produced gifts for Kim Il Sung, Kim Jong Il and Kim Jong Un's birthdays, and while working there, the testifier received food rations sufficient for his/her family to survive.⁴⁸⁶ A North Korean defector ○○○ who had worked for a pine nut seed-gathering enterprise until 2018 said that while rations were only provided once a year in October, the rations were worth around 1,500 yuan, which was enough for daily living without having to have a separate business.⁴⁸⁷ Another testifier also said that his/her spouse was working for a state enterprise and 10 kg of rice, 2 kg of soybean oil, one pack of condiments and one bar each of face soap and laundry soap were given every month until September 2018. In addition, the testifier's spouse received 250 kg of potatoes in the fall.⁴⁸⁸

Although it was identified that the rations situation at military supply factories was satisfactory until a few years ago,⁴⁸⁹ it was recently identified that rations for workers at some military supply factories have worsened. A testifier who had worked at a military supply factory said that while it was a rule to receive 14 kg of corn every month, in recent years, wet corn was provided that only amounted to 5–6 kg when dried.⁴⁹⁰

486_NKHR2020000021 2020-07-06

487_NKHR2019000043 2019-07-01.

488_NKHR2019000002 2019-04-08.

489_NKHR2018000083 2018-08-11.

490_NKHR2019000070 2019-08-26.

Table III-4 Cases of Satisfactory Rations from Enterprises (Factories)

Testimonies	Testifier ID
The testifier worked for International Tourism Bureau until 2014 and received 21 kg of white rice, 8 kg of pork, one box of frozen seafood, oil, condiments and salt.	NKHR2019000014 2019-05-07
The testifier worked for a pine nut seed-gathering enterprise from 2016 to 2018, and while rations were provided only once a year in October, they were worth around 1,500 yuan, and the testifier could maintain his/her sustenance without having to do a side business.	NKHR2019000043 2019-07-01
The testifier's spouse worked for a state enterprise and received 10 kg of rice, 2 kg of soybean oil, one pack of condiments and a facial and laundry soap every month until September 2018. The testifier also received pollack and pork on every national holiday, as well as fruit in the fruit seasons, one box of 12 cans of beer on major holidays and 250 kg of potatoes in the fall.	NKHR2019000002 2019-04-08
The testifier worked for an export company in Hyesan and received 15 kg of corn and oil every month.	NKHR2019000058 2019-08-26
As the testifier worked as a general manager of a dried grass craft enterprise, the testifier received 50 kg of rice every month.	NKHR2019000079 2019-09-25
When the testifier was working at a mine under the provincial trade bureau, the monthly wage was about 300,000-500,000 won and he/she received good rations consisting of rice, ducks and eggs. In addition, when working at a food factory under the military, where workers produced gifts for Kim Il Sung, Kim Jong Il and Kim Jong Un's birthdays, the testifier received food rations sufficient for his/her family to survive.	NKHR2020000021 2020-07-06

In the case of most workers who worked for general enterprises (factories), there were only a few rations, or only potato rations in the fall or special rations on holidays were given. A testifier whose spouse had worked for a telecommunications bureau said that 350 kg of potatoes were given as rations once a year in the fall, and most enterprises in Yanggang Province provided potato rations. In addition, the testifier said that his/her spouse also received oil and 1 kg of meat on January 1, the Lunar New Year

holiday, 2·16 and 4·15.⁴⁹¹ A North Korean defector ○○○, whose father who was an honored veteran, had worked for the post office said that there were rations only for national holidays (Lunar New Year, 2·16, 4·15, and 4·25), and these rations were comprised of one bottle of liquor, one bottle of oil, 500 g of pork and 1 kg of bean sprouts (as of 2018).⁴⁹² Another testifier who had worked at an honored veteran's factory said that potato rations were provided, but the testifier did not take them because the potatoes were of poor quality.⁴⁹³ A testifier said that his/her spouse had worked for a province-level enterprise in Hoeryong but had not received any rations up until 2018 when he/she defected.⁴⁹⁴ A North Korean defector ○○○ who had worked for a forestation management office, a testifier whose father had worked for a road facility office, a North Korean defector ○○○ who had worked for an engineering research center, a North Korean defector ○○○ who had worked for a power plant, a testifier whose father had worked for a paper mill and a North Korean defector ○○○ who had worked for a medicinal herb factory all had not received rations.⁴⁹⁵

491_NKHR2019000079 2019-09-25.

492_NKHR2019000070 2019-08-26.

493_NKHR2020000019 2020-07-04.

494_NKHR2019000017 2019-05-07.

495_NKHR2019000027 2019-06-03; NKHR2019000042 2019-07-01; NKHR2019000047 2019-07-01; NKHR2019000062 2019-07-29; NKHR2019000059 2019-07-29; NKHR2019000077 2019-09-25.

However, even if enterprises offer relatively good rations, workers are bound to cultivate personal land or trade at the marketplace (*jangmadang*) because the rations are insufficient and irregular in many cases. A testifier whose parents were workers on a sideline field (fields that are approved by the state for residents to use for self-farming in order to solve food shortages) of a military unit said that while 30 kg of rice and 70 kg of corn were provided as rations, the family had to cultivate a small plot of around 2,500 *pyeong* to produce corn, beans and non-glutinous rice due to the food shortage.⁴⁹⁶ In particular, many North Korean people make up for the lack of food by purchasing from the market. Due to the poor wages given by enterprises, North Korean people also engage in additional economic activities in the market, among other places, to earn money needed for purchasing food.⁴⁹⁷

(3) Discriminatory Rations in the Military

North Korea has utilized the military to advocate Military First (*Seongun*) politics. One of the ways to do this is by granting priority to the military in receiving rations. As a result, the food situation of those in the military is better than that of the population at large. However, the fact that the military has priority in receiving rations does not necessarily mean that all soldiers

496_NKHR2019000118 2019-11-30.

497_NKHR2019000004 2019-04-08 and many other testimonies.

receive generous rations. This is because the difference in amount exists by region and rank.

It seems that the rations status of those working for the Border Security Command, Coast Guard, Supreme Guard Command and submarine force and air force pilots is better than that of soldiers in other military units, and military officers seem to receive relatively good rations, unlike general soldiers. A North Korean defector ○○○ whose brother-in-law was a military officer with the Border Security Command testified that there were normal rations for his family of four, including 16 kg of white rice (8 kg every 15 days) for the military officer himself and 50-60 kg of mixed grains for each of the family members.⁴⁹⁸ A testifier whose spouse was said to be a Coast Guard military officer also said that 20 kg of food for the officer himself/herself and 34 kg for the other family members were provided, which was enough for survival.⁴⁹⁹

Table III-5 Cases of Sufficient Rations at Military Units

Testimonies	Testifier ID
(Defecting in 2017) OO military unit was where the rations were the best, even among military units, with no problems with the food situation. Submarine units and air force pilots received preferential treatment, and the 974 Kim Jong Un protective guards also received favorable treatment.	NKHR2017000069 2017-08-28
(Defecting in 2017) As the testifier's spouse was a Coast Guard military officer, the rations were provided regularly. Rations included 20 kg for his/her spouse, 34 kg for the testifier and son and 3,000 won in payment.	NKHR2017000087 2017-09-25

498_NKHR2019000003 2019-04-08.

499_NKHR2017000087 2017-09-25.

Testimonies	Testifier ID
When the testifier's spouse served as an army surgeon 2017, 15 kg of rice and 17 kg of corn were provided for the whole family every month.	NKHR2018000055 2018-07-02
The testifier's brother-in-law was a military officer in the Border Security Command, and rations were normal and provided for all four family members. Rations included 16 kg of white rice for the officer himself and 50-60 kg of mixed grains (corn and flour) for each of the other family members.	NKHR2019000003 2019-04-08
The testifier's spouse was a military officer, and since the food supply from the military was decent, it was possible to live on it without an additional business. The rations were a combination of mixed grains and white rice.	NKHR2019000041 2019-07-01

However, in most military units, food is not sufficiently supplied, and furthermore, the rations status is worsening. It has been identified that some soldiers engage in deviant behavior to secure food on their own. A testifier said that there were cases where soldiers went to private houses and asked residents to give food such as potatoes or stole livestock,⁵⁰⁰ and a North Korean defector ○○○ who was a soldier testified that while soldiers were given 600 g of rations per person, they sometimes went to private houses and stole food as they were hungry, and low-level soldiers, in particular, who were given smaller food rations, sometimes stole food or ate grass.⁵⁰¹ Another testifier said that soldiers secretly sell rough diamonds produced at military bases to individuals to buy what they need.⁵⁰² In addition, there were

500_NKHR2020000001 2020-05-15 and many other testimonies.

501_NKHR2019000065 2019-08-17.

502_NKHR2020000013 2020-06-15.

testimonies of soldiers stealing from or looting private houses to obtain money they needed to purchase military uniforms or hats.⁵⁰³

It seems that the corruption prevalent in the military also plays a role in enlisted soldiers not receiving proper rations. A North Korean defector ○○○ who had served as a military officer said that low-level soldiers often had their rations amount reduced or ration items changed as officers siphoned off food. For example, if 100 kg of rice was supplied, only 50 kg of corn was rationed to the low-level soldiers.⁵⁰⁴ A North Korean defector testified that although each soldier is supposed to receive 750 g of rations per day, he/she only received 300 g, and it turned out that his/her squad leader had siphoned off the rations to sell for him/herself.⁵⁰⁵ There was a testimony reporting that while it is true that soldiers work at the farm a lot, military officers put much of the harvest in their pockets, and only a small amount is given to soldiers.⁵⁰⁶

D. Evaluation

The general assessment is that the food situation in North Korea has slightly improved since the Kim Jong Un came to power. In fact, according to the results of surveys conducted by international organizations, it appears that the nutritional status of the North

503_NKHR2019000063 2019-07-29.

504_NKHR2019000049 2019-07-20.

505_NKHR2018000095 2018-08-27.

506_NKHR2018000118 2018-10-22.

Korean people has improved compared to the past. Such improvement is partly attributable to the improvement of domestic agricultural production and the increase in imports of food from China (e.g., rice, corn and flour). However, North Korea still suffers from chronic food shortage.

The measures such as the “paddy unit responsibility” system implemented by North Korean authorities to expand food production have not led to an increase in food production. The right to food of North Korean farmers is still under threat due to various reasons including unfair allotment of paddy units, insufficient supply of farming materials such as fertilizer and farming equipment, widespread embezzlement by officials in the distribution process, excessive government procurement and planning and various forms of skimming by the state, all of which disincentivize farm members’ desire to work. However, it appears that the North Korean authorities will continue to implement the “paddy unit responsibility” system while correcting the drawbacks arising from the system’s operation in a manner suitable for situations in farms.⁵⁰⁷

507_ In 2019, Premier Pak Pong Ju ordered the careful implementation of the “paddy unit responsibility” system within the framework of the team management system during his visit to cooperative farms in Ongjin County, South Hwanghae Province. In addition, despite no direct mentioning of the “paddy unit responsibility” system, he, at the at the 8th Party Congress of the KWP held in January 2021, proposed to set the grain production target to the level equivalent to that of the compulsory state procurement plan of 2019 to encourage farm workers’ motivation for production as part of the new five-year national economic development plan. Taking the above into consideration, it is expected that the “paddy unit responsibility” system would continue to be implemented.

Rations are provided in a selective and differential manner based on occupation, institution/enterprise and region. The vast majority of the North Korean population, other than those belonging to special groups such as working for the Party and political agencies or those who are managers, military officers or workers at military supply enterprises, are no longer able to live on rations alone. Professionals including doctors and teachers as well as office clerks are no exception. The rations situation at enterprises related to the businesses earning foreign currency, exports or trade had been relatively decent, but it is also worsening as sanctions against North Korea are tightened.

This reality is pushing most North Korean people to carry out personal economic activities, such as trading in marketplaces and cultivating small plots of land to supplement the shortage of food. However, procuring food has become increasingly difficult as farmland available for private farming has decreased due to the recent re-forestation projects pursued under the Kim Jong Un regime. Taking into consideration that the North Korean border will likely remain closed due to COVID-19 and that the policy of self-reliance was adopted at the 8th Party Congress of the KWP held in January 2021 as a national management and development strategy for the next five years, it is projected that food insecurity will worsen for North Korean people.

A comprehensive and long-term approach should be adopted to solve the situation whereby North Korean people's right to food is

constantly under threat from various internal and external factors. Approaches such as improving the food security crisis through humanitarian aid and enhancing agricultural productivity by pursuing mid- to long-term development cooperation with North Korea should also be considered. In addition, cooperation in the areas of forestry, environment and disaster prevention/response should be pursued simultaneously with agricultural development cooperation to effectively enhance the improvement of the right to food of the North Korean people. Moreover, it should also be noted that sanctions against North Korea can directly and indirectly impose negative impacts on the North Korean people's right to food. For example, delays or restrictions on food aid, on humanitarian aid for goods necessary for agricultural development cooperation or on imports of fertilizer and various agricultural supplies would damage food security for North Korean people. Therefore, the international community is required to explore the ways to minimize the negative impact that sanctions against North Korea have on the right to food of North Korean people.

2

Right to Health

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

Table III-6 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	<p>The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:</p> <ul style="list-style-type: none"> (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

North Korean authorities have long paid attention to protecting the right to health of North Korean people. For example, North Korea maintains a free medical care system and emphasizes preventive medicine. In addition, for the promotion of public health, North Korea has enacted and implemented health-related laws including the Law on Public Sanitation,⁵⁰⁸ the Law on Border Sanitation Inspection,⁵⁰⁹ the Law on Food Hygiene,⁵¹⁰ the Law on Medical Care,⁵¹¹ the Medicine Control

508_ The Law on Public Sanitation of the DPRK revised and supplemented on 22 May 2014 in accordance with Ordinance 36 of the Presidium of the SPA (hereinafter the Law on Public Sanitation).

509_ The Law on Border Sanitation Inspection of the DPRK revised and supplemented on 26 September 2007 in accordance with Ordinance 2366 of the Presidium of the SPA (hereinafter the Law on Border Sanitation Inspection).

510_ The Law on Food Hygiene of the DPRK revised and supplemented on 4 April 2013 in accordance with Ordinance 3104 of the Presidium of the SPA (hereinafter the Law on Food Hygiene).

511_ The Law on Medical Care of the DPRK revised and supplemented on 20 November 2012 in accordance with Ordinance 2808 of the Presidium of the SPA (hereinafter the Law on Medical Care).

Law,⁵¹² the Public Health Law,⁵¹³ the Law on the Prevention of Epidemics⁵¹⁴ and the Law on the Protection of Persons with Disabilities.⁵¹⁵ Moreover, North Korea stated in the 2019 UPR report that it has established and implemented different plans such as the Mid-Term Strategy for the Development of the Health Sector (2016–2020), the Malaria Control Strategy (2014–2017) and the Tuberculosis Control Strategy (2014–2017) as efforts to protect the people’s right to health.⁵¹⁶

Whereas North Korean authorities appear to actively protect the people’s right to health at the institutional level and implement various related policies, it has been identified from defector testimonies that North Korean people’s right to health is not adequately guaranteed. In the following, based on the testimonies of North Korean defectors, the situation of the right to health in North Korea will be examined, focusing on the imbalance in

512_ The Medicine Control Law of the DPRK revised and supplemented on 10 December 1998 in accordance with Ordinance 251 of the Presidium of the SPA (hereinafter the Medicine Control Law).

513_ The Public Health Law of the DPRK revised and supplemented on 3 April 2012 in accordance with Ordinance 2303 of the Presidium of the SPA (hereinafter the Public Health Law).

514_ The Law on the Prevention of Epidemics of the DPRK revised and supplemented on 7 January 2015 in accordance with Ordinance 315 of the Presidium of the SPA (hereinafter the Law on the Prevention of Epidemics).

515_ The Law on the Protection of Persons with Disabilities of the DPRK revised and supplemented on 21 November 2013 in accordance with Ordinance 3447 of the Presidium of the SPA (hereinafter the Law on the Protection of Persons with Disabilities).

516_ A/HRC/WG.6/33.1, para. 36.

access to medical services, the prevalence of medical practice by private doctors and insufficient preventive medicine.

A. Imbalance in Access to Medical Services

In North Korea, clinics, which are primary medical institutions, are set up at the neighborhood and village (dong and ri) levels, and People's Hospitals, which are secondary medical institutions, are set up at the city, county and district levels. Hence, it seems that physical access to medical services for North Korean people is guaranteed to some extent.⁵¹⁷

However, despite North Korea's claim of a free medical care system, in reality, it is individuals who bear most of the cost of medical services, and as a result, there continues to be a difference in the quantity and quality of medical services that people can receive depending on their economic power. In addition, there have been continuous testimonies that class-based discrimination exists in access to medical facilities and services. In the following, testimonies of North Korean defectors will be reviewed to examine the imbalance in access to medical services based on economic power and class.

Officially, North Korea maintains a free medical care system under which all residents can receive free medical services.

517_NKHR2017000110 2017-11-20; NKHR2018000082 2018-07-30; NKHR2020000018 2020-07-04.

However, this free medical care system exists only as a formality, and in reality, it appears that individuals are responsible for most of the cost of using medical services.⁵¹⁸ The costs incurred in the course of medical treatment such as doctor consultation, hospitalization, surgery and medicine are entirely borne by individuals rather than the state.

While basic medicines are sometimes provided by hospitals free of charge, most of the prescription medicines needed for surgery are paid for by patients. People must bring their own food and bedding upon hospitalization and pay for the cost of heating. A North Korean defector ○○○ who defected in 2018 said that he/she paid 200 yuan to have his/her daughter hospitalized for an appendectomy in April 2018, and additionally, he/she personally had to buy the gauze and medical gloves to be used in the hospital and provide firewood for heating.⁵¹⁹ A North Korean defector in his/her 50s who had lived in Hyesan, Yanggang Province testified that hospitals instruct patients to buy medicines on their own, and when people bring medicines that they bought from a marketplace (*jangmadang*), doctors would administer them.⁵²⁰

In addition, it is common practice to provide medical staff with small amounts of cash or meals for their troubles during treatment

518_NKHR2020000004 2020-05-15; NKHR2020000028 2020-07-06 and many other testimonies.

519_NKHR2018000115 2018-10-22.

520_NKHR2020000027 2020-07-06.

or surgery. A teenage defector who had lived in Chongjin, North Hamgyeong Province testified that he/she visited an otolaryngologist twice for ear and head pain sometime in July and August 2019 and did not pay for the treatment on his/her first visit but paid 3,000 North Korean won as a token of gratitude on his/her second visit; according to the testifier, the doctor told him/her first that he/she must show some appreciation.⁵²¹

It seems that the amount patients pay for their treatment is not fixed. A North Korean defector who had worked as a doctor in Pyongyang until 2018 said that his/her patients personally paid him/her, but there was no standard on how much patients should pay, and patients who did not have cash paid him/her with goods such as cigarettes or bean sprouts.⁵²² There were even testimonies claiming that doctors decide the level of care based on patients' appearance or living conditions.⁵²³ A defector in his/her early 40s who defected from North Korea in 2018 testified that discrimination in medical treatment exists in North Korea, and as a result, priority of treatment is given to those with money while those without money are refused by doctors.⁵²⁴

521_NKHR2020000029 2020-07-06.

522_NKHR2020000018 2020-07-04.

523_NKHR2019000003 2019-04-08; NKHR2019000050 2019-07-20.

524_NKHR2018000105 2018-10-01.

Table III-7 Cases of Patients Charged for Medical Services

Testimonies	Testifier ID
When the testifier visited the hospital for his/her nephew/niece's appendectomy, the testifier gave the doctor one pack of cigarettes and 100 yuan for the surgery.	NKHR2019000050 2019-07-20
In 2018, the testifier gave 10 yuan and three packs of cigarettes as medical expenses for his/her spouse's X-ray examination.	NKHR2019000006 2019-04-08
The only free service is letting the patient know what he/she is suffering from. In order to receive actual treatment, individuals need to shoulder all the costs, from medicine to hospitalization bills.	NKHR2017000026 2017-05-08
A North Korean defector in his/her mid-20s who defected in 2017 testified that when he/she was hospitalized for one week, he/she had to pay gratitude to the doctor and had to pay for not only medicines but also meals and even medical cotton.	NKHR2018000029 2018-05-08
A North Korean defector in his/her late 40s who defected in 2018 had undergone an appendectomy at Hospital No. 2 in Hyesan and paid 50 yuan for the surgery. In addition, he/she had to personally pay all the costs for medicines, heating and meals.	NKHR2018000124 2018-10-27

It can be viewed that individuals inevitably bear these costs as support for medical institutions is insufficient, and medical personnel do not receive proper wages or rations. The problem is that in the absence of a medical insurance system, requiring individuals to fully bear the cost of medical services would inevitably lead to a decrease in the access to medical services for vulnerable groups. In fact, it can be confirmed from defector testimonies that there are cases where patients without money would suffer more and even die as they do not receive medical services. A North Korean defector in his/her late 40s who defected in 2018 testified that a woman in her 40s who belonged

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to the same People's Unit (*inminban*) as him/her suffered from uterine cancer and died because she could not afford the medical cost of 300 yuan.⁵²⁵ A defector in his/her early 30s who defected in 2018 testified that one of his/her neighbors was a breast cancer patient, and she suffered and died as she could not visit the hospital or use medicines due to her difficult economic situation.⁵²⁶

In addition, a North Korean defector in his/her 20s who had lived in Hyesan testified that between 2017 and 2019, his/her neighbor had swelling in her liver and her stomach was bloated, but she could not go to the hospital in time as she could not afford to pay for the treatment and eventually died.⁵²⁷ A North Korean defector in his/her 20s who defected in 2019 said that his/her neighbor who had appendicitis was refused surgery when the neighbor told the doctor that it was difficult for him/her to immediately pay for the cost of surgery (100,000 North Korean won) and was able to receive the surgery only after raising the money a week later.⁵²⁸

525_NKHR2018000124 2018-10-27.

526_NKHR2019000006 2019-04-08.

527_NKHR2020000005 2020-05-15.

528_NKHR2020000021 2020-07-06.

Table III-8

Cases of Patients Not Properly Treated Due to Lack of Money

Testimonies	Testifier ID
A North Korean defector in his/her 20s who defected in 2016 testified that his/her mother was so sick even coughing up blood but barely received medical treatment at a hospital since the medical cost was too burdensome. Consequently, she died in 2014.	NKHR2018000100 2018-10-01
In the spring of 2016, the testifier saw a homeless person with cirrhosis at the hospital who was sent away because he had no money.	NKHR2017000007 2017-04-10
In 2016, the testifier's aunt, who had mastitis, died due to lack of money for treatment. It is common to find people who are ill not being properly treated.	NKHR2019000034 2019-06-03
The testifier's mother, who had cancer, was unable to receive surgery due to financial reasons and died while receiving treatment from a person without a medical license.	NKHR2016000073 2016-05-17
In the testifier's neighborhood, a person was diagnosed with tuberculosis but did not receive proper treatment as it was not financially affordable for him/her.	NKHR2017000003 2017-04-10
A woman in her 50s who had lived in Hyesan, Yanggang Province testified that around 2016, she was recommended to have surgery for uterine fibroids but could not because it cost 500 yuan to buy a list of medications and supplies.	NKHR2020000027 2020-07-06

Furthermore, in North Korea, class-based discrimination seems to exist in terms of access to medical services. A North Korean defector in his/her early 50s who defected in 2017 testified that there were special rooms or rooms for officials in each medical department at the hospital where doctors provided extra care since there was “more to get” from the patients staying in these rooms.⁵²⁹ In addition, a North Korean defector in his/her early 30s who defected in 2018 testified that there are medical facilities dedicated

529_NKHR2018000036 2018-05-08.

to officials, and doctors and nurses working there are selected based on their competency, looks and physical build.⁵³⁰ There was also a testimony stating that there are special inpatient rooms only for officials in city and province hospitals.⁵³¹ A North Korean defector in his/her 20s who defected in 2019 also testified that there are separate medical facilities used by Party officials where doctors are also separately assigned.⁵³²

In addition, there were many testimonies reporting that a gap exists in the physical accessibility to medical facilities based on people's class. For instance, there was a testimony indicating that there are medical treatment departments that can only be used by Party officials and their families,⁵³³ a testimony stating that even if there is no separate department, hospitals provide particularly effective medications to Party officials and their families,⁵³⁴ a testimony claiming that medical services are offered with priority to Party officials⁵³⁵ and a testimony declaring that there are doctors assigned exclusively for Party officials.⁵³⁶

530_NKHR2018000107 2018-10-01.

531_NKHR2018000120 2018-10-22.

532_NKHR2020000013 2020-06-15.

533_NKHR2019000054 2019-07-29; NKHR2019000083 2019-09-25.

534_NKHR2019000055 2019-07-29; NKHR2019000076 2019-08-26.

535_NKHR2019000029 2019-06-03.

536_Above testimony.

Table III-9 Imbalance of Access to Medical Services by Class

Testimonies	Testifier ID
Chongjin Medical University Hospital has rooms and medical treatment departments that are assigned only for officials. Foreign aid supplies were available only in the rooms exclusively assigned for officials.	NKHR2017000028 2017-06-05
Namsan Hospital (Clinic) in Pyongyang is exclusively for officials. The testifier’s friend who was not an official was rejected by the hospital despite being in an emergency.	NKHR2017000031 2017-06-05
Bonghwa Clinic in Pyongyang is used only by Party officials and is equipped with high-quality facilities such as German equipment. Within the clinic, people are treated differently according to their position.	NKHR2017000033 2017-06-05
There are separate medical facilities for Party officials and high-ranking officials. Namsan Hospital (Clinic), Bonghwa Clinic, Pyongyang Red Cross Hospital, Gimmanyu Hospital, Hospital No. 1 and Hospital No. 2 are such medical facilities. Children of high-ranking officials can also access those facilities.	NKHR2017000068 2017-08-28
A defector in his/her late 40s who defected in 2018 testified that there are the City Hospital, Hospital No. 2 and Medical University Hospital in Hyesan, and the medical treatment department of the Medical University Hospital is for officials only.	NKHR2018000089 2018-08-27
Medications given in hospitals are mainly from the UN and are supplied only to officials in key positions. The testifier was told that Hyesan Medical University Hospital has separate rooms where only officials can be admitted.	NKHR2019000041 2019-07-01
A defector in his/her 50s who had lived in Hyesan, Yanggang Province testified that each hospital has a separate department that treats Party officials or secretaries.	NKHR2020000027 2020-07-06

B. Prevalence of Illegal Medical Practice by Individuals

It appears from defector testimonies that North Korean people do not receive sufficient medical services in terms of quantity or quality at medical facilities. First, the quality of medical services provided by the medical staff in medical institutions is very poor.

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There were many testimonies claiming that medical staff working in medical institutions do not have sufficient skills and that most medical equipment is either outdated or not properly maintained.

To cite an example, a defector in his/her 50s who defected in 2016 testified that in Wonsan Medical University Hospital, there were surgical instruments and ultrasound machines, but there was no heating, and surgical instruments were only conventional.⁵³⁷ In addition, a defector who had been a doctor in Pyongyang testified that misdiagnosis is frequent as diagnoses are not scientific and made at doctors' discretion, and as a result, patients often receive incorrect treatment that worsens their conditions.⁵³⁸ For this reason, North Korean people do not trust medical facilities and medical staff, and there is a widespread perception among people that they would not be properly treated even if they go to a hospital.⁵³⁹

In fact, many cases have been identified where patients faced difficulties due to misdiagnosis or incorrect treatment at hospitals. A North Korean defector ○○○ testified that in July 2016, he/she was taken to Sinpo Municipal Hospital unconscious after fainting from pain in his/her stomach, and after an X-ray, the doctor at the hospital misdiagnosed his/her condition as gastric perforation,

537_NKHR2017000013 2017-04-10.

538_NKHR2020000018 2020-07-04.

539_NKHR2017000039 2017-06-05; NKHR2020000004 2020-05-15; NKHR2020000023 2020-07-06.

and only after a laparotomy, the doctor confirmed that what he/she had was actually cholelithiasis. According to the testifier, he/she was still in pain after a gallstone operation performed by the doctor, and it was found that a surgical tool was left inside his/her stomach; the testifier was able to recover only after the tool was removed.⁵⁴⁰ Another North Korean defector testified that one of his/her neighbors, who had been initially misdiagnosed as having tuberculosis, died from liver disease in November 2017 after using the wrong medication for a month.⁵⁴¹ According to the testimony of a North Korean defector who had lived in Hyesan and defected in 2019, a 15-year-old child from his/her neighborhood who had poor eyesight lost his/her sight due to a misdiagnosis at the City Hospital; according to the testifier, nothing could have been done even if the child had been sent to a hospital in Pyongyang.⁵⁴²

Given the situation in medical institutions, North Korean people prefer to take care of their illness with their own methods rather than visit hospitals. These methods include visiting private doctors to receive treatment and purchasing and taking medicine from pharmacies referred to by those doctors, or conducting self-diagnosis and purchasing and taking medicine from marketplaces (*jangmadang*) or private pharmacies.

540_NKHR2017000070 2017-08-28.

541_NKHR2019000045 2019-07-01.

542_NKHR2020000004 2020-05-15.

Private doctors refer to doctors who provide medical services at home. Despite being illegal, it is said that North Korean people tend to prefer private doctors because they perceive private doctors as more skilled than hospital doctors.⁵⁴³ A North Korean defector in his/her mid-20s who defected in 2019 testified that his/her father ran a private clinic, and he was very skilled that sometimes he cured illnesses that could not have been treated even at hospitals; the testifier said that people in the neighborhood came to his/her father instead of visiting a hospital.⁵⁴⁴ Another North Korean defector in his/her 20s who defected in 2019 testified that hospital doctors are poorly skilled as there is nothing given to them by the state and that many people go to private doctors because they have better skills.⁵⁴⁵

However, consulting and receiving treatment from a private doctor or taking medications based on self-diagnosis also involves risks. A North Korean defector ○○○ testified that the mother of his/her friend battled tuberculosis with medicine purchased from a marketplace (*jangmadang*) from 2010 until her death in November 2016, and similarly, many people self-diagnose and buy medicine to personally treat their illness even though they have open tuberculosis that requires isolation.⁵⁴⁶ A North Korean defector

543_ NKHR2019000093 2019-10-21; NKHR2019000083 2019-09-25; NKHR2020000023 2020-07-06.

544_ NKHR2019000051 2019-07-20.

545_ NKHR2020000014 2020-06-15.

546_ NKHR2017000112 2017-11-20.

in his/her mid-40s who defected in 2018 said that he/she personally witnessed his/her younger sister undergo a curettage procedure at a private doctor's house, and the operation was carried out without any anesthetic, causing much pain for his/her sister. The testifier was allegedly shocked after knowing that the doctor would reuse the same surgical instruments for other patients after boiling them.⁵⁴⁷

Moreover, there are cases where unqualified persons perform procedures or sell medicines, and such illegal medical practices can have a fatal or adverse effect on the health of the general public. A North Korean defector in his/her early 30s who defected in 2018 said that he/she ran a private hospital, but the only formal medical education he/she had ever received was six months of studying at a nursing school, and he/she treated patients by teaching him/herself with the help from a manager working for a provincial hospital she knew.⁵⁴⁸ A defector in his/her 60s who defected in 2019 testified that there were people who treated patients at home even though they had been to medical school, and there were people who treated others by studying themselves.⁵⁴⁹ A defector in his/her 50s who had lived in Hyesan and defected in 2019 testified that his/her daughter, who did not graduate from medical school, treated patients at home after learning from

547_NKHR2018000074 2018-07-30.

548_NKHR2018000101 2018-10-01.

549_NKHR2020000025 2020-07-06.

another person for 700,000 won.⁵⁵⁰ There were testimonies that crackdowns on medical practices and medicine sales by unqualified persons have increased or strengthened in recent years.⁵⁵¹ It remains to be seen how effective such measures will be.

In addition, it seems that North Korean people continuously tend to use drugs (*bingdu*) and opium for treatment purposes based on incorrect medical knowledge. A North Korean defector in his/her 20s who defected in 2019 testified that his/her father had kidney disease, and he used opium once or twice a month when the pain was too severe.⁵⁵² A North Korean defector in his/her late 50s who defected in 2018 said that his/her spouse was suffering from bronchiectasis and used opium as medicine.⁵⁵³ A defector in his/her 60s who defected in 2019 testified that his/her spouse used drugs (*bingdu*) because he/she showed the symptoms of cerebral thrombosis.⁵⁵⁴

The use of narcotics for treatment based on false medical knowledge appears to cause considerable side effects, but it is evaluated that North Korean authorities are not taking sufficient measures in this matter. A North Korean defector in his/her 30s who defected in 2019 testified that in Bocheon, Yanggang Province,

550_NKHR2020000024 2020-07-06.

551_NKHR2020000018 2020-07-04; NKHR2020000023 2020-07-06.

552_NKHR2020000020 2020-07-04.

553_NKHR2018000127 2018-11-19.

554_NKHR2020000021 2020-07-06.

opium is used more often than drugs (*bingdu*), and there are households that secretly sell opium; he/she said that although the punishment is severe if one gets caught selling opium, everything can be solved through bribery.⁵⁵⁵

C. Insufficient Preventive Medicine

Based on the testimonies of North Korean defectors, it seems that the vaccination of young children is carried out relatively well in North Korea. A defector in his/her 30s who had lived in Hyesan testified that his/her child was vaccinated in 2018–2019 against diseases such as polio, tuberculosis, hepatitis, measles and typhoid at a local clinic at the age of five to six years. Many other testifiers said that vaccinations are being carried out.⁵⁵⁶ The WHO also reported that the vaccination rate for children in North Korea was 96–98% as of 2019.⁵⁵⁷

In addition, it appears that in the event of an epidemic such as typhoid, North Korean authorities take measures to prevent the spread of the infectious disease, such as carrying out region-based vaccinations, encouraging health checkups and implementing isolation measures. A North Korean defector in his/her late 50s

555_NKHR2020000006 2020–05–15.

556_NKHR2018000059 2018–07–02; NKHR2019000014 2019–05–07; NKHR2019000020 2019–05–07; NKHR2019000030 2019–06–03 and many other testimonies.

557_ "WHO Vaccine-preventable Diseases: Monitoring System. 2020 Global Summary," <http://apps.who.int/immunization_monitoring/globalsummary>, 2020 (Accessed 15 January 2020).

who defected in 2018 said that when a typhoid epidemic broke out in Hyesan in April 2018, the authorities vaccinated the residents in the area.⁵⁵⁸ Another defector testified that when there was a flood in 2016, the city authorities of Hoeryong encouraged the residents to receive health checkups due to concerns about water pollution.⁵⁵⁹

In addition, one North Korean defector who defected in 2015 testified that Pyongyang offers vaccinations when infectious diseases such as SARS or cholera break out.⁵⁶⁰ There was also a testimony stating that local clinic staffs visited every house early every morning to give vaccination shots when typhoid broke out in 2016–2017.⁵⁶¹

On the other hand, two North Korean defectors who had lived in Hyesan testified that in an outbreak of an infectious disease, the authorities only propagandized its actions through lectures as if measures have been taken while not actually implementing measures such as quarantine; it seems that there are differences in the details of measures depending on the region or period.⁵⁶²

Meanwhile, infectious diseases such as tuberculosis, malaria and hepatitis B appear to be still prevalent in North Korea. As mentioned before, North Korea has announced that it has

558_NKHR2018000120 2018-10-22.

559_NKHR2017000024 2017-05-08.

560_NKHR2017000033 2017-06-15.

561_NKHR2019000059 2019-07-29.

562_NKHR2020000027 2020-07-06; NKHR2020000028 2020-07-06.

implemented the Malaria Control Strategy (2014–2017) and the Tuberculosis Control Strategy (2014–2017). However, it is assessed that no tangible effect has been produced.

Tuberculosis is known to be particularly serious in North Korea. According to the Global Tuberculosis Report 2020 published by the WHO, the number of tuberculosis patients in North Korea reached 132,000 in 2019, which is 513 cases per 100,000 persons and the fifth highest ranking in the world.⁵⁶³

Having a supply of clean drinking water is very important in terms of preventing infectious diseases. However, it seems that there are not enough water supply facilities in North Korea, and the quality of water provided by the existing water supply facilities is assessed to be poor.

First of all, some North Korean defectors used well water or river water as drinking water as there was no proper water supply system.⁵⁶⁴ A North Korean defector in his/her 20s who had lived in Hyesan said that he/she drank water from a local well and from Amnok River (*Amnokgang*) when the well froze during winter. According to the testifier, the quality of water from Amnok River (*Amnokgang*) is poor so he/she boiled the water before drinking it, and he/she usually caught colitis when he/she drank the water without boiling it around the time when the ice melted.⁵⁶⁵

563. See WHO, "Global Tuberculosis Report 2020," <www.who.int/en>.

564_NKHR2020000026 2020-07-06; NKHR2020000027 2020-07-06.

565_NKHR2020000023 2020-07-06.

On the contrary, some defectors bought drinking water from spring water stores.⁵⁶⁶ A North Korean defector in his/her 20s who had lived in Hyesan and defected in 2019 said that he/she bought water from a spring water supply station, and the price was not too burdensome.⁵⁶⁷ There are people who said that they had used tap water as drinking water.⁵⁶⁸ Considering that those who had bought drinking water testified that the quality of tap water was not good, it appears that residents who use tap water as drinking water are also likely to be exposed to infectious diseases.

There were some testimonies saying that the district doctor system, which has been implemented primarily for preventive medicine purposes, fulfills its function at a certain level.⁵⁶⁹ Defector testimonies confirmed that district doctors play certain roles such as giving vaccinations in case of an infectious disease outbreak⁵⁷⁰ and checking for sick people in People's Units (*inminban*).⁵⁷¹

However, the majority of North Korean defectors reported that district doctors do not faithfully perform their duty to manage the

566_NKHR2020000012 2020-06-15; NKHR2020000029 2020-07-06.

567_NKHR2020000001 2020-05-15.

568_NKHR2020000004 2020-05-15; NKHR2020000020 2020-07-04; NKHR2020000020 2020-07-04.

569_NKHR2019000018 2019-05-07; NKHR2019000010 2019-04-08; NKHR2019000062 2019-07-29.

570_NKHR2018000016 2018-04-09; NKHR2020000004 2020-05-15; NKHR2020000029 2020-07-06.

571_NKHR2018000080 2018-07-30; NKHR2019000032 2019-06-03.

health of North Korean people.⁵⁷² Some said they have only heard of district doctors but have never actually met them,⁵⁷³ and some testified the district doctor system is in operation only as a formality and is not of much use unless one has money.⁵⁷⁴ A North Korean defector in his/her 20s who defected in 2019 testified that district doctors are in charge of vaccination but are not active in fulfilling their duties because there is no money paid to them by the state, and that district doctors personally visit households that have something to give them.⁵⁷⁵ There were even quite a number of testimonies reporting that the residents are not well aware of the district doctor system.⁵⁷⁶ A North Korean defector who defected in 2019 testified that he/she had known about district doctors because his/her friend's uncle was a district doctor in charge of his/her house, but there are many people who do not know about the district doctor system.⁵⁷⁷

572_ NKHR2015000018 2015-01-27; NKHR2015000019 2015-01-27; NKHR2018000084 2018-08-11; NKHR2018000099 2018-10-01; NKHR2019000011 2019-04-20; NKHR2019000019 2019-05-07.

573_ NKHR2017000058 2017-07-31; NKHR2017000066 2017-08-28; NKHR2018000018 2018-04-09; NKHR2018000058 2018-07-02.

574_ NKHR2017000004 2017-04-10.

575_ NKHR2020000014 2020-06-15.

576_ NKHR2019000009 2019-04-08; NKHR2019000020 2019-05-07; NKHR2019000034 2019-06-03; NKHR2019000038 2019-06-15; NKHR2019000042 2019-07-01; NKHR2019000045 2019-07-01; NKHR2019000046 2019-07-01; NKHR2019000048 2019-07-01 and many other testimonies.

577_ NKHR2020000020 2020-07-04.

D. Evaluation

North Korea maintains a free medical care system by law. However, in reality, most of the costs incurred in the process of providing medical services is borne by patients. As a result, it seems that economically disadvantaged people do not receive adequate medical care when they are sick or injured, and end up dying in serious cases. In addition, it appears that class-based discrimination when trying to access medical services continues to exist.

Furthermore, it appears that due to the poor quality of medical services, residents no longer trust medical institutions and tend to visit private doctors or buy medicine themselves instead of going to hospitals when they are ill. However, it is worrisome that such illegal medical practices by individuals can lead to misdiagnosis or medical negligence in the process of treatment and procedures.

Meanwhile, North Korea places great importance on preventive medicine and appears to actually carry out relevant preventive medical measures including vaccination. There were also testimonies that the district doctor system is partially working, and district doctors perform some of their duties such as providing sanitation education and vaccination in case of an infectious disease outbreak. However, it has been identified that the district doctor system is not fully functioning as there were still many testifiers who had never seen or heard of district doctors. In addition, it

appears that many residents use poor-quality tap water, well water and river water as drinking water, which is a practice that needs urgent improvement in terms of epidemic prevention.

Part I

Part II

Part III
The Reality of Economic, Social and Cultural Rights

Part IV

Part V

3

Right to Work

Article 23, paragraph 1 of the UDHR stipulates that “everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.” Article 24 provides that “everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.” Moreover, the ICESCR also stipulates rights including the right of everyone to freely choose work, the right of everyone to enjoy just and favorable working conditions and the right to form and join trade unions (Articles 6 to 8).

Table III-10

Articles 6, 7 and 8 of the ICESCR

Paragraph 1	The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.	Part I
Article 6 Paragraph 2	The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social, and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.	Part II
Article 7	<p>The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable 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>	Part III The Reality of Economic, Social and Cultural Rights
Article 8 Paragraph 1	<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>	Part IV Part V

	<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>
Paragraph 2	This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
Paragraph 3	Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

The purpose of guaranteeing the right to work is to ensure the survival of individuals and their families. In general, the right to work is reviewed in terms of freedom to choose jobs,⁵⁷⁸ decent work,⁵⁷⁹ prohibition of forced labor,⁵⁸⁰ prohibition of unfair

578. UN CESCR, General Comment, No. 18 (2005), para. 6. This right “includes 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.”

579. *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.”

580. *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.”

dismissal⁵⁸¹ and principles of non-discrimination.⁵⁸² The right to form and engage in trade unions voluntarily and the right to strike are also important aspects of the right to work.⁵⁸³

North Korea clearly prescribes individuals' "right to work" in its Constitution, Labor Law⁵⁸⁴ and other laws. With respect to the right to work, the North Korean Constitution provides, "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 shall work based on their abilities and receive compensation based on the amount and quality of their labor" (Article 70). In addition, the North Korean Labor Law prescribes basic principles, wages, working conditions, protection of workers, social security and other rules of socialist labor. North Korea's Labor Protection Law (adopted on 8 July

581_ *Ibid.*, para. 11. "ILO Convention No. 158 concerning Termination of Employment (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."

582_ *Ibid.*, para. 12. (b) (i). Under its 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."

583_ ICESCR, Article 8, para. 1.

584_ The Labor Law of the DPRK revised and supplemented on 30 June 2015 in accordance with Ordinance 566 of the Presidium of the SPA (hereinafter the Labor Law).

2010)⁵⁸⁵ specifies in detail various institutional measures to protect the lives and health of workers. However, the reality of North Korea is far from its laws and institutional guarantees. Based on defector testimonies, this chapter confirms that the right to work, including the freedom to choose one's job, provision of quality jobs and freedom to establish and join labor unions, is not guaranteed in North Korea.

A. Violation of Freedom to Choose One's Job

The UDHR stipulates that everyone has the right to freely choose his or her job (Article 23). Furthermore, the ICESCR stipulates that everyone can freely choose his or her work (Article 6). In the case of North Korea, freedom to choose one's job is stipulated in the Labor Law. In reality, however, freedom to choose one's job is extremely restricted in North Korea.

In North Korea, workers do not choose jobs or workspaces freely, but rather, the state assigns workers to workplaces. Manpower is allocated by the Ministry of Labor after the State Planning Committee determines the number of workers required for each sector of the economy based on a labor plan.

According to testimonies of North Korean defectors, it seems that one's will and abilities are not important factors in assigning

585_ The Labor Protection Law of the DPRK revised and supplemented on 5 March 2014 in accordance with Ordinance 3292 of the Presidium of the SPA (hereinafter the Labor Protection Law).

jobs.⁵⁸⁶ Rather, it has been identified that workplace placement depends on family background (*todae*) and background (*songbun*), personal connections and bribery (economic power).⁵⁸⁷ Although there were some who responded that one's will or abilities are reflected in job placement,⁵⁸⁸ such cases seem to be limited to cases where the person has a good family background (*todae*) and background (*songbun*), personal connections or when the person is capable of paying bribes. A testifier who defected from North Korea in 2019 testified that he/she paid bribes and used his/her father's connections to get a job he/she wanted.⁵⁸⁹

Recently, there were testimonies claiming that economic power plays a more important role than one's family background (*todae*).⁵⁹⁰ However, considering that in many cases job placements are organized so that parents' or grandparents' jobs are passed on to their children or grandchildren,⁵⁹¹ it is assessed that one's family background (*todae*) still plays an important role in job placement. A testifier who defected from North Korea in 2019

586_ NKHR2020000028 2020-07-06; NKHR2020000029 2020-07-06.

587_ NKHR2019000003 2019-04-08; NKHR2019000013 2019-05-07; NKHR2019000054 2019-07-29; NKHR2020000028 2020-07-06; NKHR2020000029 2020-07-06 and many other testimonies.

588_ NKHR2019000004 2019-04-08; NKHR2019000026 2019-05-18; NKHR2019000032 2019-06-03.

589_ NKHR2020000021 2020-07-06.

590_ NKHR2018000058 2018-07-02; NKHR2019000013 2019-05-07; NKHR2019000024 2019-05-18; NKHR2019000045 2019-07-01; NKHR2019000054 2019-07-29; NKHR2019000078 2019-09-25.

591_ NKHR2018000067 2018-07-11; NKHR2019000008 2019-04-08; NKHR2019000011 2019-04-20; NKHR2019000045 2019-07-01.

said that if parents are farm members, their children are also assigned to farms unless they offer a bribe of 400 to 500 dollars and that children of farm members mostly become farm members as well because farm members are usually in economically difficult situations and cannot afford to pay bribes.⁵⁹²

Family background (*todae*) seems to play a particularly important role in being assigned to special-grade enterprises or becoming an official.⁵⁹³ A North Korean defector ○○○ testified that family background (*todae*) is important for people to be assigned to the Prosecutors' Office, MPS city/county branches, the People's Committee and county Parties, and economic power is important for the rest of the other occupations.⁵⁹⁴

In North Korea, the most common example of the violation of one's right to choose his/her job is that most job placements are based on group allocation. Group allocation refers to a situation where people are forcibly and unilaterally assigned to groups, under the direction of the state and regardless of individual will, to places where there is shortage of manpower, such as factories, coal mines and various construction sites and workplaces. School graduates and discharged soldiers have been common targets of group allocation, and they are mostly assigned to undesirable

592_NKHR2020000022 2020-07-06.

593_NKHR2017000019 2017-05-08; NKHR2017000056 2017-07-31; NKHR2017000073 2017-08-28; NKHR2018000008 2018-03-12.

594_NKHR2019000068 2019-08-26.

workplaces, such as shock troops (*dolgyeogdae*), mines, military supplies factories, farms and construction units.⁵⁹⁵ It is said that once a person is assigned to a job based on group allocation, he/she is not permitted to request placement at another workplace.⁵⁹⁶

It seems that group allocations are also carried out in a discriminatory manner. North Korean defectors testified that those being subject to group allocation are mainly people without money or power;⁵⁹⁷ those with power, such as wealthy people or children of officials, are easily exempted from group allocation,⁵⁹⁸ and people must have a good family background (*todae*) or offer bribes in order to avoid group allocation.⁵⁹⁹

In North Korea, it is also difficult for workers to change their jobs based on their own will. It is not impossible for one to change jobs, but one cannot freely change his/her occupation, and the procedure is complicated and time-consuming.⁶⁰⁰ A North Korean defector who defected in 2019 explained that one can change his/her job if he/she receives an employment certificate from the enterprise that he/she wants to move to and a dispatch certificate

595_ NKHR2018000030 2018-05-07; NKHR2019000003 2019-04-08; NKHR2019000011 2019-04-20; NKHR2019000036 2019-06-03; NKHR2020000029 2020-07-06.

596_ NKHR2020000008 2020-05-16; NKHR2020000010 2020-05-16.

597_ NKHR2018000041 2018-06-04; NKHR2019000043 2019-07-01; NKHR2020000014 2020-06-15.

598_ NKHR2018000027 2018-04-09; NKHR2019000078 2019-09-25; NKHR2019000083 2019-09-25.

599_ NKHR2019000058 2019-07-29; NKHR2019000079 2019-09-25; NKHR2020000014 2020-06-15; NKHR2020000029 2020-07-06.

600_ NKHR2019000064 2019-08-17.

from the Ministry of Labor, which is issued based on the said employment certificate.⁶⁰¹

On the other hand, it appears that changing jobs is easier if bribes or personal connections are used. A North Korean defector testified that he/she had worked at a food factory and moved to a cafeteria within a mine under a provincial trade bureau in 2017, and he/she was able to have his/her documents processed by giving about 20,000 won to a labor officer who worked at the site where he/she wanted to move to.⁶⁰²

In addition, North Korean workers must turn up to work where they are assigned to, and anyone who is absent without notice for more than a certain period of time is subject to re-educational labor discipline; it has been identified that the amount of time a person is sent to a labor training camp (*rodongdanryundae*) is determined in accordance with the period of time the person has been absent from his/her work without prior notice.⁶⁰³ A North Korean defector said that in 2015, he/she witnessed a female worker who had been absent from work for about a month without notice being sentenced to one month of imprisonment in a labor training camp (*rodongdanryundae*).⁶⁰⁴ In addition, there was a testimony claiming that in 2016, the testifier witnessed a person

601_NKHR2020000028 2020-07-06.

602_NKHR2020000021 2020-07-04.

603_NKHR2019000036 2019-06-03; NKHR2019000082 2019-09-25.

604_NKHR2017000036 2017-06-05.

who had been absent from work without notice being caught during an MPS city/county branch crackdown and sent to a labor training camp (*rodongdanryundae*) for three months.⁶⁰⁵ There was also a testimony stating that the testifier saw many cases where people were sent to labor training camps (*rodongdanryundae*) for being absent from work on the farm without notice for one to three months.⁶⁰⁶ Forcing people to perform labor regardless of their will by imposing disadvantages if they do not carry out the work constitutes a violation of human rights.

However, as corruption is rampant in North Korea, it appears that there are cases where people evade crackdowns by paying money⁶⁰⁷ and that there are many workers who do not go to work after making an agreement with their workplace where they would pay money instead.⁶⁰⁸ A North Korean defector who defected in 2019 testified that his/her spouse paid his/her workplace 500 yuan per year for not going to work; according to the testifier, the amount one must pay varies depending on the circumstances and workplace, but in general, young people whose families have money often pay part of their profits to their assigned workplaces and miss work.⁶⁰⁹

605_NKHR2019000016 2019-05-07.

606_NKHR2020000022 2020-07-06.

607_NKHR2018000095 2018-08-27; NKHR2019000038 2019-06-15; NKHR2019000052 2019-07-20.

608_NKHR2019000039 2019-07-01; NKHR2019000047 2019-07-01; NKHR2019000057 2019-07-29; NKHR2020 000019 2020-07-04.

609_NKHR2020000006 2020-05-15.

B. Poor Working Environment and Pay Conditions

The most important factors that must be considered in determining whether work is “decent” are whether the work ensures a decent living for the worker and his/her families and whether it guarantees safe and healthy working conditions (Article 7 of the ICESCR). North Korea declares that all workers are guaranteed stable jobs and safe working conditions by the state. However, the reality is quite different from what North Korea claims.

To begin with, it is difficult for a worker and his/her family to maintain a decent life with the income earned from working at an assigned workplace. It has been identified that most North Korean people are working without pay at their assigned workplaces or farms and that even if wages are paid, in most cases, the amount is so small that it is not conducive to maintaining their family’s livelihood.⁶¹⁰ In some cases, rations are provided, but they too are insufficient to make a living.

A North Korean defector ○○○ who had worked for a post office testified that the wage was about 2,000–3,000 won per month, and a year’s worth of rations was given once a year up until 2017; the testifier said that in the case of Musan, rations were cut since 2018 as operations at mines were suspended due to the economic blockade.⁶¹¹ A North Korean defector who had worked

610_NKHR2019000013 2019-05-07 and many other testimonies.

611_NKHR2019000071 2019-08-26.

at a coal mine in Bukchang County from November 2017 to June 2019 testified that he/she received monthly food rations for his/her work.⁶¹² Another testifier said that his/her spouse who had worked as a doctor received approximately 4,000 North Korean won per month in addition to food rations, but the testifier's spouse did not care much about the money because the amount was too small.⁶¹³

Meanwhile, there were some testimonies reporting that the testifiers received wages in foreign currency (yuan or dollar) in an amount just enough to maintain their livelihood; however, it is understood that such cases occur only exceptionally for those working in enterprises or workplaces involved in exporting or in special economic zones.⁶¹⁴

Table III-11 Wage Payment in North Korea

Testimonies	Testifier ID
When the testifier was working as a nurse from 2015 to 2017, he/she received a wage of 1,000 won approximately once every two months. Originally the testifier was supposed to receive 2,450 won every month, but what he/she actually received was 1,000 won after deductions. The testifier received a monthly ration of 6 kg of corn, which was 15 days worth of food.	NKHR2018000102 2018-10-01
A testifier born in 1994 who had worked as a bookkeeper at a middle school in Yanggang Province in 2016 testified that he/she received a monthly wage of 1,300 won every quarter. The testifier said that he/she also received 300 kg of potatoes every fall as rations.	NKHR2019000044 2019-07-01

612_ NKHR2020000042 2020-10-31.

613_ NKHR2020000047 2020-11-28.

614_ NKHR2019000043 2019-07-01; NKHR2019000060 2019-07-29; NKHR2019000072 2019-08-26; NKHR2020000021 2020-07-06.

Testimonies	Testifier ID
The testifier received his/her wage every 15 days in cash, which was enough to buy 500–1,000 g of rice.	NKHR2018000042 2018-06-04
Since the testifier could not make a living and support his/her family with the wage he/she received from work, he/she worked on vegetable gardens or small farms to make up for the shortage.	NKHR2018000065 2018-07-11
In the case of forestry offices, 5–10 kg of corn and wheat rice were provided on a monthly basis as rations, and 1,500 won was given for living expenses.	NKHR2018000079 2018-07-30
A testifier born in 1997 who had worked at the Ministry of State Security testified that his/her monthly wage was 1,200 won but after deducting Party expenses, there was almost nothing left for her to receive. The testifier said that rations were not given separately since he/she had three meals a day at his/her workplace.	NKHR2019000080 2019-09-25
A testifier born in 1995 who had worked as a nurse testified that all staff working at a hospital do not receive rations or wages and live on bribes offered by patients in the process of treatment.	NKHR2019000082 2019-09-25
A testifier born in 1994 who had worked for the Information and Communications Bureau testified that he/she received 1,000 won as a formality, which was just enough to pay for candies.	NKHR2019000083 2019-07-29
A testifier who defected from North Korea in 2019 testified that he/she had not received anything other than two rations of potatoes while he/she was working at a housing repair company for eight years.	NKHR2020000008 2020-05-16

As it has become difficult for workers to earn a livelihood with the income earned from their official workplace, it became common for workers to engage in various economic activities linked to the market. A North Korean defector ○○○ testified that although his/her father received wages and rations, they were not enough to make a living, so his/her mother earned cash by selling vegetables at a marketplace (*jangmadang*).⁶¹⁵ A North

615_NKHR2018000043 2018-06-04.

Korean defector ○○○ explained that while people receive wages in return for their labor, they make their living by farming and trading since the wages are not enough to sustain their livelihood.⁶¹⁶ A North Korean defector in his/her late 20s who had lived in Pyongyang testified that he/she was registered as an “8·3 worker” at an enterprise and made a living by running a table tennis room after renting a space in the enterprise or by investing in a private factory and receiving proceeds from its operation.⁶¹⁷

Safe and healthy working conditions are also insufficiently guaranteed in North Korea. First, it seems that working conditions for workers are extremely poor, and workers are often exposed to danger. A North Korean defector ○○○ testified that the working environment at his/her workplace was very poor that there were no uniforms; he/she wore his/her own clothes to work. Therefore, he/she could not have expected to receive a safety helmet, and workers were required to buy everything with their own money.⁶¹⁸ A testifier who defected from North Korea in 2019 testified that when he/she was working as a heavy equipment driver, he/she was not provided with safety equipment such as a safety helmet and was put into field work without any prior training.⁶¹⁹ Moreover, a North Korean defector ○○○ who had participated in a

616_NKHR2019000029 2019-06-03.

617_NKHR2017000031 2017-06-05.

618_NKHR2018000036 2018-05-08.

619_NKHR2020000016 2020-07-04.

production unit that handled gunpowder testified that although he/she was provided with masks and working gloves, he/she did not receive separate a work uniform and that there were many cases where people developed illnesses after working for two to three years because of the harmful working environment. However, the testifier said that he/she received quarterly training on work safety rules as the unit handled explosives.⁶²⁰

North Korea stipulates working conditions such as working hours and rest breaks by law. According to defector testimonies, it appears that such rules are well observed in some areas but not in other areas.

Average daily working hours stipulated in the law have become more or less meaningless at many workplaces. These include companies that do not have much work as their factory operation rate has decreased significantly due to shortages of electricity and raw materials and deterioration of facilities.⁶²¹ There were many testimonies reporting that daily working hours of a company with a high utilization rate is approximately eight hours.⁶²² A North Korean defector who had worked at a post office said that he/she had worked hours hours a day,⁶²³ and another defector who had worked for a company testified that he/she had worked a total of

620_NKHR2019000070 2019-08-26.

621_NKHR2016000103 2016-06-28; NKHR2016000135 2016-08-22.

622_NKHR2018000036 2018-05-08; NKHR2019000003 2019-04-08; NKHR2019000070 2019-08-26; NKHR2019000082 2019-09-25.

623_NKHR2018000026 2018-04-09.

eight hours a day.⁶²⁴ A North Korean defector ○○○ who had worked as a bookkeeper at a seed-gathering company testified that he/she worked from 8 am to 3 pm.⁶²⁵

In contrast, some testifiers claimed that they had to work long hours. A North Korean defector who had worked for a factory to manufacture military supplies said that he/she had to work for 15–16 hours a day,⁶²⁶ and a North Korean defector ○○○ who had worked in a mine said that there were no set working hours, and he/she worked from 5 am when he/she work up to 7 pm at the earliest and 10 pm at the latest.⁶²⁷ A testifier who defected from North Korea in 2019 testified that he/she worked 12–13 hours a day when he/she was working as a heavy equipment driver but received no compensation for overtime hours.⁶²⁸ There was also a testimony claiming that the testifier worked from 4 am to 11:30 pm when he/she was working in a mine between 2016 and 2017.⁶²⁹ In addition, there were many testimonies that the eight-hour work day rule is also not applied to farm members and that farm members have to work late at night or early before breakfast during busy farming seasons.⁶³⁰

624_NKHR2018000043 2018-06-04.

625_NKHR2019000043 2019-07-01.

626_NKHR2018000003 2018-03-12.

627_NKHR2018000005 2018-03-12.

628_NKHR2020000016 2020-07-04.

629_NKHR2020000021 2020-07-06.

630_NKHR2019000008 2019-04-08; NKHR2019000027 2019-06-03; NKHR2019000046 2019-07-01.

Similar to working hours, rest breaks for workers also differ from workplace to workplace. Among North Korean defectors, some were able to use the legally guaranteed 15-day annual leave,⁶³¹ while others could not actually use it although there were relevant regulations.⁶³² There was a testimony reporting that 15 days of paid leave was given only to those who had not been absent until October or November.⁶³³ There was also a testimony stating that there was no concept of annual leave at the testifier's workplace because workers often did not show up for work as they were busy earning money at other places.⁶³⁴

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

Article 8, paragraph 1 of the ICESCR stipulates that State Parties must ensure the right to form and join trade unions as well as the right to strike. However, free labor unions that protect and represent the interests of workers do not exist in North Korea. Although there is the General Federation of Trade Unions of Korea (hereinafter the Federation of Trade Unions), the Federation

631_NKHR2019000019 2019-05-07; NKHR2020000021 2020-07-06; NKHR2020000027 2020-07-06.

632_NKHR2019000023 2019-05-18; NKHR2019000045 2019-07-01; NKHR2019000065 2019-08-17.

633_NKHR2019000070 2019-08-26.

634_NKHR2017000135 2017-12-18.

of Trade Unions, which is under the control of the KWP, is an organization that is different from trade unions in capitalist societies in that it carries out labor control functions, such as implementing projects for labor protection or worker education, promoting productivity and strengthening labor discipline.⁶³⁵ Furthermore, North Korean workers are not guaranteed the right to independent association, the right to collective bargaining or the right to collective action.

Given the circumstances, it appears that there are no meetings or activities that represent the opinions of workers in workplaces. North Korean defectors testified that this kind of gathering is unimaginable⁶³⁶ and that forming a labor union or negotiating wages is impossible.⁶³⁷ Testimonies were collected indicating that workers' unions other than those approved by the state are not allowed⁶³⁸ and that people would not even try to establish one as they would be punished for it.⁶³⁹ There was also a testimony claiming that the testifier had never witnessed people complaining in a group about their work life.⁶⁴⁰ Therefore, it is difficult to find a case where a representative of workers and the manager of a

635_ Gang-sik Kim, *Labor in North Korea* (Seoul: Jipmoon, 2003), p.155. (In Korean)

636_NKHR2019000011 2019-04-10 and many other testimonies.

637_NKHR2018000005 2018-03-12.

638_NKHR2019000055 2019-07-29.

639_NKHR2019000008 2019-04-08.

640_NKHR2019000068 2019-08-26.

workplace engage in discussions to improve the working environment, and the level of awareness among North Korean people of related rights is also estimated to be very low.⁶⁴¹

D. Evaluation

It appears that North Korean workers are not sufficiently guaranteed their labor rights. First of all, as clearly indicated in the practice of group allocation, North Korean authorities unilaterally assign people to workplaces without guaranteeing them freedom to choose jobs according to their abilities and desires. Moreover, it is not easy for workers to leave assigned workplaces on their own will.

North Korea also does not ensure the right to work under favorable working conditions and the right to receive just compensation for work performed. In reality, wages are not paid to workers, and since workers are not able to stably support their families with the income from their official workplace, they are forced to engage in separate economic activities to sustain their lives and the lives of their families. Rules concerning working conditions, such as working hours or periodic holidays, are also not sufficiently adhered to. In addition, freedom to form, join and withdraw from trade unions is also not protected, and as a result,

641_NKHR2017000019 2017-05-08 and many other testimonies.

workers are put in a situation where they cannot demand their workplaces to improve the working environment or unreasonable treatment imposed on them.

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Right to Education

The right to education is the right of everyone, not only children. The right to education includes not only the right to public or regular education but also the right to private or non-traditional education. It also includes the right of all members of society to receive lifelong education. 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, refers to the right to education as follows:

Table III-12 Article 13 of the ICESCR

Paragraph 1	The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.t
Paragraph 2	The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

	<p>(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;</p> <p>(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;</p> <p>(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.</p>
Paragraph 3	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.

Article 73 of the North Korean Constitution stipulates that “citizens have the right to education. This right is ensured by the education system and educational polices enacted by the state for the benefit of the people.” In addition, the Education Law, the Law on General Education and the Higher Education Law⁶⁴² specify matters pertaining to the free compulsory education system based on socialist pedagogy. However, the reality is far different from what is stipulated in these regulations.

642_The Education Law of the DPRK (hereinafter the Education Law), the Law on General Education of the DPRK (hereinafter the Law on General Education), the Higher Education Law of the DPRK (hereinafter the Higher Education Law), revised and supplemented on 23 December 2015 in accordance with Ordinance 848 of the Presidium of the SPA.

After Kim Jong Un took power, North Korea enacted and amended laws and established policies in the direction of normalizing public education and improving the quality of education. In the third cycle of the UPR in 2019, North Korea reported that it had established the 5-Year Strategy for the Development of Education (2016–2020) after developing the National Strategy for the Development of Education (2015–2023) in 2014 and has endeavored to improve the educational environment and conditions under the Action Plan for the Improvement of the Quality of Primary and Secondary Education (2017–2020).⁶⁴³ Although North Korea has increased its investment in education and implemented policies to reorganize the content and form of education, North Korea defectors testified that educational conditions in North Korea are still poor.

This chapter examines whether the right to education is properly guaranteed in North Korea on the basis of availability, accessibility, acceptability and adaptability.

A. Educational Conditions

Availability in education means that there should be educational institutions and programs of sufficient quality that function

643_National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21, Democratic People’s Republic of Korea. UN Doc. A/HRC/WG.6/33/PRK/1 (20 February 2019), para. 44.

normally. In other words, the minimum conditions necessary for education must be met.

Article 7 of the North Korean Education Law legally specifies the state support necessary for education by stipulating “the state shall systematically increase investment in education and smoothly assure educational conditions to strengthen support for the education sector.” In addition, North Korea prescribes the implementation of free compulsory education in Article 12 of the Education Law, which stipulates citizens have “the duty to receive general secondary education⁶⁴⁴ and the right to receive free education.”

In the third cycle of the UPR in 2019, North Korea reported that it has increased investment in education by 8.6% of GDP as it considers education the most important national issue.⁶⁴⁵ Moreover, it reported that in 2017–2018, it had established and expanded “model schools” equipped facilities, such as multifunctional classrooms, various laboratories and outdoor study sites, and has directed special attention to remove disparities in the level of education between urban and rural areas.⁶⁴⁶

While North Korean laws guarantee educational conditions and stipulate the implementation of free and compulsory education for

644_ This includes one year of kindergarten, five years of elementary school, three years of junior middle school and three years of advanced middle school.

645_ UN Doc. A/HRC/WG.6/33/PRK/1 (20 February 2019), para. 42.

646_ *Ibid.*, paras. 45–46.

its citizens, and North Korean authorities proclaim the specific execution of such rules, the actual state of education in North Korea is extremely dire.

Although there was a testimony reporting that new school buildings are clean and with improved facilities and environments,⁶⁴⁷ it was identified that in most cases, educational facilities and resources greatly differ between regions and schools. Moreover, it appears that students bear the cost of facilities for classroom modernization. Except for specialized schools, most of the schools do not have a nurse's office, gym, library⁶⁴⁸ or water supply facilities that provide drinkable water.⁶⁴⁹ Although computer education has significantly expanded, it is said that schools do not have computer labs, and even if a school has a computer lab, it is unusable because no computer is installed or the computers are old models; as a result, students practice with paper keyboards or bring their own laptops.⁶⁵⁰

647_ NKHR2020000002 2020-05-15.

648_ NKHR2020000003 2020-05-15; NKHR2020000031 2020-08-03; NKHR2020000038 2020-09-26.

649_ NKHR2020000012 2020-06-15.

650_ NKHR2020000003 2020-05-15; NKHR2020000027 2020-07-06; NKHR2020000029 2020-07-06 and many other testimonies.

Table III-13

Reality of Educational Facilities and Environments

Testimonies	Testifier ID
In 2020, the testifier bought a laptop for his/her child, so the child could use it during his/her computer class at school. These days, most of the students carry a laptop; for instance, if there are about 50 students in a class, half of them carry a laptop. Restrooms are usually located outside a school building. The testifier's child's school did not have electricity. Schools usually do not have a nurse's office, gym or library.	NKHR2020000038 2020-09-26
The middle school the testifier had attended in 2019, located in Chongjin, North Hamgyeong Province had a restroom, library and computer lab. The restroom was located in the schoolyard, and the facilities were poor, and the students had to pay to borrow a book from the library. The testifier used a computer only during classes. However, he/she did not learn to work on documents but only practiced typing using a keyboard made out of paper. There were 40 students per class, and only about 10 people practiced with real keyboards.	NKHR2020000029 2020-07-06
The testifier's friend and cousin had a laptop in their home in Hyesan, Yanggang Province in 2019. Families with money or mothers who are interested in the education of their children have computers at home. There are many Toshiba computers; some are Lenovo and Apple computers. When the testifier graduated from middle school in 2014, he/she heard that the school would make a computer lab; however, he/she has never heard that students learn about computers at school.	NKHR2020000001 2020-05-15
The testifier's children went to school in Pyeongchon District, Pyongyang in 2017. There were computers in the school's computer lab, so each student could use a computer individually.	NKHR2020000047 2020-11-28
(Yanggang Province) Kim Jong Un ordered the modernization of education, which meant that TVs, computers and batteries must be placed in each classroom. Students had to pay the entire cost; the total amount was divided by the number of students. There was a computer lab, but no computers. The library had at most 200 books.	NKHR2020000027 2020-07-06
The testifier testified that with respect to regular schools, students attend schools near their homes, but as foreign language schools are located a bit far away, students have to pack lunches. Regular schools usually have only one building. Foreign language schools usually have better school facilities than other types of schools; they have special classrooms such as gyms and libraries and separate buildings for education and sports.	NKHR2020000013 2020-06-15

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Testimonies	Testifier ID
<p>As the area near the construction site of the Shinjang Power Plant in Hyesan, Yanggang Province was flooded, many people moved away from the area to the testifier’s neighborhood. As a result, a combined school was built. Recently built schools or hospitals are clean even if the facilities are not fancy. Schools in rural areas are small but neat, but the facilities and teachers of a school in a neighborhood (<i>dong</i>) in Hyesan were not good.</p>	<p>NKHR2020000002 2020-05-15</p>

In the Summary of Stakeholders’ Submissions on North Korea for the UPR in 2019, Amnesty International recommended North Korea to “ensure compulsory and genuinely free primary and secondary education for all children.”⁶⁵¹ In this regard, North Korea responded that it has introduced a 12-year free compulsory education system and provides various support, such as textbooks, teaching materials, educational equipment and transportation.⁶⁵² However, according to defector testimonies, various expenses that people have to pay for schools become a barrier to regular education.

In addition, the situation in which teachers have to find separate ways for their livelihood acts as a detrimental factor for the educational environment. In reality, teachers do not receive proper economic compensation for their work and are poorly treated. As teachers cannot make a stable living, North Korean people tend to

651. Summary of Stakeholders’ Submissions on the Democratic People’s Republic of Korea, Report of the Office of the United Nations High Commissioner for Human Rights. UN Doc. A/HRC/WG.6/33/PRK/3 (18 February 2019), para. 82.

652. Report of the Working Group on the Universal Periodic Review, Democratic People’s Republic of Korea. UN Doc. A/HRC/42/10 (25/June/2019), para. 78.

think that sending their children to school means that parents take responsibility for the teachers' livelihood, and there is a perception that teachers live on the money students offer. Testimonies reporting that teachers offer private lessons and have side jobs and that the number of prospective teachers is extremely low show that teachers are poorly treated.

Table III-14 Treatment of Teachers

Testimonies	Testifier ID
The testifier's father who had been a teacher in 2019 did farming as a side job as there were no rations provided. The testifier's family consumed most of the crops produced and sold what was left. The testifier heard that teachers in schools in cities sometimes take money from their students; however, this practice is not found among teachers in schools in rural areas.	NKHR2020000035 2020-09-05
Kindergarten teachers take turns to rest and do side jobs to make a living. It seems that they do not receive any rations, and parents also do not take responsibility for their livelihood.	NKHR2020000040 2020-10-31
Teachers take some of the money they collect from parents as their wages.	NKHR2020000038 2020-09-26
A teacher's salary is around 2,000 North Korean won, and almost all of the teachers collect money from students.	NKHR2020000029 2020-07-06
Teachers barely make a living by teaching in the morning and even make straw hats in the afternoon.	NKHR2020000027 2020-07-06
Teachers lead difficult lives. Teachers who offer private tutoring do not work at schools. No one wants to be a teacher.	NKHR2020000017 2020-07-04
There are no rations for teachers, and teachers live on the money their students' parents offer.	NKHR2020000012 2020-06-15
Teachers receive more rations than farm members, but they are not paid much. For a school hiking trip, parents pack lunch for their children's teacher out of respect for the person who teaches their children; it would also be troublesome for the teacher if parents do not pack lunch for him/her. The amount of money given to a teacher on a regular basis varies from person to person. If not cash, cigarettes are given to male teachers and soap is given to female teachers.	NKHR2020000002 2020-05-15

In addition to a 12-year free compulsory education, North Korea stipulates in its Education Law that the state must guarantee all expenses necessary for education, such as classes, practical training, field trips and school supplies. However, North Korean defectors testified that although students do not pay tuition, they still have to pay a lot of money to schools under various pretexts. Students have to pay the cost of maintaining classrooms in the summer and pay the cost of firewood in the winter. They are also required to offer scrap iron, paper and rabbit fur. Those who cannot offer goods should give cash, and there were testimonies claiming that those who cannot offer anything due to poor financial conditions would be reprimanded by teachers or required to clean their school facilities as a punishment.⁶⁵³ There also were testimonies indicating that although textbooks are provided free of charge, they are mostly used textbooks, and new textbooks are insufficiently supplied and thus have to be purchased separately.⁶⁵⁴

653_ NKHR2020000003 2020-05-15; NKHR2020000027 2020-07-06; NKHR2020000029 2020-07-06; NKHR2020000041 2020-10-31; NKHR2020000047 2020-11-28 and many other testimonies.

654_ NKHR2020000012 2020-06-15; NKHR2020000022 2020-07-06; NKHR2020000029 2020-07-06.

Table III-15 Reality of Free Education

Testimonies	Testifier ID
The testifier's child was sent to advanced middle school in 2019. There was no tuition, but students had to give three to four yuan a day in the name of maintaining the school or classroom, which amounted to approximately 100 yuan a month. When the school was assigned to pay a certain amount of money to support the Samjiyeon construction project and road construction projects, the amount was divided and allocated to each class and then to each student. Except for those who could not pay anything due to financial difficulties, each student had to pay three to four yuan. There are many children who do not enter elementary school due to the financial burden.	NKHR2020000038 2020-09-26
In 2019, the testifier paid fees in the name of modernization of education (i.e., the cost of purchasing TVs, computers, projectors and batteries). Many children do not go to school because they cannot pay the money their school demands. The attendance rate for sixth grade students is approximately 20-30%. Students do not go to school due to financial difficulties and because they are reprimanded by teachers for not being able to pay certain fees. Advanced middle schools have a lower attendance rate.	NKHR2020000027 2020-07-06
The testifier's friend's younger sibling went to middle school in 2019, and he/she said that it is burdensome because he/she had to pay a lot of money. He/she said that he/she had to pay a certain amount of money every day and sometimes said it would be better to pay a fixed tuition fee.	NKHR2020000001 2020-05-15
In 2018, the testifier gave his/her child's homeroom teacher 15-20 won to purchase firewood and 10 won for school maintenance. The testifier also paid 5-10 won, which was the amount fixed by the school to fund school projects such as a spring sanitation project.	NKHR2020000002 2020-05-15
The testifier gave rabbit fur, soybeans and firewood to the school and paid cash for supporting shock troops (<i>dolgyeogdae</i>), classroom maintenance and roof tile work. Parents installed the roof tiles themselves. Textbooks were provided free of charge, but the testifier had to pay 50 North Korean won for new textbooks.	NKHR2020000031 2020-08-03
There is no tuition fee, but the testifier had to pay a certain amount of money every day. Textbooks were not sufficiently supplied and were distributed unfairly, and school supplies had to be provided by students themselves. The school the testifier attended underwent modernization to participate in the Red Flag Movement. In the process, students had to pay 300 yuan; enthusiasts had to pay more, and students in difficult situations had to pay a small amount.	NKHR2020000029 2020-07-06

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Testimonies	Testifier ID
There was no tuition fee, but there were many school-run projects and assignments the testifier had to pay for, which was difficult for poor students to afford. Students go to school because education is compulsory, but they attend school feeling withdrawn and discouraged.	NKHR2020000023 2020-07-06
The testifier had to pay a lot of money in small installments for “children’s planning” projects, scrap paper collection, gathering of wild greens and school maintenance (e.g., repairing desks and chairs, blackboard painting, etc.). Students have to pay money when they fail to complete assignments and when new textbooks are distributed. Students can receive items from older students for free.	NKHR2020000022 2020-07-06
Students have to pay for classroom maintenance, school equipment and cleaning tools such as mops. Students have to buy school supplies from the marketplace (<i>jangmadang</i>) as well. Students also have to buy textbooks when they are insufficiently supplied. In reality, attending school is costly.	NKHR2020000012 2020-06-15

B. Discrimination in Educational Opportunity

Accessibility, which is about whether educational institutions and programs are accessible to all people without discrimination is divided into non-discriminatory accessibility, physical accessibility and economic accessibility.⁶⁵⁵ Non-discriminatory accessibility means that access to educational opportunities must be legally and practically ensured for everyone, including certain vulnerable

655. 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.”

groups of people, without discrimination. From a non-discrimination point of view, people's access to education is not guaranteed in North Korea. In particular, North Korean authorities do not allow access to normal education and educational programs to children of those regarded as potential reactionaries, including political criminals. The 12-year free compulsory education, which is guaranteed under the North Korean education system, is not permitted inside political prison camps (*kwanliso*). Although primary education courses are offered inside camps, it has not been identified whether the situation in which the curriculum is different from schools outside the camps has improved.

In this regard, the UN Committee on the Rights of the Child urged North Korea to “promote gender equality [...] at all levels of the education system.”⁶⁵⁶ In 2017, the UN Committee on the Elimination of Discrimination against Women also recommended North Korea to improve the traditional perceptions and structural constraints, which have prevented female students from entering schools in such fields as science.⁶⁵⁷ North Korea reported in the third cycle of the UPR in 2019, the number of women taking remote learning courses provided by major universities has

656_ Concluding observations on the fifth periodic report of the DPR Korea, Committee on the Rights of the Child, UN Doc. CRC/C/PRK/CO/5 (2017), para. 46.

657_ Concluding observations on the combined second to fourth periodic reports of the DPR Korea, Committee on the Elimination of Discrimination against Women, UN Doc. CEDAW/C/PRK/CO/2-4 (2017), para. 34.

increased.⁶⁵⁸ However, it is still difficult to view the gender gap in access to education as being fully resolved.

Regarding physical accessibility, the North Korean Education Law and the Law on General Education guarantee compulsory education for children in remote areas and for children with disabilities. In 2020, the Distance Education Law was newly established to promote a system to eliminate geographical barriers to education. However, it is difficult to say that this system actually ensures the accessibility of education for children living in isolated regions as the system is implemented focusing on university education and as differences exist in the provision of educational equipment among regions. In addition, the fact that there are many testimonies reporting that students' long-term absences or withdrawal from schools are due to financial difficulties and burdens indicate that economic accessibility, rather than geographical barriers, is the major cause of the inequality of educational opportunity.

658_ UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 68.

Table III-16

Accessibility to Education for Children of Vulnerable Groups

Testimonies	Testifier ID
When the testifier went to advanced middle school in 2016, he/she often skipped school because he/she had to help his/her mother with housework and his/her father with farming. Another reason for not attending school was because there were so many things he/she had to submit to school. The testifier's homeroom teacher tried to make the testifier attend school at first, but later, the teacher did not say anything as he/she knew everything about the testifier's situation.	NKHR2020000041 2020-10-31
There are students who do not attend school at all because of the expenses they have to pay. A class usually consists of about 50 students, and about 10 people do not show up. If there is a student absent from school, his/her teacher would send another student to that student's neighborhood to check on him/her. If a student is absent for a long time, his/her teacher would visit the student's home; if the student says that he/she cannot attend school due to economic reasons, the teacher would try to persuade the student saying that the student would be exempted from various fees. Teachers make home visits because they would receive disciplinary measures if student attendance drops. However, there are no benefits for poor students.	NKHR2020000038 2020-09-26
Students who cannot afford miscellaneous fees demanded by the school often do not attend school. There were one to two students absent per class.	NKHR2020000023 2020-07-06
There are many students who are absent from school for a long time due to financial difficulties. However, the number of students not attending school is on the decline as living conditions of people are improving.	NKHR2020000017 2020-07-04
Schools do not do anything for students not attending school for financial reasons.	NKHR2020000003 2020-05-15
Children who are really poor only place their name on the school register and do not attend school. They stay at home to help their parents farming or dig gold from mines.	NKHR2020000002 2020-05-15

Actual accessibility to education by students who are geographically isolated is assessed to be substantially low due to the general condition of roads, mass transit systems and difficulties in distance learning. Furthermore, these students are mostly living in absolute poverty, and inequality in educational opportunity

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caused by geographical isolation tends to coincide with poor economic accessibility.

Accessibility to education for economically disadvantaged students is still very low. There were many testimonies claiming that students in difficult living conditions are reprimanded and punished by teachers for failing to pay the fees demanded by schools and eventually drop out of school after long absences as they are unable to endure the burden.⁶⁵⁹ In many cases, children from poor families do farm work or help with housework instead of entering school,⁶⁶⁰ and some teachers encourage attendance by exempting students from financial burdens⁶⁶¹ but only temporarily. The state or schools do not seem to take proactive measures in this regard.⁶⁶²

C. Emphasis on Socialist Education

Acceptability is an important factor in determining whether the form and nature of education, including educational programs and instructional styles, are suitable for students, who are both the recipients of education and direct beneficiaries of the right to education.

659_ NKHR2020000001 2020-05-15; NKHR2020000027 2020-07-06; NKHR2020000029 2020-07-06 and many other testimonies.

660_ NKHR2020000031 2020-08-03; NKHR2020000038 2020-09-26; NKHR2020000041 2020-10-31 and many other testimonies.

661_ NKHR2020000023 2020-07-06; NKHR2020000038 2020-09-26.

662_ NKHR2020000012 2020-06-15; NKHR2020000013 2020-06-15; NKHR2020000017 2020-07-04 and many other testimonies.

Article 29 of the CRC states that the goal of education should be well rounded in terms of acceptability and stresses its importance in children’s education. In its fifth periodic report submitted to the UN Committee on the Rights of the Child in 2016, North Korea proclaimed that it has revised its education programs to comply with the goals of child education stipulated in the CRC. However, the reality seems far from such an argument. The Summary of Stakeholders’ Submissions on North Korea for the UPR report in 2019 referred to the fact that school lessons in North Korea focus on the state’s ruling political ideology and propaganda and recommended North Korea to immediately de-politicize the curriculum.⁶⁶³ North Korea also 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” and puts emphasis on the importance of teaching political ideology in Article 29. Consequently, it seems that North Korea is yet to change its education system to a universal and well-rounded education.⁶⁶⁴ A North Korean defector ○○○ testified that his/her child, who was

663_ UN Doc. A/HRC/WG.6/33/PRK/3 (2019), paras. 85, 87.

664_ Educational institutions shall infuse students with sound thoughts, ethics and in-depth knowledge, prioritize political ideology education to ensure sound body and rich sentiment of students, provide in-depth science and technology education, and combine them with physical and art education.

in kindergarten in 2018, learned the childhood stories of Kim Il Sung, Kim Jong Il and Kim Jong Un like a fairy tale.⁶⁶⁵

<Table III-14> describes the subjects students are currently required to take in primary and secondary schools, which shows that the subjects on the Kim Il Sung/Kim Jong Il/Kim Jong Un family are provided throughout the entire curriculum. Excessive education in political ideology, mobilization of students for political events and regime propaganda campaigns and compulsory military training indicate that North Korea is far from realizing the goal of education for children.

Table III-17 Subjects in Primary/Secondary Schools

Education Level	Subjects
Elementary School	Childhood of Supreme Leader (<i>Suryeong</i>) Kim Il Sung, Childhood of great leader, Kim Jong Il, Childhood of anti-Japan heroine Kim Jong-Suk, Childhood of admirable leader Kim Jong Un, Socialist ethics, North Korean language, English, Mathematics, Nature, IT, PE, Music and dance and Art.
Junior Middle School	Revolutionary activities of Supreme Leader (<i>Suryeong</i>) Kim Il Sung, Revolutionary activities of great leader, Kim Jong Il, Revolutionary activities of anti-Japan heroine Kim Jong-Suk, Revolutionary activities of admirable leader Kim Jong Un, Socialist ethics, Geography, North Korean language, English, Mathematics, Nature, IT, Basic technology, PE, Music and dance and Art.
Advanced Middle School	Revolutionary history of Supreme Leader (<i>Suryeong</i>) Kim Il Sung, Revolutionary history of great leader, Kim Jong Il, Revolutionary history of anti-Japan heroine Kim Jong-Suk, Revolutionary history of admirable leader Kim Jong Un, Current Party policy, Socialist ethics and law, History, Geography, Psychology and logic, Language and literature, Chinese characters, English, Mathematics, Physics, Chemistry, Biology, IT, Basic technology, Basics of industry (agriculture), PE, Art and Military activity for beginners.

Source: Yeongja Park *et al.*, *Eight Changes in the Economy and Society under the Kim Jong Un Regime* (Seoul: KINU, 2018), p. 165. (In Korean)

665_NKHR2020000010 2020-10-31.

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 frequently mobilized for various labor tasks, such as farming and construction, under the pretext that the tasks are part of education. Supplementing the shortage of labor by mobilizing students goes beyond the meaning of education.⁶⁶⁶ In this regard, the UN Committee on the Rights of the Child urged North Korea in 2017 to “ensure that children are not required to perform labor tasks that interfere with their learning, their rights to rest and leisure and their physical and mental well-being.”⁶⁶⁷

D. Restrictions on Learners’ Right to Choose

Adaptability in education refers to the degree to which an appropriate educational environment is guaranteed from the perspective of the recipients of education and the degree of appropriateness of educational contents provided for each developmental stage. It also refers to the degree to which the changing social environment is adequately reflected in education. Whether North Korean students receive adequate education that is also appropriate according to the above standards varies according to family environment, social status and economic capability.

666_ The issue of the lack of acceptability in education is examined in more detail in IV. Vulnerable Groups, 2. Children.

667_ UN Doc. CRC/C/PRK/CO/5 (2017), para. 46.

In addition to state-run educational institutions, workplaces, social organizations and various social facilities are in charge of providing education. However, the state, particularly the Party, determines the basic system, direction, content and methods of education. The state selects the content and develops curricula and textbooks for all types of education, from school education to social education and education for adults. The operation of the curricula is also centralized and uniform. As a result, the autonomy of schools and teachers and students' right of choice for learning are significantly restricted. As the national curriculum was revised in 2013, some region-specific elective subjects were introduced to advanced middle schools;⁶⁶⁸ however, students are not given the right to choose subjects.

Except for exceptionally talented students enrolled in special education institutions, all students follow the same curriculum. In addition, all educational institutions, from kindergarten to primary and secondary schools to college, are established and run by the state, and no private educational institution exists in North Korea. In other words, the opinions of parents and students are not reflected in schools or school curricula.

Such rigidity in education caused by the state-led educational system serves as a constraint that fundamentally prevents North

668_Ji-soo Kim *et al.*, *Analysis of Primary and Secondary Education in the Kim Jong Un Era* (KEDI, 2019), p. 198. (In Korean)

Korea's educational curriculum and system from reflecting the changes in thinking and innovations of the times.

E. Evaluation

In the third cycle of the UPR in 2019, North Korea reported that it has been making efforts to improve its educational conditions and environment, including the content, form and methods of education⁶⁶⁹ and accepted the recommendation made in the UPR report to substantially realize free education and improve the overall right to education.⁶⁷⁰ However, when analyzed in terms of availability, accessibility, acceptability and adaptability, North Korea's education system is found to be insufficient in meeting all of the criteria above, despite some improvements in each criterion. In particular, ideological education that North Korean authorities continue to emphasize seriously infringes on students' right to autonomous learning and to choose what to learn.

North Korean authorities should make efforts to provide a more universal and creative educational environment for students. In addition, although North Korea claims to advocate a free education system, this has long since become obsolete, and the distribution of resources for basic school operation and teacher

669_ UN Doc. A/HRC/WG.6/33/PRK/1 (2019), paras. 42-44.

670_ UN Doc. A/HRC/42/10 (2019), paras. 126.150-126.153; UN Doc. A/HRC/42/10/Add.1 (2019), para. 9(a).

remuneration has not been achieved at the state level. Due to the financial burden imposed on students and parents, students continue to drop out of school and suspend their studies. Moreover, students' education continues to be severely impeded as they are mobilized for various labor tasks, such as agriculture and construction projects and political events. Close attention needs to be paid to the North Korean authorities' measures to improve the right to education.

5

Right to Social Security

The UDHR stipulates that everyone, as a member of society, has the right to social security (Article 22). The ICESCR also stipulates that the States Parties shall recognize the right of everyone to social security (Article 9). The right to social security is very important in keeping the human dignity of people who face difficulties in realizing the rights of the ICESCR.⁶⁷¹ Moreover, the right to social security contributes to reducing and mitigating poverty, preventing social exclusion and promoting social cohesion.⁶⁷²

North Korea has legislated various laws and regulations related to social security. However, given a big gap between North Korea's system and reality in social security, it would be difficult to say that the existence of social security systems actually guarantees social security for people. In this light, it is necessary to confirm whether these institutions are fulfilling their role. The

671_UN CESCR, General Comment, No. 19 (2007), para. 1.

672_*Ibid.*, para. 3.

following will examine whether North Korean authorities adequately guarantee people’s right to social security in terms of four categories: old age, family and child support, diseases and disabilities and industrial accidents.

Table III-18 North Korean Laws on Social Security

Category of Social Security	Relevant Laws	
	Framework Law	Special Laws
Health Care	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, Labor Law, Labor Protection Law
Industrial Accident		
Family and Child Support		Law on the Nursing and Upbringing of Children, Law on the Protection of the Rights of Children, Law on the Protection and Promotion of the Rights of Women
Maternity		
Disability		Law on the Protection of Persons with Disabilities
Bereaved Families and Orphans		Social Insurance Law

A. Elderly Pensions Insufficient to Sustain Life

It appears that in North Korea, before the Arduous March of the mid-1990s, elderly pensions had been paid in an amount sufficient for pensioners to make a living, although the actual amount might not have been much.⁶⁷³ However, after the Arduous March, there

673_NKHR2013000065 2013-04-02.

have been cases where this pension was not paid.⁶⁷⁴ Even when this pension is paid, the amount is insufficient for elderly people to sustain their livelihood, and it appears that the elderly pension is little help for the elderly.⁶⁷⁵ As a result, it is said that there are cases where people choose not to receive a pension.⁶⁷⁶ In addition, it is said that many elderly women are not eligible for a pension as they often do not fulfill the 25 years of service required to receive one.⁶⁷⁷

According to the testimonies of North Korean defectors, a defector in his/her mid-30s who defected in 2017 testified that his/her mother received 600 won per month as an elderly pension,⁶⁷⁸ and another defector in his/her late 30s who also defected in 2017 said that his/her father received an elderly pension of 1,600 won per month, but the payment was delayed so that he would receive his January pension in April, and so on.⁶⁷⁹ In addition, a defector in his/her mid-50s who defected in 2019 testified that approximately 800–1,500 won is given every month as a pension.⁶⁸⁰ A defector in his/her mid-20s who defected in 2019 testified that his/her grandparents had received an elderly pension of 870 won

674_NKHR2019000018 2019-05-07; NKHR2019000081 2019-09-25.

675_NKHR2019000002 2019-04-08; NKHR2020000010 2020-05-16, NKHR2020000011 2020-06-15; NKHR2020000044 2020-10-31 and many other testimonies.

676_NKHR2020000012 2020-06-15.

677_NKHR2020000024 2020-07-06; NKHR2020000044 2020-10-31.

678_NKHR2017000055 2017-07-31.

679_NKHR2018000040 2018-05-08.

680_NKHR2019000035 2019-06-03.

every month until they defected from North Korea, but only after a certain amount was deducted by their People's Unit (*inminban*) chief as the amount assigned to the People's Unit (*inminban*).⁶⁸¹

Table III-19 Testimonies on Insufficient Elderly Pensions

Testimonies	Testifier ID
A defector in his/her late 40s who had lived in Onsong County, North Hamgyeong Province and defected in 2016 testified that teachers are given a monthly elderly pension ranging from 700-1,000 won to 1,800 won.	NKHR2017000006 2017-04-10
A defector in his/her early 50s who had lived in Samjiyeon, Yanggang Province and defected in 2016 testified that elderly pensions are provided monthly, but the amount is only approximately 1,000-2,000 won, which is not even enough to buy 1 kg of rice.	NKHR2017000012 2017-04-10
A North Korean defector in his/her mid-40s who defected in 2017 testified that those qualified to receive a pension would receive approximately 6,000 won per month at most, which is only one to two days' worth of living expenses.	NKHR2018000002 2018-03-12
A North Korean defector in his/her mid-50s who defected in 2017 testified that he/she was eligible to receive 700 won, which was calculated based on past national standards and thus did not match the real market price.	NKHR2018000006 2018-03-12
A defector in his/her mid-40s who defected in 2018 testified that he/she received 700 won per month, which was not even enough to buy a block of tofu.	NKHR2019000016 2019-05-07
A defector in his/her mid-50s who defected in 2019 testified that his mother received 700 won once a month until she died.	NKHR2019000025 2019-05-18
A defector in his/her mid-50s who defected in 2019 testified that approximately 800-1,500 won is given as an elderly pension.	NKHR2019000035 2019-06-03
A defector in his/her early 60s who defected in 2019 testified that his/her spouse was eligible to receive an elderly pension of approximately 850 won. The testifier said that one time, they did not receive the pension for several months and received 4,000-5,000 won at once to buy a bottle of alcohol.	NKHR2020000025 2020-07-06

681_NKHR2020000017 2020-07-04.

According to some testimonies, pension payments appear to vary depending on the level of merit. However, since the actual amount of the pension is too small, such discrimination does not seem to have practical meaning. For example, a defector in his/her early 30s who had lived in Onsong County, North Hamgyeong Province and defected in 2017 testified that his/her mother-in-law received a higher pension as she was awarded with a medal and called a person of merit, but the amount of the monthly pension was only 2,700 won.⁶⁸² A defector in his/her mid-50s who defected in 2019 said that he/she had received a higher monthly pension than other people as he/she received 4,000 won until 2015 due to his/her grade of merit (1st Class National Order of Merit) but that his/her elderly pension was not very helpful for maintaining his/her livelihood.⁶⁸³

On the other hand, there were also testimonies claiming that there are cases where instead of pensions, land is distributed to the elderly so that they manage their land and keep the crops harvested from their land. A defector in his/her early 40s who had lived Hoeryong, North Hamgyeong Province and defected in 2017 testified that even though his/her mother did not receive a pension, elderly people including his/her mother were given 100–150 *pyeong* of land on a farm and allowed to keep the crops

682_NKHR2017000092 2017-09-25.

683_NKHR2019000013 2019-05-07.

harvested from the land.⁶⁸⁴ A defector who had lived in Gyeongwon County, North Hamgyeong Province and defected in 2017 also testified that in rural areas, land is distributed to the elderly as part of their pension plan.⁶⁸⁵ A North Korean defector in his/her mid-30s who defected in 2019 testified that 200 *pyeong* of land was distributed to each person in addition to an elderly pension, and his/her parents were given 400 *pyeong* of fine flat land where they grew soybeans.⁶⁸⁶ However, considering that there were North Korean defectors who testified that they had never heard of such a case,⁶⁸⁷ distributing land to the elderly instead of providing elderly pensions does not seem to be a common practice, and it is assessed that the measure is taken at the regional level rather than the national level.

Since elderly pensions do not help seniors to secure their living, the elderly maintain their livelihood by either financially depending on their children or by earning a small income through economic activities. Those who cannot do either seem to enter nursing homes. A North Korean defector in his/her late 40s who defected in 2018 said that his/her mother-in-law sold medicine in a marketplace (*jangmadang*) as she was not able to live on her pension and received food sent by her son/daughter.⁶⁸⁸ A defector who defected

684_ NKHR2017000004 2017-04-10.

685_ NKHR2017000016 2017-05-08.

686_ NKHR2020000040 2020-10-31.

687_ NKHR2020000016 2020-07-04; NKHR2020000017 2020-07-04.

688_ NKHR2018000055 2018-07-02.

in 2017 testified that the elderly pension plan is only offered in a perfunctory manner and that old people must work on small farms until the day they die, unless they have children who are officials; the defector also said that those who are unable to work end up in nursing homes.⁶⁸⁹ A North Korean defector in his/her early 60s who defected in 2019 also testified that he/she made a living with the money sent by his/her children in China as the amount of the elderly pension payment given to his/her spouse was too small.⁶⁹⁰ A North Korean defector in his/her 20s who defected in 2019 testified that in North Korea, the elderly are mostly supported by their families as the amount of an elderly pension is too small and that not many people go to nursing homes as there is a perception that nursing homes are places where old grandmothers having nowhere to go end up.⁶⁹¹

B. Absence of an Emergency Welfare Support System

It appears that in North Korea, the emergency welfare support system is not adequately accessible at the national level for families whose primary income earner is unable to make a living for his/her family due to illness or death. As a result, when such

689_NKHR2017000043 2017-07-03.

690_NKHR2020000025 2020-07-06.

691_NKHR2020000023 2020-07-06.

situation arises, it seems that people are left to be defenselessly exposed to considerable economic hardships.

A North Korean defector in his/her mid-30s who defected in 2015 testified that people in financial difficulties ask their parents or siblings for help, but people cannot expect any help from the state.⁶⁹² A North Korean defector in his/her mid-40s who defected in 2017 said he/she had nowhere to turn to if he/she suddenly fell ill or faced danger while doing business in the marketplace (*jangmadang*).⁶⁹³ A North Korean defector in his/her late 30s who defected in 2018 testified that there was no state support for households at financial risk.⁶⁹⁴ A defector in his/her early 20s who defected in 2018 said that he/she had never received any help from the state when his/her family's economic situation suddenly worsened.⁶⁹⁵ A defector in his/her late teens who had lived in Chongjin and defected in 2019 also said that there is no support from the state for households in financial difficulties.⁶⁹⁶

Some testified that there is some support, but it appears that even in such a case, the support would not be provided in a systematic manner and the scale of the support would be insufficient. A North Korean defector in his/her late 50s who defected in 2014

692_ NKHR2017000060 2017-07-31.

693_ NKHR2017000063 2017-07-31.

694_ NKHR2018000093 2018-08-27.

695_ NKHR2019000030 2019-06-03.

696_ NKHR2020000029 2020-07-06.

testified that there are cases where families facing financial difficulties ask their People's Unit (*inminban*) for help, and the neighbors collect small portions of rice to help them once or twice, but there is no state support available.⁶⁹⁷ In addition, a North Korean defector in his/her early 30s who defected in 2015 testified that the state provides food or meal tickets to households in financial distress, so families can have noodles free of charge and that sometimes, town (*eup*) offices manage such households when local People's Units (*inminban*) conduct surveys and report the survey results.⁶⁹⁸

C. Inadequate Support System for People Suffering from Illness or Disability

Cash benefits must be provided for people who are unable to work for health reasons, and people suffering from long-term illnesses should be eligible for disability benefits.⁶⁹⁹

However, it appears that in North Korea, the state does not provide adequate support for people who are not able to engage in economic activities for a long time due to illness or disability. It was found that there is no separate support even for those registered in the social security system.

697_NKHR2017000052 2017-07-03.

698_NKHR2018000094 2018-08-27.

699_UN CESCR, General Comment, No. 19 (2007), para. 14.

A North Korean defector in his/her mid-30s who defected in 2016 said that his/her brother lost his eyesight and ability to work due to an accident, but the state did not provide any support for his livelihood.⁷⁰⁰ A testimony was given by a North Korean defector in his/her early 30s who defected in 2018 explaining that his/her brother-in-law lost his eyesight due to a disease and registered with the social security system; according to the testifier, he would have been caught as an unemployed person had he not registered himself in the system. The testifier said that nevertheless, there has been no financial support from the state, and consequently, the testifier and his/her spouse took care of him.⁷⁰¹ There was a similar testimony by a defector in his/her early 20s who defected in 2019. The testifier said that his/her father walked with a limp because he suffered from polio when he was a child and registered with the social security system after receiving a medical report from hospital. According to the testifier, his/her father did not receive any additional support for being disabled while working.⁷⁰²

On the other hand, there was a testimony claiming that some support had been provided. A defector in his/her 30s who defected in 2017 testified that patients who had been registered with the social security system did not have to work on the farms as long

700_NKHR2017000018 2017-04-10.

701_NKHR2018000101 2018-10-01.

702_NKHR2019000045 2019-07-01.

as the farm confirmed with their hospitals about their registration and were still given half of the farm yields distributed to ordinary farm members.⁷⁰³ However, it is understood that this practice is not common. In general, support for people who are unable to engage in economic activities due to illness or disability appears to be absent or provided only in a perfunctory manner. In addition, support for honored veterans will be explored in IV. Vulnerable Groups, 3. Persons with Disabilities.

D. Insufficient Protection System for Workers Injured in Industrial Accidents

Compensation for those who have lost their ability to work due to industrial accidents also does not appear to be adequate. There are cases where compensation is not made at all. It has been identified that even in cases where compensation is provided, compensation is not provided in a practical and continuous manner.

A North Korean defector in his/her late 20s who defected in 2016 said that there were accidents involving agricultural machines in which people injured their hands or lost their feet, but no compensation was made to those who were injured in such accidents, such as paying a pension for incapacity to work.⁷⁰⁴ A North Korean defector in his/her mid-20s who defected in 2019

703_NKHR2017000092 2017-09-25.

704_NKHR2019000046 2019-07-01.

also testified that the state does not provide financial compensation to those who get injured and lose their fingers while working at a factory, and even where financial compensation is provided, people do not make efforts to receive it since the amount is usually only about 3,000–5,000 North Korean won.⁷⁰⁵

In addition, a North Korean defector in his/her early 20s who defected in 2017 said that his/her father who had worked for a railroad construction unit severely injured his leg in 2014–2015 but did not receive any support for living expenses or hospital costs.⁷⁰⁶ A North Korean defector in his/her late 20s who defected in 2019 testified that people often get injured while working in factories, but there is no state compensation provided for such people; according to the testifier, injured people's factories or work units provide compensation in small amounts.⁷⁰⁷

It seems that the cost of medical treatment incurred by industrial accidents must also be borne by the injured workers themselves. Although there were testimonies reporting that the state provides small amounts of support for injuries caused by accidents in mines,⁷⁰⁸ or even for injuries incurred as a result of negligence during work,⁷⁰⁹ North Korean defectors mostly testified that the

705_NKHR2020000021 2020-07-06.

706_NKHR2018000038 2018-05-08.

707_NKHR2020000005 2020-05-15.

708_NKHR2017000098 2017-10-23.

709_NKHR2017000111 2017-11-20.

costs of medical treatment are usually borne by the injured workers themselves.

A North Korean defector in his/her mid-20s who defected in 2018 testified that he/she heard that there was an accident in June 2018 at an apartment construction site where a stone fell on a person's head, and the injured person was taken to a hospital for surgery and he/she paid the bill by himself/herself.⁷¹⁰ In addition, a North Korean defector in his/her early 20s who defected in 2018 testified that when he/she was working at a hospital, he/she saw five workers who fell from the fifth floor of a building at an apartment construction site being transported to the hospital; the testifier said that two of the workers died and the others developed walking disabilities, and from what he/she knew, the workers paid for their own hospital bills and medicine costs.⁷¹¹ A North Korean defector in his/her mid-20s who defected in 2019 testified that factories do not pay for the treatment of their workers who get injured and lose their fingers while working; according to the testifier, factory managers with kind personalities would give cash to injured workers to buy some medication.⁷¹²

On the other hand, it appears that there are cases where enterprises or factories with relatively good conditions subsidize part of the

710_NKHR2018000130 2018-11-19.

711_NKHR2018000102 2018-10-01.

712_NKHR2020000021 2020-07-06.

medical expenses for workers who are injured in industrial accidents.⁷¹³ However, factors such as whether the amount of support is adequate and the proportion of workers receiving such support among workers injured in industrial accidents should be confirmed in the future.

No adequate compensation is given to those who die from industrial accidents. A North Korean defector in his/her early 20s who defected in 2017 testified that one of his/her neighbors who was in his/her early 20s died after being crushed under the machines of the 618 Shock Troop (*dolgyeogdae*) in 2011, but only 200 kg of corn was given to his/her parents.⁷¹⁴ A North Korean defector in his/her early 20s who defected in 2017 testified that eight people were killed while working when a train tunnel collapsed in May 2017, but from what he/she knows, no compensation was given.⁷¹⁵ There was also a testimony stating that a student fell off a building while working at an apartment construction site and died in 2017, but the authorities did not provide any compensation.⁷¹⁶ A defector in his/her early 20s who defected in 2019 also testified that there was a person who fell while doing construction work in 2018, but the person had to bear his/her own medical costs since the state does not support one's

713_NKHR2020000016 2020-07-04.

714_NKHR2017000018 2017-05-08.

715_NKHR2017000111 2017-11-20.

716_NKHR2018000130 2018-11-19.

medical costs even when the person breaks his/her leg or gets injured.⁷¹⁷

It is also confirmed that in some cases, measures are taken to honor those who died from industrial accidents instead of giving appropriate compensation, but this does not seem to have much contribution to the survival of the bereaved family. A North Korean defector in his/her 20s who defected in 2017 said that a 22-year-old man died from standing against falling rocks while serving in a shock troop (*dolgyeogdae*), and as far as the testifier knows, the man was rewarded with Kim Jong Il honorable man's award, but his family was given only a small amount of compensation.⁷¹⁸ A defector in his/her early 40s who defected in 2016 testified that when a worker dies from an industrial accident, a title commemorating his/her heroic efforts is awarded to the deceased, but no financial compensation is given to the bereaved family.⁷¹⁹

E. Evaluation

From a legal perspective, North Korea's social security system is well established. In reality, however, it fails to fulfill its function properly. This is not only because the North Korean authorities

717_NKHR2019000045 2019-07-01.

718_NKHR2017000111 2017-11-20.

719_NKHR2017000051 2017-07-03.

lack the will to respect, protect and realize social security but also because it is facing a poor financial situation. Elderly pensions are provided in only small amounts, being of little help for the elderly in sustaining their lives. In addition, the lack of an emergency welfare system makes households vulnerable to financial crises if their breadwinner is not able to engage in economic activities due to unexpected illness or death. The welfare system for residents who are unable to engage in economic activities due to illness or disability either does not exist or remains operating in a perfunctory manner, threatening the very survival of the people in need. Lastly, the situation is the same for people injured in industrial accidents. Although provisions stipulate that pensions or subsidies shall be provided, they either are not provided or are provided in such small quantities that they offer no substantive assistance, making it difficult for injured workers and their families to make a living.

The primary responsibility to protect the right to social security of North Korean people lies with the North Korean authorities. However, considering the financial situation of North Korea, it seems difficult to expect that such issues will be greatly improved within a short period of time with the efforts of the North Korean authorities alone. Therefore, the interest and support of the international community for the vulnerable groups in North Korea need to be further expanded in the future.



White Paper on Human Rights
in North Korea 2021



Part IV

Vulnerable Groups

1. Women
 2. Children
 3. Persons with Disabilities
-

1

Women

The Preamble of the UDHR reaffirms the equal rights of men and women along with human dignity and value. Article 2 emphasizes that everyone is entitled to all the rights and freedoms set forth in the UDHR, without distinction of any kind, including gender. In addition, Article 25, paragraph 2 stipulates that motherhood and childhood are entitled to special care and assistance. There are also provisions related to the rights of women in the ICCPR and the ICESCR. However, the UDHR, the ICCPR and the ICESCR are limited in that they only attempt to guarantee the rights of women in their relation to the rights of men, rather than understanding women's rights according to their distinct characteristics. The CEDAW, which entered into effect on 3 September 1981, is distinguished from existing international documents on women in that it overcomes such limitations and reflects gender-sensitive perspectives and recognition of the special characteristics of women's issues that might arise in the private sector.⁷²⁰

North Korea ratified the CEDAW on 27 February 2001. In a report which combined the second, third and fourth periodic reports submitted to the UN Committee on the Elimination of Discrimination against Women (hereinafter in this chapter the Committee) in 2016, North Korea self-evaluated that North Korean women, “as full-fledged masters of the society, with fully exercised equal rights with men in all fields of politics, the economy, social and cultural life, performing great feats in the efforts for the prosperity of the country.”⁷²¹ North Korea announced that it has guaranteed gender equality both by law and in practice and that it explicitly stipulates in its Constitution and Family Law that women shall be accorded equal rights with men in terms of political and social participation and family life.⁷²² Moreover, North Korea emphasized in the report that it has adopted the Law on the Protection and Promotion of the Rights of Women in 2010 to further enhance the status and role of women by more thoroughly ensuring women’s rights in all areas of social life, has pursued consistent policies to guarantee gender equality and

720_ The CEDAW is composed of a preamble, six parts and a total of 30 articles. Part 1 (Articles 1–6) stipulates the duties of States Parties to eliminate discrimination, Part 2 (Articles 7–9) stipulates civil and political rights, Part 3 (Articles 10–14) stipulates economic, social and cultural rights, Part 4 (Articles 15–16) stipulates legal abilities and the rights on marriage and family life, Part 5 (Articles 17–22) prescribes the UN Committee on the Elimination of Discrimination against Women and the country report system and Part 6 (Articles 23–30) sets forth conditions for the CEDAW to enter into force and its revision procedures, etc.

721_ UN Doc. CEDAW/C/PRK/2–4 (2016), para. 3.

722_ *Ibid.*, paras. 9–10.

strictly prevents all forms of discrimination against women.⁷²³ In addition, North Korea stated in the 2019 UPR report that overall maternal health in North Korea has improved.

As such, North Korea emphasizes that many institutional improvements have been made in terms of women’s human rights. However, whether the situation of women’s human rights has actually improved is yet to be confirmed. In this chapter, whether improvements in women’s human rights are being made as the North Korean authorities emphasize will be examined based on the testimonies of North Korean defectors.

A. Discrimination against Women

North Korea prohibits “all forms of discrimination against women” through the Law on the Protection and Promotion of the Rights of Women. However, the customary distinction and exclusion based on gender still seem to directly and indirectly restrict North Korean women from exercising their basic freedoms on an equal basis with men.

(1) Stereotype of Male Superiority and Fixed Gender Roles

The stereotype of male superiority and fixed gender roles are deeply rooted in the perceptions of North Korean people. In North

⁷²³ *Ibid.*, para. 11.

Korea, there is a social atmosphere where women are expected to bear sole responsibility for housework and childcare. There are also expectations for women to embody the qualities of a “Chosun woman.” In these ways, gender stereotypes of male superiority appears to still prevail in North Korea.⁷²⁴ For instance, a testifier who defected from North Korea in 2019 testified that he/she was taught from home that women should be passive, kind and modest.⁷²⁵ In addition, many testimonies were collected reporting that the status of women is still very low despite the expansion of women’s economic activities.⁷²⁶

However, there were also some testimonies that the idea of male superiority is on a gradual decline in urban areas. A North Korean defector ○○○ testified that gender equality is better perceived in Pyongyang compared to other regions, but discrimination is severe in provincial areas.⁷²⁷ There was also a testimony stating that while stereotypes about gender discrimination still exist, women’s voice in the family is gradually increasing.⁷²⁸ A testifier who defected from North Korea in 2019 said that unlike in the

724_ NKHR2018000002 2018-03-12; NKHR2019000055 2019-07-29; NKHR2019000056 2019-07-29; NKRH2020000014 2020-06-15; NKHR2020000031 2020-08-03 and many other testimonies.

725_ NKHR2020000004 2020-05-15.

726_ NKHR2018000010 2018-03-12; NKHR2018000017 2018-04-09; NKHR2018000021 2018-04-09; 2018000022 2018-04-09; NKHR2018000027 2018-04-09.

727_ NKHR2018000044 2018-03-14.

728_ NKHR2018000049 2018-06-04; NKHR2018000102 2018-10-01; NKRH2020000017 2020-07-04.

past, there is a perception now that men need to help women, and nowadays, men prepare meals when women come home late.⁷²⁹

Of note is that the perception of gender roles of the younger generation is gradually becoming differentiated from that of the older generation in North Korea. There were several female defectors in their 20s who expressed critical opinions about gender discrimination and the perception of gender roles of their parents' generation.⁷³⁰ Moreover, it was possible to infer from defector testimonies that the perception of male dominance over women has been weakening slightly in North Korea. For instance, there was a testimony claiming that the thoughts of young North Korean people on gender roles are different from that of their parents' generation,⁷³¹ a testimony reporting that North Korean society had changed to one where men can no longer ignore women because women have become breadwinners⁷³² and a testimony indicating that the perception of men's predominance over women has been changing greatly among the younger generation.⁷³³ However, it seems that such a transition in perception is taking place mostly among women, and men still tend to "demand women to look up to them"⁷³⁴ or "still think that

729_NKHR2020000024 2020-07-06.

730_NKHR2019000048 2019-07-01; NKHR2019000055 2019-07-29.

731_NKHR2019000054 2019-07-29.

732_NKHR2019000077 2019-09-25.

733_NKHR2019000083 2019-09-25.

734_NKHR2019000054 2019-07-01.

housework is for women.”⁷³⁵ In this regard, a testifier who defected from North Korea in 2019 said that the phrase “a man who helps a woman with her housework” is used to describe someone who is not smart.⁷³⁶

Table IV-1 Testimonies on Stereotypes of Male Superiority and Fixed Gender Roles

Testimonies	Testifier ID
A woman in her 30s who defected in 2015 testified that (i) men are social beings whether or not they earn money, and thus, they must have a job and work at a workplace instead of selling items at a market, (ii) men are like the sky, and (iii) women belong to men.	NKHR2017000033 2017-06-05
A woman in her 20s who defected in 2016 testified that the husband comes first in a family.	NKHR2017000009 2017-04-10
A woman in her 50s who defected in 2018 testified that there is a prevalent perception in North Korea that a wife shall serve her husband to the extent that even when scooping rice in a bowl, the wife should scoop the husband’s rice first.	NKHR2018000032 2018-05-08
A woman in her 40s who defected in 2018 testified that there is a prevalent perception in North Korea that the wife shall be obedient to the husband even when her husband fails to financially support the family.	NKHR2018000055 2018-07-02
A woman in her 40s who defected in 2018 testified that there is a prevalent perception in North Korea that men need to have a job while women need to have a good husband. She also testified that poor parents are more likely to think that their daughters can live just fine (without receiving a proper education) as long as they know how to count money.	NKHR2018000076 2018-07-02
A woman in her 20s who defected in 2018 testified that there is a prevalent perception in North Korea that there is a clear distinction between what men can do and what women can do.	NKHR2018000118 2018-10-01
A woman in her 30s who defected in 2018 testified that “manly” is used to describe people with a good job and authority, and “feminine” is used to describe those who make good money and have good home management skills.	NKHR2019000077 2019-09-25

735_NKHR2019000083 2019-09-25; NKHR2020000024 2020-07-06.

736_NKHR2020000006 2020-05-15.

Testimonies	Testifier ID
A woman in her 50s who defected in 2019 testified that North Korean women are evaluated based on criteria such as a decent appearance, good character and kind heart.	NKHR2019000066 2019-08-26
A woman in her 20s who defected in 2019 testified that she was continuously told by her family that women should be clean, nice and not talkative.	NKHR2019000068 2019-08-26

(2) Restrictions on Women’s Political Participation and Social Entry

In the report combining the second, third and fourth periodic reports submitted to the Committee in 2016, North Korea emphasized that North Korean women enjoy equal status with men in political and public life.⁷³⁷ In addition, North Korea stated in the 2019 UPR report that it has implemented measures to appoint competent women to lead posts and that the proportion of women leaders at departments of ministries and ministry-level institutions significantly increased in 2018.⁷³⁸ However, actual social activities of North Korean women appear to be limited.

A case in point is the low political participation of North Korean women. First, as for the election of deputies to the 14th SPA held in March 2019, it was reported that 17.6% of the elected candidates were women.⁷³⁹ Considering that 20.2% of the elected candidates for the election of deputies to the 13th SPA held in

737_ UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 75-83.

738_ UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 36.

739_ “Choe Ryong-hae selected as the chairman of the SPA Presidium,” *Tongil News*, 12 April 2019.

2014 were women, it appears that the proportion of women deputies in the SPA is not only low but also has decreased over the past five years.

Given the characteristics of the North Korean system, it would be more appropriate to identify the level of North Korean women's political participation based on the ratio of women in leading positions of the KWP than the proportion of women deputies in People's Assemblies.⁷⁴⁰ With respect to the 8th Party Congress of the KWP held in January 2021, among 250 members of the Central Committee of the KWP and 4,750 representatives elected from various levels of the Party who attended the Party Congress, 501 were women, which accounted for 10% of all attendees.⁷⁴¹ Considering that the proportion of women attendees for the 7th Party Congress held in May 2016 was 8.6%, it can be viewed that there has been some improvement, but the rate remains very low. As such, the overall ratio of female representatives in the Party is low, and the proportion of women in leadership tends to decrease as they get closer to the core of the power structure.⁷⁴² Moreover, there is only a small number of women appointed as members of the Cabinet that have political and administrative responsibility and authority.

740_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea* (Seoul: KINU, 2016), p. 9.

741_ "7,000 people attended without masks on, discussing four items in the agenda," *Tongil News*, 6 January 2021.

742_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 8-10.

Opportunities for North Korean women to improve their social status still appear to be limited, and the situation is not being significantly improved. When the reports on the implementation of the CEDAW submitted by North Korea in 2002 and 2016 are compared, one can find that the proportion of female judges and female officials in the Ministry of Foreign Affairs has increased by only 1–2% over the past decade.⁷⁴³ In this regard, the Report of the Detailed Findings of the COI published in 2014 pointed out that only 10% of central government officials are women.⁷⁴⁴ In its Concluding Observations published in 2017, the Committee noted that in North Korea, women’s participation in political and public sectors are extremely low.

The problem is that opportunities for women’s social entry are not expected to expand considerably in the future.⁷⁴⁵ To begin with, there appears to be a gap between men and women in terms of educational opportunities. In theory, there should be no significant difference in the enrollment rate for male and female students since primary and secondary education are compulsory in North Korea. However, there were some testimonies reporting that the testifiers have experienced gender-based discrimination in terms of opportunities for primary and secondary education. A

743_ UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 89, 254

744_ UN Doc. A/HRC/25/CRP.1 (2014), para. 314.

745_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 9~10.

North Korean defector in her 20s who defected in 2018 testified that she had barely managed to finish elementary school because there is a widespread perception in North Korea that all women need to know is how to read.⁷⁴⁶ A North Korean defector in her 40s also testified, “my son graduated from ○○ middle school, and there were only six female students in the class consisting of 30 students. I do not know why, but there were always many more boys than girls.”⁷⁴⁷

There seems to be a wide gender gap in the entrance rate for higher education institutions, such as universities. A North Korean defector in her 20s who defected in 2016 testified that vocational schools have more women, and more men attend universities,⁷⁴⁸ and another defector in her 20s who defected in 2018 testified that universities are for men, and there is a widespread perception that it is no use for women to study.⁷⁴⁹

While the social atmosphere that discriminates against women acts as an obstacle to the social entry of North Korean women, North Korean women themselves also tend to internalize gender-discriminatory perceptions. A substantial number of female defectors who responded to the interview replied that they

746_NKHR2018000009 2018-03-12.

747_NKHR2018000057 2018-07-02.

748_NKHR2016000141 2016-08-23.

749_NKHR2018000008 2018-03-12.

had “never felt gender discrimination”⁷⁵⁰ but showed low awareness of gender equality, saying that “I think that men should be treated well unconditionally,”⁷⁵¹ “it is natural to think that men are superior to women”⁷⁵² and “I think men are more suitable as Party officials.”⁷⁵³

(3) Family Life Centered on Male Heads of Household

A traditional patriarchal structure is maintained in North Korean family life. In North Korea, only men can become the “head of the household,” and it is found that overall family life is carried out centering on the male “head of the household.”

However, recently, many testimonies were documented that such patriarchal characteristics of North Korean families have weakened, and the status of the head of a household (husband) is changing. It appears that these changes are due to an increase in women’s voices in family life that results from the increase in their economic activities and cases where women function as breadwinners for their families, rather than institutional factors

750_ NKHR2019000014 2019-05-07; NKHR2019000015 2019-05-07; NKHR2019000017 2019-05-07; NKHR2019000018 2019-05-07; NKHR2019000020 2019-05-07; NKHR2019000029 2019-06-03; NKHR2019000030 2019-06-03 and many other testimonies.

751_ NKHR2019000018 2019-05-07.

752_ NKHR2019000020 2019-05-07.

753_ NKHR2019000030 2019-06-03.

such as the enactment of the Law on the Protection and Promotion of the Rights of Women.⁷⁵⁴

A North Korean defector who defected in 2019 testified that although the perception of gender equality differs from family to family, the status of women has been rising recently as women provide for their families financially.⁷⁵⁵ In addition, a North Korean defector in her 20s who defected in 2017 testified that in the past, there was a common perception that the wife should obey her husband even if both the husband and wife work, but recently, fewer women endure unfair treatment by their husbands, and the number of women who file for divorce has increased.⁷⁵⁶ There was a testimony stating that while divorce had been perceived as taboo in the past, it is no longer considered a serious issue, and nowadays, more men are afraid that their wives would divorce them if they do not treat their wives well.⁷⁵⁷ Considering testimonies such as the one indicating that the husband cannot ignore his wife if she earns money⁷⁵⁸ and one where the husband treats his wife more harshly if she makes money due to an inferiority complex,⁷⁵⁹ it seems clear that women's economic

754_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 13-14; NKHR2018000004 2018-03-12.

755_NKHR2020000019 2020-07-04.

756_NKHR2018000003 2018-03-12.

757_NKHR2020000024 2020-07-06.

758_NKHR2019000041 2019-07-01.

759_NKHR2019000028 2019-06-03.

power is creating a small rift in the solid patriarchal structure of North Korean society.

What is interesting is that there is an increasing tendency among North Korean women to refuse to get married and to prefer to maintain a common-law marriage.⁷⁶⁰ For North Korean women, marriage entails the responsibility to take care of the husband's livelihood, and above all, getting a divorce is not only very difficult but also likely to cause social disadvantages.⁷⁶¹ As a result, North Korean women prefer to maintain a common-law marriage instead of a formal marriage and choose to end their union if the relationship deteriorates or certain circumstances arise. A North Korean defector ○○○ who defected in 2019 said that North Korean women recently tend to refuse marriage, and the perception that their life is already too hard to take care of a husband is spreading.⁷⁶² A testifier who defected from North Korea in 2019 testified that it is common that young couples live together and then break up, and the trend among young couples today is to live two to three years together and register their marriage only when they think they could continue living together.⁷⁶³ There was also a testimony claiming that half of

760_NKHR2019000008 2019-04-08; NKHR2019000033 2019-06-03; NKHR2019000035 2019-06-03; NKHR2019000077 2019-09-25; NKHR2019000067 2019-08-26; NKHR2020000006 2020-05-15; NKHR2020000045 2020-10-31.

761_NKHR2020000047 2020-11-28.

762_NKHR2019000035 2019-06-03.

763_NKHR2020000025 2020-07-06.

those who get married do not register their marriage.⁷⁶⁴ A testimony was documented that due to a rapid increase in the number of children born out of wedlock, Kim Jong Un issued a policy in June 2018 that instructed birth certificates to be issued for all children born out of wedlock.⁷⁶⁵ It would be too hasty to conclude that the said phenomenon is a general trend across North Korea since the majority of North Korean defectors who participated in the interviews were from border regions. However, it is assessed that, at the very least, this is an actual phenomenon taking place in the border regions.

(4) Double Burden of Housework and Social Labor

North Korean authorities claim that they have ensured the conditions for women's equal social entry through the social welfarization of housework and childcare. The authorities also claim that efforts have been made to provide women with good working conditions and welfare facilities in factories and enterprises so that women could do their work without any inconvenience.⁷⁶⁶

Contrary to these assertions, however, with the continued economic crisis, North Korean women suffer from the excessive burden of labor created as a result of the downsizing of social

764_NKHR2019000077 2019-09-25.

765_NKHR2019000035 2019-06-03.

766_UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 69.

welfarization policies for housework and childcare and the lack of sharing of housework and childcare at home, as well as the continued emphasis of women's traditional role in the family. In reality, North Korean women bear responsibility for not only financially supporting their family but also managing domestic chores. As discussed earlier, despite the growing number of men helping their wives with housework, there are still many testimonies reporting that there is a widespread perception that women are responsible for domestic chores even if they are engaged in economic activities.⁷⁶⁷

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*), study sessions and labor mobilization campaigns carried out on a daily basis by organizations such as the Women's Union.⁷⁶⁸ A North Korean woman in her 30s who defected in 2018 testified that she chose not to leave her job even after marriage because she would have had participate in the activities of the Women's Union, which are often arduous, had she quit her job.⁷⁶⁹ Another North Korean woman in her 30s who

767_ NKHR2018000073 2018-07-30; NKHR2018000080 2018-07-30; NKHR2019000047 2019-07-01; NKHR2019000048 2019-07-01; NKHR2019000055 2019-07-29; NKHR2019000056 2019-07-29; NKHR2019000071 2019-08-26; NKHR2020000016 2020-07-04; NKHR2020000022 2020-07-04 and many other testimonies.

768_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 16.

769_ NKHR2018000044 2018-06-04.

defected in 2018 said that although it used to be common for women to quit their jobs after getting married, recently, with increasing labor mobilization targeting housewives, more women are choosing to stick with their day jobs.⁷⁷⁰ There is no remuneration for any of the social labor that housewives are mobilized to carry out.⁷⁷¹

B. Violence against Women

(1) Domestic Violence

The Committee had expressed concern that North Korea does not recognize the seriousness of domestic violence and is not taking any protective or preventive measures against such violence. In response, North Korea enacted in the Law on the Protection and Promotion of the Rights of Women provisions that prohibit domestic violence and stipulate protective measures. However, no specific amendments to the Criminal Law have been made on this matter, and there does not appear to be any major change in reality.

Most North Korean defectors testified that although domestic violence is widely common, it is rare for public authorities to intervene due to the social climate in North Korea that defines domestic violence as a problem that needs to be resolved within

770_NKHR2018000041 2018-06-04.

771_NKHR2016000148 2016-09-06.

the household. A North Korean woman in her 30s who defected in 2016 testified that domestic violence would not be an issue unless someone is killed.⁷⁷² A North Korean woman in her 50s who defected in 2017 testified that she had experienced severe domestic violence ever since she got married in 1989 up until her husband died in 2016 but received no help despite having filed reports on numerous occasions.⁷⁷³ A North Korean defector in her mid-20s who defected in 2015 testified that even when women report to MPS officers in charge, they would just say, “handle your family problems between yourselves” and that one cannot expect any legal measure or assistance.⁷⁷⁴ It has been found that many MPS officers who witness domestic violence often only urge the victim to understand and not to make any fuss since an argument between husband and wife is like trying to cut water with a sword (a Korean proverb meaning that arguments are inconsequential).⁷⁷⁵ A North Korean defector ○○○ who defected in 2017 testified that she was a victim of domestic violence and reported the abuse to an MPS city/county branch, but the MPS officer did not do much except to stop the violence at the scene.⁷⁷⁶ It is said that even the Party organizations simply advise or criticize the husbands who have committed violence.

772_NKHR2018000041 2018-06-04.

773_NKHR2018000017 2018-04-09.

774_NKHR2016000154 2016-09-06.

775_NKHR2017000084 2017-09-25.

776_NKHR2017000049 2017-07-03.

In many cases, victims give up on reporting domestic violence because they know no measures will be taken. A North Korean defector ○○○ who defected in 2017 testified that cases of domestic violence frequently occur due to hardships in people's lives, and people do not even consider reporting them.⁷⁷⁷ There were many testimonies stating that even if one wants to file for divorce on the grounds of domestic violence, getting a divorce is in fact difficult because the divorce procedure is overly complicated, the costs for the divorce process, such as costs for trial and bribes, are significantly high and the Party guidelines discourage divorce.⁷⁷⁸ A North Korean woman in her 20s who defected in 2018 testified that she demanded a divorce as her husband threatened to stab her with a knife almost every day, but there was no way to get a divorce as her husband refused to do so.⁷⁷⁹

Occasionally, cases are confirmed where the husband was investigated or punished for reported domestic violence. For example, a North Korean woman in her 40s who defected in 2017 testified that a man in her neighborhood was arrested for domestic violence and was detained for two days. However, this case seems to be an exception. In reality, hardly any action such as criminal punishment is taken unless domestic violence leads to extreme

777_NKHR2017000084 2017-09-25.

778_NKHR2017000099 2017-10-23; NKHR2017000100 2017-10-23; NKHR2018000040 2018-05-08; NKHR2018000041 2018-06-04.

779_NKHR2018000049 2018-06-04.

circumstances such as murder. Moreover, North Koreans even tend not to regard domestic violence as something that should be reported, believing that reporting domestic violence is humiliating.⁷⁸⁰ It also seems that there is a deep-rooted perception in society that the cause of domestic violence is the women themselves.⁷⁸¹ The Women's Union that proclaims to enhance women's empowerment is also not very helpful in resolving domestic violence issues.⁷⁸² In addition, there are no shelters for victims of domestic violence. As such, it has been found that women exposed to domestic violence are not protected by the state or society.

However, recently, there were some testimonies claiming that domestic violence is on the decline as women's economic power and their voice within the family have grown stronger. It is said that men tend to restrain themselves from using violence since the livelihood of families is possible mostly due to women's economic activities, and women no longer tend to endure abuse but rather end their marriage.⁷⁸³ There were also testimonies reporting that while it is difficult to divorce in North Korea, it is

780_ NKHR2018000012 2018-03-12.

781_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 20.

782_ *Ibid.*, p. 21.

783_ NKHR2019000012 2019-04-20; NKHR2019000030 2019-06-03; NKHR2019000056 2019-07-29; NKHR2019000062 2019-07-29; NKHR2019000063 2019-07-29; NKHR2019000077 2019-09-25; NKHR2020000016 2020-07-04.

possible to divorce for the reason of domestic violence.⁷⁸⁴ A female North Korean defector in her 50s who defected in 2018 testified that domestic violence is gradually decreasing as the number of cases of divorce due to the husband's violence has increased in the past three to four years and that the 312 Permanent Committee is taking measures to help separated couples legally divorce so that they can have stable lives.⁷⁸⁵ Continued observation is necessary to identify the extent to which these testimonies on recent changes can be generalized.

(2) Sexual Exploitation and Violence

In the combined second, third, and fourth periodic reports published in 2016, North Korea emphasized that sexual exploitation and violence against women is strictly addressed based on relevant 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 sexual intercourse with a minor) and that the crime of introducing and distributing corrupt culture (Article 183 of the Criminal Law) is heavily punished to prevent any encouragement

784_ NKHR2019000022 2019-05-07; NKHR2019000036 2019-06-03; NKHR2019000042 2019-07-01; NKHR2019000062 2019-07-29; NKHR2019000077 2019-09-25; NKHR2020000006 2020-05-15.

785_ NKHR2019000062 2019-07-29.

of sexual exploitation.⁷⁸⁶ Moreover, North Korea stated that it guarantees the protection of the identities of victims of sexual violence and provides relief for damages in accordance with the Law on Compensation for Damages.⁷⁸⁷ However, North Korea still does not seem to properly recognize the seriousness of violence against women, and as a result, it has been found that protective and preventive measures for victims are not functioning properly.

In fact, it is very difficult to identify the actual cases of sexual violence in North Korea as sexual violence mostly occurs in secret, and victims are highly likely to be reluctant to disclose their case. However, in this regard, defector testimonies confirm a number of concerns.

First of all, sexual harassment is not considered a serious offense in North Korea. A North Korean woman in her 20s who defected in 2015 said that she routinely experienced sexual harassment and people saw her as an easily approachable person just because she smiled at their jokes.⁷⁸⁸ A female North Korean defector in her 20s who defected in 2019 testified that she was harassed at her workplace and eventually kicked out after she defended herself against sexual assault.⁷⁸⁹ In addition, it appears that in many

786_UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 66-70.

787_ *Ibid.*, para. 71.

788_NKHR2018000033 2018-05-08.

789_NKHR2019000100 2019-10-21.

cases, sexually assaulted women do not report the crime due to humiliation and social stigmatization.⁷⁹⁰ There were also testimonies claiming that there is a negative social perception of victims of sexual violence; for example, there is a perception that victims should be held accountable as they have failed to protect their own body.⁷⁹¹ There were testimonies stating that victims do not report the crime for the sake of their own future because it could be difficult for them to get married later if they report their case.⁷⁹² Most North Korean defectors testified that there are no follow-up measures to protect victims of sexual violence, and the victims are completely unaware of such measures.

There were occasional cases where suspects have been punished. Another North Korean defector ○○○ who defected in 2016 testified that a perpetrator who raped a minor in Hyesan, Yanggang Province was sentenced to one year of labor training punishment.⁷⁹³ A North Korean defector ○○○ who defected in 2018 testified that he/she received a lecture from his/her People's Unit (*inminban*) in 2016, where the lecturer told attendees "Keep yourselves

790_NKHR2016000139 2016-08-23; NKHR2016000140 2016-08-23; NKHR2017000050 2017-07-03.

791_NKHR2016000143 2016-08-23; NKHR2016000145 2016-08-23; NKHR2017000026 2017-05-08; NKHR2017000039 2017-06-05; NKHR2018000033 2018-05-08; NKHR2019000082 2019-09-25.

792_NKHR2016000148 2016-09-06; NKHR2017000046 2017-07-03; NKHR2019000082 2019-09-25.

793_NKHR2017000010 2017-04-10.

educated,” referring to a story of a man who was sentenced to 10 years of correctional labor punishment for sexual assault.⁷⁹⁴

Although physical violence is not involved, it seems that there are many cases where women experience sexual exploitation or suffer damage as a result of hierarchies of power. There are many cases where officials working for agencies of power demand bribes from women engaged in unofficial economic activities in return for turning a blind eye to such unlawful activities, and some demand sexual favors in return. For women who barely maintain their livelihood through vending and peddling, it would not be easy to reject and resist such demands.⁷⁹⁵

Another problem that should be noted is the lack of education to prevent sexual violence.⁷⁹⁶ North Korean defectors who have been asked if sexual violence prevention education is provided in North Korea replied that they had not received such education.⁷⁹⁷ A North Korean defector ○○○ testified that he/she had received a lot of lectures on socialist gender equality but had never received sex education.⁷⁹⁸ As a result, it seems that some North

794_ NKHR2018000049 2018-06-04.

795_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 25.

796_ *Ibid.*

797_ NKHR2016000117 2016-07-26; NKHR2016000118 2016-07-26; NKHR2016000119 2016-07-26; NKHR2017000050 2017-07-03; NKHR2019000027 2019-06-03; NKHR2019000041 2019-07-01; NKHR2019000055 2019-07-29; NKHR2019000068 2019-08-26; NKHR2019000077 2019-09-25 and many other testimonies.

798_ NKHR2016000134 2016-08-09.

Korean women do not sufficiently perceive the seriousness of the issue although they themselves have experienced or witnessed sexual violence or were exposed to the risks of sexual violence.

C. Treatment of Repatriated Female Defectors

(1) Punishment for Victims of Human Trafficking

In 2014, the COI recommended North Korea to “respond immediately and effectively to trafficking in women, and address the structural causes that make women vulnerable to” such violation.⁷⁹⁹ In addition, in 2017, the Committee expressed concern over repatriated female defectors for being punished for illegal border-crossing, being subject to sexual violence and forced abortions and being deprived of a fair trial and recommended North Korea to take corrective measures.⁸⁰⁰

However, it has been found that North Korean authorities make no effort to address the structural causes that make female defectors vulnerable to human trafficking (i.e., the inevitability of using human trafficking as a means to cross the border) and continue to punish women who have been the victims of human trafficking.⁸⁰¹ It is understood that this is because North Korean authorities consider these women “criminals” who have committed the crime

799_UN Doc. A/HRC/25/63 (2014), para. 89 (i).

800_UN Doc. CEDAW/C/PRK/CO/2-4 (2017), para. 46.

801_NKHR2016000117 2016-07-26.

of illegal border-crossing and not victims of human trafficking based on the fact that these women had been aware in advance that they would be subjects of human trafficking.⁸⁰² There are many testimonies stating that those who have committed illegal border-crossing are punished without exception.⁸⁰³ Even in cases where they are not sentenced to legal punishment, the cruel treatment they receive during the investigation process indicates they are treated like criminals.⁸⁰⁴

In general, the level of punishment is determined based on the length of the defectors' stay in China.⁸⁰⁵ It has been identified from the testimonies of female defectors who have recently defected from North Korea that the severity of punishment for forcibly repatriated female defectors has increased after Kim Jong Un came to power. A North Korean defector in her 50s who defected in 2019 said that victims of human trafficking used to be sent to labor training camps (*rodongdanryundae*), but recently they are sent to prison camps (*kyohwaso*) for five to 10 years.⁸⁰⁶ A North Korean defector in her 30s who defected in 2015 testified that the punishment for those who were victims of human trafficking and

802_NKHR2017000014 2017-04-10; NKHR2017000058 2017-07-31; NKHR2017000094 2017-10-23; NKHR2017000100 2017-10-23; NKHR2018000020 2018-04-09; NKHR2018000021 2018-04-09; NKHR2018000025 2018-04-09; NKHR2019000042 2019-07-01.

803_NKHR2016000143 2016-08-23; NKHR2016000134 2016-08-09.

804_NKHR2016000148 2016-09-06; HKHR2017000124 2017-11-20.

805_NKHR2016000131 2016-08-09; NKHR2016000133 2016-08-09.

806_NKHR2019000076 2019-08-26.

forcibly repatriated varies depending on the offense, and those who have been engaged in prostitution while staying in in China or those who were caught while trying to go to South Korea are sent to political prison camps (*kwanliso*).⁸⁰⁷ While the punishment imposed on the victims of human trafficking is severe, there was a testimony indicating that it can be avoided through bribery. A testifier who defected from North Korea in 2019 testified that even the issue of human trafficking can be solved by paying bribes.⁸⁰⁸

(2) Human Rights Violations in the Process of Forced Repatriation and Investigation

One of the most serious human rights violations against women conducted by North Korean authorities is the practice of forced abortions during the forced repatriation process as well as inhuman treatment in the investigation process. As criticism by the international community grew over cases where forcibly repatriated pregnant female defectors were forced to have abortions and to leave their newborn children unattended to die, North Korea is found to have allowed such women to give birth in some regions and attempted to hand over the newborn children to their Chinese fathers. However, there still are testimonies in which

807_NKHR2019000041 2019-07-01.

808_NKHR2020000006 2020-05-15.

testifiers have witnessed or heard of incidents where forcibly repatriated female defectors who are pregnant with the babies of Chinese men were forced to undergo an abortion in the process of repatriation.⁸⁰⁹

Table IV-2 Cases of Human Rights Violations of Forcibly Repatriated Pregnant Women

Testimonies	Testifier ID
In October 2016, at the holding center (<i>jipkyulso</i>) in Songpyeong District in Chongjin, North Hamgyeong Province, a pregnant woman was injected with a drug for abortion.	NKHR2017000099 2017-10-23
In November 2016, at the MSS city detention center (<i>guryujang</i>) in Hyesan, Yanggang Province, a woman who was four months pregnant under investigation was taken to the hospital to get curettage.	NKHR2017000128 2017-12-18

Cases of sexual violence at detention facilities have also been identified. A North Korean defector ○○○ testified that she was sexually assaulted by a correctional officer (*gyehowon*) when she was in an MPS holding center (*jipkyulso*) in July 2016 and heard the officer saying, “this does not constitute sexual assault because you are dead here, and a dead person cannot say she is assaulted.” The testifier commented that she wanted to die after hearing this.⁸¹⁰

Another serious problem is the so-called “uterus examination,” which is not only humiliating but also very unsanitary. The

809_ NKHR2017000047 2017-07-03; NKHR2017000099 2017-10-23; NKHR2017000128 2017-12-18; NKHR2017000058 2017-07-31; NKHR2017000104 2017-10-23; NKHR2017000130 2017-12-18.

810_ NKHR2017000045 2017-07-03.

examination is conducted during a body search for 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 detention facilities such as the MSS detention centers (*guryujang*) and the MSS holding centers (*jipkyulso*).⁸¹¹ It was found that in most cases body searches of women were conducted by women. There was also a testimony stating that the person who carried out the examination was not a military officer or medical officer, but a woman who was responsible for filing documents.⁸¹² In another testimony, the testifier reported that while the body search was conducted by a female, a male MPS officer was watching the process and insulted the female detainee, saying, “you and your ugly body served the Chinese.”⁸¹³ As described above, under the pretext of finding money brought in from China, North Korean investigative agencies not only conduct uterus examinations but also force female detainees to repeatedly sit and stand or forcibly feed them to defecate for examination.⁸¹⁴

811_NKHR2017000025 2017-05-08; NKHR2017000045 2017-07-03; NKHR2017000104 2017-10-23; NKHR2018000023 2018-04-09; NKHR2018000024 2018-04-09; NKHR2019000041 2019-07-01; NKHR2019000075 2019-08-26.

812_NKHR2017000104 2017-10-23.

813_NKHR2017000130 2017-12-18.

814_NKHR2016000131 2016-08-09; NKHR2016000149 2016-09-06.

D. Women's Health and Maternal Health

In its 2019 UPR report, North Korea stated that “the Education Strategy for Reproductive Health (2014–2018) and the Action Programme for Health of Newborns (2015–2016) were implemented with success,” and as a result, “maternal mortality (per 100,000 live births) decreased from 62.7 in 2014 to 53.2 in 2017.”⁸¹⁵ In the report, North Korea also specified that “the period of maternity leave was extended to 240 days and all provincial maternity hospitals were modernized,” and consequently, “conditions for good health and the recovery of women who gave birth and the nutritional status of the child”⁸¹⁶ have improved. In other words, North Korea stated that the overall institutional environment for maternal health has been improving. However, it is not clear whether such institutional measures have actually led to the improvement of women’s right to health. In this chapter, the details of the actual situation of North Korean women’s right to health will be examined in terms of women’s health and maternal health.

(1) Women’s Health

It is well known that many North Korean women suffer from poor health conditions including malnutrition and anemia

815_A/HRC/WG.6/33/PRK/1 (2019), para. 69.

816_A/HRC/WG.6/33/PRK/1 (2019), para. 71.

resulting from economic difficulties that have continued since the 1990s, excessive labor to support the livelihood of their families and psychological burden caused by increasing responsibility for their families.

This situation is well reflected in the results of a nutrition survey conducted on the North Korean population by North Korea's Central Bureau of Statistics in September 2012, with technical support from the UNICEF, WFP and WHO.⁸¹⁷ In the survey, an analysis of 7,649 women of childbearing age from 15 to 49 years with children aged less than five years was carried out, which measured plasma hemoglobin concentration and mid-upper arm circumference among other indicators. The overall health condition of such women was found to be poor. The results showed that 31.8% of women in their 20s, 30.2% of those in their 30s and 38.7% of those in their 40s were found to have anemia, indicating a high prevalence of anemia among women in all childbearing age groups. Moreover, the proportion of malnourished women was also found to be high at 25.2% in their 20s, 21.4% in their 30s and 21.8% in their 40s.

Unfortunately, it is difficult to ascertain whether the overall health status of women of childbearing age has improved because

817_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)

no survey has been conducted thereafter. However, considering that the factors mentioned previously as factors impeding women's health do not seem to have greatly improved, it is assessed that the health status of women of childbearing age also could not have improved significantly in the meantime.

In addition, contraception and abortion also appear to be factors that impair the health of women of childbearing age. According to the 2017 MICS survey, the intrauterine device (IUD) is the most common method of contraception used among North Korean women. A North Korean defector in her late 20s who defected in 2019 testified that although there are cases where women take contraceptive pills, most North Korean women chose to get an IUD or so-called "loop" inserted.⁸¹⁸ However, although IUDs need to be replaced every few years, it seems that many North Korean women use one for a long period of time, and cases have been identified where women suffer from gynecological diseases because of this.⁸¹⁹

Abortion is not illegal in North Korea and appears to be common among North Korean women.⁸²⁰ The problem is that abortion procedures lead to medical accidents as they are performed mainly in private clinics with insufficient medical equipment and

818_ NKHR2020000042 2020-10-31.

819_ Geumsoon Lee *et al.*, *Right to Health in North Korea* (Seoul: KINU, 2018), pp. 38-39. (In Korean)

820_ NKHR2018000074 2018-07-30; NKHR2020000042 2020-10-31 and many other testimonies.

poor sanitary conditions; in serious cases, abortion procedures result in the death of the patient. A North Korean defector said that his/her young sister had a curettage procedure without any anesthetic in 2017, and surgical instruments appeared to be unhygienic.⁸²¹ Another North Korean defector testified that his/her cousin died from a medical accident while having an abortion at home.⁸²² There was also a testimony reporting that the testifier's friend died while having an abortion.⁸²³

There seems to be an improvement in the use of sanitary pads. In the interviews conducted by KINU from 2010 to 2014, 75.4% of respondents indicated that they have used pads made of gauze, 10.7% replied they have used pads made of old cloth and only 11.0% of the respondents answered that they have used disposable sanitary pads.⁸²⁴ Hygienic problems resulting from the use of sanitary pads made of gauze have been the cause of gynecological diseases.

However, the use of disposable sanitary pads seems to be gradually increasing recently. A North Korean defector in her mid-50s who defected in 2019 testified that in the past, people used pieces of gauze cloth as sanitary pads, but now people buy

821_NKHR2018000074 2018-07-30.

822_NKHR2017000132 2017-12-18.

823_NKHR2020000040 2020-10-31.

824_Kyung-ok Do *et al.*, *White Paper on Human Rights in North Korea 2015* (Seoul: KINU, 2015), p. 335.

disposable sanitary pads.⁸²⁵ A woman in her late 40s who defected in 2019 also testified that young people use disposable sanitary pads.⁸²⁶

(2) Maternal Health

North Korea guarantees various institutionalized benefits for pregnant women to ensure maternal health care.⁸²⁷ Childbirth is free of charge, maternity leave is guaranteed for women and there are provisions in law such as one that prohibits night work by women who are pregnant or have newborn children. However, it appears that in reality, North Korean people still do not receive sufficient support during pregnancy and childbirth.

One of the most important indicators related to maternal health would be the maternal mortality rate. As mentioned earlier, in its national report submitted for the third cycle of the UPR report in 2019, North Korea announced that its maternal mortality per 100,000 live births decreased from 62.7 in 2014 to 53.2 in 2017.⁸²⁸ It is clear that maternal mortality decreased by nearly 10 deaths in three years, but the number is still high from an international point of view. In addition, according to the Trends in Maternal Mortality (2000–2017) report published by the WHO in 2019, North

825_NKHR2020000024 2020-07-06.

826_NKHR2020000028 2020-07-06.

827_See Geumsoon Lee *et al.*, *Right to Health in North Korea*, pp. 34-37.

828_UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 70.

Korea's maternal mortality was 89 per 100,000 live births in 2017, which is significantly different from that reported by North Korea.⁸²⁹

The claimed decline in maternal mortality seems to indicate the improvement in the care and support provided for pregnant and childbearing women. However, there appear to be many areas that still need further improvement.

First of all, the number of pregnant women receiving antenatal tests is estimated to be higher than in the past. In this regard, the 2017 MICS survey conducted by UNICEF reported that among North Korean women who gave birth sometime between 2015 and 2017, 99.5% said that they had at least one antenatal test during their last pregnancy, and 93.7% responded they had at least four antenatal checkups. While the survey results indicate that most respondents had received antenatal tests during their pregnancy, defector testimonies appear to show that the percentage of women receiving antenatal tests is not as high as that reported in the survey. Whereas there were testifiers who said that they had received antenatal checkups during their pregnancy,⁸³⁰ there also were many testifiers who had never received such checkups.⁸³¹

829_WHO, *Trends in Maternal Mortality 2000 to 2017: Estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division* (Geneva: World Health Organization, 2019).

830_NKHR2017000049 2017-07-03; NKHR2018000040 2018-05-08; NKHR2018000093 2018-08-27; NKHR2020000048 2020-11-28 and many other testimonies.

831_NKHR2018000038 2018-05-08; NKHR2018000117 2018-10-22; NKHR2019000001 2019-04-08; NKHR2019000007 2019-04-08; NKHR2019000041 2019-07-01 and many other testimonies.

Cases about antenatal testing are illustrated as follows. A North Korean defector who had given birth in 2015 testified that she went to a maternity hospital every month since she was five months pregnant to check her child's gender or fetal location.⁸³² A defector who had given birth in North Korea in 2016 testified that she was advised to receive checkups but could not receive one until she was six to seven months pregnant because she was too busy.⁸³³ On the other hand, a defector who had given birth in 2014 testified that she had never received antenatal checkups,⁸³⁴ and another North Korean defector who had given birth in 2015 testified that she had not been to the hospital for checkups after she received her first pregnancy examination.⁸³⁵

In addition, it appears that recently North Korean women mostly give birth at hospitals or maternity hospitals.⁸³⁶ However, it has been identified that there are still many cases where women give birth at home.⁸³⁷ A woman in her late 30s who defected from North Korea in 2019 testified that there are cases where women give birth at home because giving birth in a hospital costs money, and people who help with childbirth are treated with

832_NKHR2018000093 2018-08-27.

833_NKHR2020000048 2020-11-28.

834_NKHR2018000117 2018-10-22.

835_NKHR2018000038 2018-05-08.

836_NKHR2017000094 2017-10-23; NKHR2018000024 2018-04-09; NKHR2018000057 2018-07-02 and many other testimonies.

837_NKHR2018000038 2018-05-08; NKHR2019000033 2019-06-03; NKHR2019000034 2019-06-03.

meals.⁸³⁸ A North Korean defector who had given birth in 2015 testified that she gave birth at home because she did not have any money, and it was difficult for her to go to a hospital since she lived in the countryside.⁸³⁹

It appears that home births are attended by private doctors or unqualified midwives. However, giving birth to a child in an environment that is not properly equipped with necessary medical instruments would inevitably result in a lower emergency response rate than childbirths in hospitals. This practice is considered to be one of the factors that causes the relatively high maternal mortality rate.

Another point to note from the above testimonies is that childbirth is not free of charge and that the cost of childbirth even functions as a factor that prevents women from giving birth in a safe environment. Whereas North Korean law stipulates that childbirth is free of charge, North Korean defectors commonly testified that one must pay certain fees to give birth. A defector who had given birth in 2015 testified that she paid 100 yuan for childbirth, 70 yuan for medicine, 15 yuan for the nurse and five packs of cigarettes for the doctor.⁸⁴⁰ A defector who had given birth in 2017 also testified that she paid 50 yuan for childbirth.⁸⁴¹

838_NKHR2020000006 2020-05-15.

839_NKHR2018000038 2018-05-08.

840_NKHR2018000091 2018-08-27.

841_NKHR2018000038 2018-05-08.

Lastly, maternity leave will be discussed. North Korean authorities extended the period of maternity leave to 240 days from the previous 180 days in 2015 and emphasized the implementation of such revision in its 2019 UPR report.⁸⁴² In this regard, there were many testimonies that the use of maternity leave is well observed and that pregnant women are exempted from mobilization.⁸⁴³ A North Korean defector ○○○ explained that pregnant women are entitled to prenatal leave of approximately three months and postnatal leave of approximately six months.⁸⁴⁴ Another North Korean defector who defected in 2019 testified that maternity leave is provided as prescribed by the law, and food rations are provided during that time.⁸⁴⁵ However, taking into consideration a testimony reporting that paid prenatal and postnatal leave are meaningless as not many women keep their job after marriage,⁸⁴⁶ additional observations seem necessary to identify how effective maternity leave is as a policy to support women.

842_ A/HRC/WG.6/33/PRK/1 (2019), para. 71.

843_ NKHR2017000001 2017-04-10; NKHR2017000009 2017-04-10; NKHR2017000014 2018-04-10; NKHR2017000075 2017-08-28; NKHR2017000100 2017-10-23; NKHR2018000016 2018-04-09; NKHR2018000081 2018-07-30; NKHR2018000115 2018-10-22.

844_ NKHR2019000008 2019-04-08.

845_ NKHR2020000048 2020-11-28.

846_ NKHR2018000057 2018-07-02.

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 only impedes women from participating in the political, social, economic and cultural life on equal terms with men, but also hinders the prosperity of society and families and the complete development of women's potential. North Korea claims that it has incorporated the concept of discrimination defined in the CEDAW into its Law on the Protection and Promotion of the Rights of Women and prohibits all forms of direct and indirect discrimination against women. However, in reality, it has been found that North Korean women are still experiencing direct and indirect discrimination caused by fixed gender roles, limited social entry, family life centered on male heads of household and the double burden of housework and social labor that arose as a result of marketization. In addition, the health of women of childbearing age is being threatened in the process of contraception and abortion, and it has been identified that many women still do not receive adequate antenatal examinations throughout their pregnancy.

However, in recent surveys, testimonies were documented that women's voices have become stronger within the family due to the improvement of their economic power and that values supporting

gender equality are gradually spreading among the younger generation. Moreover, there were also testimonies claiming that domestic violence is on the decline as today men are often dependent on women's economic power. However, it can be said that this is an unintended result of the collapse of the rationing system and the emergence of the marketplace (*jangmadang*), not a result of structural improvement intended by the measures of relevant North Korean authorities. Women in North Korea also appear to suffer from mental and physical stress as they are often heavily burdened not only with housework that they are fully responsible for, but also with economic activities that they have to carry out to maintain the livelihood of their families. North Korean authorities need to continue their endeavors in resolving the structural problems that cause discrimination and violence against women.

2

Children

Children require special protection and consideration, including appropriate legal protection, due to their physical and mental immaturity.⁸⁴⁷ The UDHR stipulates the protection of motherhood and childhood (Article 25, paragraph 2) and the right to education (Article 26) but does not specifically mention the rights of children. The ICCPR and the ICESCR contain provisions that can be related to the rights of children. However, neither of these two Covenants explicitly recognizes children as the subject of these rights. The CRC, which was unanimously adopted at the UN on 20 November 1989 and took effect on 2 September 1990, is distinct from previous international documents related to children in that it fully recognizes children, who had long remained as the targets of protection, as the subject of these rights. The CRC is

⁸⁴⁷ The ICCPR stipulates that “every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State” (Article 24, paragraph 1). The ICESCR stipulates that “special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions” (Article 10, paragraph 3).

composed of a preamble, three parts and a total of 54 articles. Part 1 (Articles 1–41) of the CRC stipulates the rights of children and the duties of the State Parties. Part 2 (Articles 42–45) prescribes the Committee on the Rights of the Child (hereinafter in this chapter the Committee) and country report system and Part 3 (Articles 46–54) sets forth the signature, ratification, accession and amendment procedures, etc. The rights set forth in the CRC are largely composed of the right to survival, protection, development and participation.

Table IV-3 Four Major Rights in the CRC

Right to Survival	Rights of the child required for basic life: right to enjoy adequate living standards; right to live in a safe residence; and right to sufficient nutrition and basic medical services, etc.
Right to Protection	Right of the child to be protected from a harmful environment 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 of the child to realize his or her maximum potential including the rights to receive education, enjoy leisure, engage in cultural life and acquire information, and enjoy freedom of thought, conscience and religion, etc.
Right to Participation	Rights of the child to actively participate in the activities of a country or local community including the freedom of expression and the right to join organizations or participate in peaceful assemblies, etc.

North Korea ratified the CRC on 21 September 1990, and the CRC took effect with respect to North Korea a month later on 21 October 1990. Moreover, North Korea ratified the Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography on 10 November 2014, which took effect on 10 December 2014.

The States Parties to the CRC are required to submit a CRC implementation report to the Committee (Article 44). North Korea submitted its first report in February 1996, its second report in May 2003, its integrated third and fourth reports in December 2007 and its fifth report in April 2016. The Committee completed its preliminary review of North Korea’s fifth report in February 2017 and held a main review session in September 2017 to publish the Concluding Observations that address its concerns and recommendations to North Korea.

In the fifth report to the Committee, 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.”⁸⁴⁸ Moreover, it emphasized in the report that it had implemented several measures, including the enactment of the Law on the Protection of the Rights of Children (2010) and the Law on General Education (2011), the promulgation of the Ordinance on the Enforcement of Universal 12-year Compulsory Education (2012) and the establishment of the Korea Association for Supporting the Children (2013), etc.⁸⁴⁹

One of the core issues of the right of children in North Korea is the legal age of a child. North Korea explained in its fifth report to the Committee that the Law on the Protection of the Rights of

848_UN Doc. CRC/C/PRK/5 (2016), para. 7.

849_ *ibid.*, paras. 8–10, 17, 21, 25.

Children defines a child as a person “up to the age of 16” because under the previous 11-year compulsory education system, children generally finished their education at the age of 16 or 17; North Korea announced that since children are now expected to finish their education at the age of 17 or 18 under the new 12-year compulsory education system, the relevant definition of a child will be revised so that it can be consistent with that of the CRC.⁸⁵⁰ During the 2019 UPR, the International Child Rights Center pointed out that North Korea’s definition of childhood only includes the period during which a child is under compulsory education and that under North Korea’s age counting system under which a child becomes one year old immediately after his/her birth, a child whose actual age is 14 or 15 years would be understood to have the same duties and responsibility as an adult.⁸⁵¹ North Korea was also recommended to amend the Law on the Protection of the Rights of Children and review relevant domestic laws so that all children under the age of 18 years can be subject to protection, and the minimum age of marriage can be raised to 18 years.⁸⁵² Since North Korea responded that it accepts such

850_ *Ibid.*, paras. 27–28.

851_ Summary of Stakeholders’ Submissions on the Democratic People’s Republic of Korea, Report of the Office of the United Nations High Commissioner for Human Rights. UN Doc. A/HRC/WG.6/33/PRK/3 (18 February 2019), para. 97.

852_ Questions in Advance Prepared by UN Members States. Advance Questions to the Democratic People’s Republic of Korea (2nd Batch), Belgium, 3 May 2019; Report of the Working Group on the Universal Periodic Review, Democratic People’s Republic of Korea. UN Doc. A/HRC/42/10 (25/June/2019), paras. 126.191, 126.192.

recommendations,⁸⁵³ continued attention should be paid to the future revision of relevant laws.

According to the CRC, State Parties are obligated to “undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized” in the CRC (Article 4). Most of the rights in the CRC are reflected in North Korea’s Law on the Protection of the Rights of Children. Provisions on civil rights and freedoms, including the freedom of thought, conscience and religion, and the freedom of assembly and association, can be found in the Constitution and other laws. In its Concluding Observations of 2017, the Committee evaluated North Korea’s adoption of the National Plan of Action for the Well-Being of Children (2011–2020) and recommended North Korea to include in the Plan the protection of children from violence, exploitation and poverty so that the scope of the Plan goes beyond education and health-related issues.⁸⁵⁴ The following sections will examine issues concerning the status of North Korean children’s rights.

In its 2019 UPR report, North Korea reported that it has successfully implemented measures to promote children’s well-being. North Korea reported that it has provided quality medical service to children, decreased its infant mortality rate and

853_ Report of the Working Group on the Universal Periodic Review, Democratic People’s Republic of Korea. UN Doc. A/HRC/42/10/Add.1 (28 August 2019), para. 9(a).

854_ UN Doc. CRC/C/PRK/CO/5 (2017), para. 7.

chronic and acute malnutrition rate by providing nutritional care in a scientific way and built facilities for children’s cultural, recreational and sports activities in various regions to help children develop their creative thinking.⁸⁵⁵ Since Kim Jong Un came to power, North Korea has propagandized its image through the use of various media that it has improved the educational environment and conditions, expanded modern cultural welfare facilities and established large children’s hospitals to promote growth and improve the nutrition of children. However, defector testimonies indicate that these policies have not been implemented uniformly.

This chapter examines major issues of the human rights situation of North Korean children.

A. Children’s Health and Welfare

(1) Shortage of Educational Facilities for Children with Disabilities

Article 23 of the CRC stipulates that mentally or physically disabled children “should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate [children’s] active participation in the community.” In the Law on the Protection

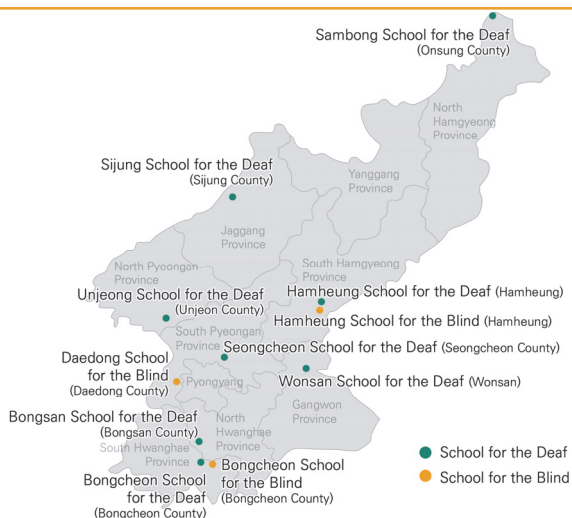
855_National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21, Democratic People’s Republic of Korea. UN Doc. A/HRC/WG.6/33/PRK/1 (20 February 2019), paras. 61–64.

of Persons with Disabilities, North Korea stipulates matters pertaining 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 provides that “educational supervision institutions, health care supervision institutions and local People’s Committees shall immediately operate schools for the blind and deaf and ensure the conditions necessary for the education, treatment and life of disabled children.” In its fifth report to the Committee, North Korea emphasized that it has organized special classes for disabled students in general schools and established special schools for students with visual/hearing disabilities.⁸⁵⁶

It has been identified that there are eight schools for the deaf and three for the blind in North Korea. In addition, in March 2012, North Korean authorities established the Rehabilitation Center for Children with Disabilities in Pyongyang to provide rehabilitation programs for disabled children.

856 UN Doc. CRC/C/PRK/5 (2016), para. 137.

Figure IV-1 Schools for the Deaf and the Blind in North Korea



Source: Green Tree Korea, <<http://www.greentreekorea.org>>.

In its 2019 UPR report, North Korea reported that it has adopted the Regulations on Schools for the Blind and Deaf to provide relevant legal and institutional grounds.⁸⁵⁷ There were fragmented reports that a kindergarten for children with hearing disabilities has opened on the outskirts of Pyongyang.⁸⁵⁸ However, there are only 11 special schools for children with visual and hearing disabilities across North Korea. In particular, the fact that there are no such schools in Yanggang Province shows that the situation of special education for children with disabilities is poor in North Korea.⁸⁵⁹

857_ UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 11.

858_ "North Korea opens kindergarten for hearing-impaired children," *UPI*, 1 July 2016. <https://upi.com/6352451>

A North Korean defector ○○○ who had lived in Wonsan, Gangwon Province and defected in 2016 said that there was a school for the deaf in Changchon-dong, Wonsan.⁸⁶⁰ A North Korean defector ○○○ who had lived in Hamheung, South Hamgyeong Province and defected in 2016 commented that there was a school for the deaf in Duksan, Hamheung and that families without money could not afford to pay for the school since students had to bear the financial burden of all school-related costs.⁸⁶¹

In its 2018 CRPD implementation report, North Korea stated that “children with disabilities of preschool age are brought up in the community kindergartens on the basis of equality with others” and that specialized institutions, such as the Rehabilitation Center for Children with Disabilities, have been set up to provide rehabilitation and special education in a manner appropriate to children’s age, psychology and disability type. North Korea also reported that it is preparing to designate a primary school in Pyongyang as a pilot school for integrated

859_North Korean defectors who had lived in Kimjongsuk County, Yanggang Province responded that they have not heard of the existence of special schools for children with disabilities in the region. NKHR2017000023 2017-05-08; NKHR 2017000049 2017-07-03; NKHR2017000056 2017-07-31. It seems that there was no special school or special class for students with disabilities in Hyesan, Yanggang Province. NKHR2017000060 2017-07-31; NKHR2017000025 2017-05-08. North Korean defectors who had lived in Baegam County, Yanggang Province responded that they too have not heard of the existence of a special school or class for children with disabilities. NKHR2017000062 2017-07-31.

860_NKHR2017000007 2017-04-10.

861_NKHR2017000049 2017-07-03.

education.⁸⁶² In addition, North Korea revealed in the 2019 UPR report that its schools for the blind and schools for the deaf revised their curricula to be consistent with the 12-year compulsory education system and to incorporate vocational training in the school program.⁸⁶³ However, the 2020 survey did not collect any testimony about the operation of special classes for the disabled in general schools or the rehabilitation or vocational training for children with disabilities. It can be said that this is because North Korean people do not have much contact with people with disabilities, and there is little attention and interest in the rehabilitation and education of children with disabilities.

A North Korean defector ○○○ who had lived in Hyesan, Yanggang Province testified that in his/her neighborhood, there was a child who was born in 2000 who did not attend elementary school because he/she was ashamed that he/she walked with a limp; according to the testifier, the testifier did not see the child receiving any benefits for the disabled from the state up until the testifier defected in 2019.⁸⁶⁴ In North Korea, there are programs for disabled children being implemented in the fields of education and medical care. However, in reality, only a few enjoy the benefits of such programs. North Korea should initiate social

862_Initial Report Submitted by the Democratic People's Republic of Korea under Article 35 of the Convention, due in 2018. UN Doc. CRPD/C/PRK/1 (19 December 2018), paras. 143-144.

863_UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 76.

864_NKHR2020000001 2020-05-15.

discussions about disabilities and give attention to improving awareness among its people on the issue.

(2) Health Care and Nutrition

Article 24 of the CRC stipulates that children have the right to “enjoyment of the highest attainable standard of health and to facilities for the treatment of illnesses and rehabilitation of health.” In its Public Health Law, North Korea stipulates matters pertaining to the free medical care 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 medical care, voluntary medical services for children, children’s hospitals, nursing facilities for children and nutritional supplements and supplementary foods (Articles 33–37). The Law on the Nursing and Upbringing of Children stipulates that systematic voluntary medical services be provided to children in daycare centers and kindergartens and that children’s wards be established in daycare centers (Articles 25 and 26).

In the 2019 UPR report, North Korea reported that it has increased state investment and implemented necessary institutional and practical measures to bring key health indicators up to the level of advanced countries and, in the process, improved “public health services to increase the average life expectancy of the population”; it also set a reduction in the infant mortality rate as

one of main targets of the health sector.⁸⁶⁵ In addition, North Korea stated that it has improved the medical service environment by building modern medical institutions, upgrading medical appliance factories, adopting measures for the capacity-building of medical workers, introducing and operating a telemedicine system that connects central hospitals with hospitals in other regions online and improving the quality and increasing the variety of medicines⁸⁶⁶ (See III. The Reality of Economic, Social, and Cultural Rights, 2. Right to Health).

According to surveys conducted thus far, North Korea's vaccination rate for disease prevention appears to have been improving. However, there are still many cases where children do not receive adequate treatment. It has been identified that the situation in rural areas is more serious than in urban areas. It is necessary to continuously monitor whether North Korean children are receiving appropriate treatment, whether medical services are provided to children living in isolated regions and whether vaccinations are delivered without problems.

Although the situation is not at its worst, it has been found that a significant number of North Korean children still suffer from malnutrition. According to the Joint Rapid Food Security Assessment by the WFP and FAO based on their visit to North Korea in 2019, 15–25% of children between six months of age

865_ UN Doc. A/HRC/WG.6/33/PRK/1(2019), para. 35.

866_ *Ibid.*, paras. 37–41.

and less than five years of age were reported to be undernourished in North Korea.⁸⁶⁷ Based on this report, in April 2019, WFP recommenced the production of fortified biscuits for children at daycare centers, which was suspended temporarily in 2018.⁸⁶⁸ Despite improvements in national rates of chronic malnutrition, a clear gap between rural and urban areas was found, with some provinces having above average stunting rates, some as high as 32%.⁸⁶⁹ What is more serious is that 20% of infants between six months of age and less than two years of age are experiencing stunting, and around 140,000, or 3%, of children under five years of age are experiencing acute malnutrition due to chronic food instability. Among them, 30,000 are at a high risk of death.⁸⁷⁰ In its 2019 report, UNICEF reported that nearly one in 10 children under the age of five is underweight (approximately 153,000 children), nearly one in five children is stunted (approximately 320,000 children) and approximately 140,000 suffer from acute malnutrition.⁸⁷¹ According to the 2020 Report of the UN Secretary-

867_ WFP/FAO, "Democratic People's Republic of Korea (DPRK)–FAO/WFP Joint Rapid Food Security Assessment," 2019, p. 42, <<https://www.wfp.org/publications/democratic-peoples-republic-korea-dprk-faowfp-joint-rapid-food-security-assessment>>.

868_ WFP, "DPR Korea Country Brief," 2019, <<https://reliefweb.int/report/democratic-peoples-republic-korea/wfp-dpr-korea-country-brief-may-2019>>.

869_ WFP, "DPR Korea Country Brief," 2019, <<https://reliefweb.int/report/democratic-peoples-republic-korea/wfp-dpr-korea-country-brief-june-2019>>.

870_ UNDP *et al.*, "DPR Korea Needs and Priorities 2019," p. 26, <<https://dprkorea.un.org/en/10164-dpr-korea-needs-and-priorities-2019>>.

871_ UNICEF, *Analysis of the Situation of Children and Woman in the Democratic People's Republic Korea*, Pyongyang: 2019, p. 54.

General, the rate of stunting among North Korean children varies among provinces, ranging from 10% in Pyongyang to 32% in Yanggang, and stunting among children aged four to five in the poorest 20% of the population is 41%.⁸⁷² Whereas in 2019 the delivery of medicines or medical appliances for vulnerable groups including children were blocked by sanctions imposed against North Korea,⁸⁷³ in 2020, the COVID-19 measures exacerbated chronic food insecurity and malnutrition.⁸⁷⁴

B. Children's Right to Education

Article 28 of the CRC stipulates that children have the right to education. Article 29 requires that each child's education be directed toward the following goals: (a) The development of the child's personality, talents, and mental and physical abilities to his or her fullest potential; (b) The advancement of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The advancement of respect for the child's parents, his or her own cultural identity,

872_ Situation of Human Rights in the Democratic People's Republic of Korea, Report of the Secretary-General. UN Doc. A/75/271 (30 July 2020), para. 28.

873_ UN Doc. A/HRC/42/10 (2019), para. 13.

874_ UN Doc. A/75/271 (2020), para. 30. According to the 2020 Report of the UN Secretary-General, humanitarian aid by UN staff and activists of international organizations has been hampered by the closure of borders and strict quarantine measures. As a result, since June, very limited assistance has been provided to pregnant women and children, and children subject to humanitarian assistance are particularly at risk because they have not been able to return to daycare centers or kindergartens for a very long time. *Ibid.*, para. 32.

language and values, the national values of the country in which the child is living and the country from which he/she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship, in relations with all people, including all ethnic, national, and religious groups and persons of indigenous origin; and (e) The development of respect for the natural environment. Moreover, Article 31 of the CRC stipulates that children have the right to rest and leisure, to engage in play and recreational activities, and to participate freely in cultural life and the arts. North Korea has enacted and enforced the Education Law, the Law on General Education and the Law on the Nursing and Upbringing of Children, and includes in its Law on the Protection of the Rights of Children education-related provisions such as those on the right to free compulsory education, the right to develop hope and talents, and the right to have rest and cultural life (Articles 22–28).

(1) Political Ideology Education

In its fifth report to the Committee, North Korea mentioned that it has adopted a universal 12-year compulsory education system and that its educational program has been revised to conform to Article 29 of the CRC, which specifies the goals of child

education.⁸⁷⁵ Whereas the goal of child education is to cultivate a spirit of respect, peace, tolerance, equality and solidarity, North Korea's educational curriculum leans heavily towards political ideology education and focuses on idolizing the present Supreme Leader and his family. The curriculum revised in 2013 includes classes related to Kim Jong Un for at least one hour a week. The education time allotted for subjects related to Kim Il Sung, Kim Jong Il and Kim Jong Un by grade is presented in <Table IV-4>.

Table IV-4 Time Required Each Year for Students to Learn about Subjects Related to Kim Il Sung, Kim Jong Il and Kim Jong Un

Category		Kim Il Sung	Kim Jong Il	Kim Jong Un
Junior Middle School	1st year	68 hours		34 hours
Junior Secondary School (Junior High School)	2nd year	68 hours	68 hours	34 hours
Junior Secondary School (Junior High School)	3rd year		68 hours	34 hours
Advanced Middle School	1st year	104 hours		27 hours
Senior Secondary School (High School)	2nd year	56 hours	56 hours	27 hours
Senior Secondary School (High School)	3rd year		92 hours	27 hours

The share of subjects on Kim Jong Un in the educational curriculum is less compared to subjects related to Kim Il Sung and Kim Jong Il, but they still account for a substantial proportion of the curriculum.⁸⁷⁶ The main learning contents of these subjects

875_ UN Doc. CRC/C/PRK/5 (2016), para. 209.

876_ Jeong-ah Cho *et al.*, *Educational Policies, Educational Programs and Textbooks under the Kim Jong Un Regime* (Seoul: KINU, 2015), p. 69. (In Korean)

can be divided into five categories: (i) the greatness of the Party and the Supreme Leader (*Suryeong*), (ii) the principles of *Juche* ideology, (iii) Party policies, (iv) the revolutionary tradition, and (v) revolutionary and communist education; however, they all have one goal, which is to make students recognize the greatness of the Supreme Leader (*Suryeong*).⁸⁷⁷ Political ideology education is considered to be an important part of school education, and it appears students accept its importance without question.⁸⁷⁸

In North Korea, education on political ideology is routinely carried out not only in the regular school curriculum but also in compulsory organizational life, including through the Korean Children's Union (*sonyeondan*) and Kim Il Sung Socialist Youth League. Children aged 7–13 join the Korean Children's Union (*sonyeondan*) and learn and practice Unitary Ideology through ideology education and organizational activities. Young people aged 14–30 join the Kim Il Sung Socialist Youth League and engage in organizational life. Membership is mandatory for both organizations. The Kim Il Sung Socialist Youth League changed its name to the “Kimilsungist-Kimjongilist Youth League” at the 9th Youth League Congress held in August 2016. Although we surveyed the North Korean defectors who entered South Korea in 2020 about the changes in the nature or activities of the

877_ *Ibid.*, pp. 95–96.

878_ NKHR2017000115 2017–11–20.

Kimilsungist-Kimjongilist Youth League after the change of its name, no relevant testimony was offered. A North Korean defector in his late teens who defected in 2019 testified people join the Korean Children's Union (*sonyeondan*) and the Youth League only as a formality, and there is a membership fee to join these organizations.⁸⁷⁹ Continuous observations should be made through defector testimonies to identify possible changes in the activities of political organizations that students are required to join.

(2) Mobilization for Political Events and Regime Propaganda

In its fifth report to the Committee, North Korea stated that it has implemented diverse measures related to the education and leisure of children in response to the relevant provisions in the CRC and the recommendations of the Committee.⁸⁸⁰ In its 2019 UPR report, North Korea reported that it has built or remodeled various cultural facilities to provide not only an educational base for children and youths but also an environment where all North Korean people can relax and enjoy leisure activities.⁸⁸¹ Despite North Korea's reporting that it guarantees children's right to development, children's right to enjoy rest and leisure is infringed

879_NKHR2020000029 2020-07-06.

880_UN Doc. CRC/C/PRK/5 (2016), paras. 181-226.

881_UN Doc. A/HRC/WG.6/33/PRK/1 (2019), paras. 56-57.

upon in North Korea as students are mobilized for various political events or regime propaganda campaigns. A North Korean defector ○○○ testified that mobilization of children for political events has a negative impact on their learning.⁸⁸²

Table IV-5 Cases of Mobilization for Political Events and Regime Propaganda

Testimonies	Testifier ID
Students were mobilized under the name of “choir team” (<i>gachangdae</i>) during election seasons. In most cases, one month before the election, students sang songs in lines about the 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. Every afternoon for one month, students would go around the neighborhood creating a jubilant atmosphere.	NKHR2016000133 2016-08-09
Students were mobilized for farewell events for those joining the military.	NKHR2016000152 2016-09-06
Students were mobilized to carry flowers during election campaigns for the election of deputies to the SPA.	NKHR2017000063 2017-07-31
For every national holiday including Kim Jong Il and Kim Il Sung’s birthdays, students are mobilized to present baskets of flowers. Students from different schools would gather in the square in Hyesan and take part in a solidarity gathering (<i>gyeolyimoim</i>).	NKHR2017000078 2017-08-28
Students are mobilized for welcoming events; they would put flowers in front of Kim Il Sung portraits (<i>taeyangsang</i>). Students are mobilized for welcoming events for the military. They were also mobilized on the anniversary of Kim Jong Il’s death.	NKHR2017000086 2017-09-25
Students were mobilized for Kim Il Sung, Kim Jong Il, and Kim Jong Suk’s birthdays and were required to sing.	NKHR2018000103 2018-10-01
When mobilized for political events, students are required to take part 100%. If not, they are treated as reactionaries.	NKHR2018000104 2018-10-01

882_ NKHR2018000121 2018-10-22.

Testimonies	Testifier ID
The name of the Youth League was “Kim Il Sung Socialist Youth League” when the testifier graduated in 2015, but after one year, it was changed to the “Kimilsungist–Kimjongilist Youth League.” A memorial ceremony was held on the anniversary of Kim Jong Il’s death.	NKHR2020000003 2020-05-15
In the winter of 2015 (which could have been 8 March, International Women’s Day), when the testifier was an elementary school student, he/she was mobilized to walk in a row with flowers/fans and sing songs: the testifier walked around the road for about 30 minutes.	NKHR20200000031 2020-08-03
According to a North Korean defector in his/her late teens who defected in 2019, unlike physically burdensome labor mobilization, children find regime propaganda campaigns amusing and do not think of them as a political activity.	NKHR20200000029 2020-07-06
When students perform mass gymnastics like <i>Arirang</i> at an event hosted by the Party, they usually practice for at least six months. Those who are in the third grade in middle school or older are mobilized. The testifier thought that it was natural that there was a learning gap between children who are mobilized to events and children from rich families who avoid selection by paying money.	NKHR20190000023 2019-05-18
The testifier was mobilized for a reporting convention held on national holidays, including the birthdays of Kim Il Sung and Kim Jong Il, where he/she clapped and sang songs for the Supreme Leader (<i>Suryeong</i>) and sang the national anthem.	NKHR20190000045 2019-07-01
During election seasons, students are mobilized to join a choir team (<i>gachangdae</i>) to sing songs that encourage people to participate in elections.	NKHR20200000022 2020-07-06

According to defector testimonies, students are mobilized to participate in marches on national memorial days, to sing songs in a choir team (*gachangdae*) during election season or to participate in memorial performances on the anniversary of Kim Jong Il’s death. It has been found that students mobilized to participate in a mass gymnastics performance suffer from physical burdens or disruptions in learning that are caused by long hours of practice. A North Korean defector in his/her late teens testified that every

year, he/she had to practice mass gymnastics from February to prepare for the celebration of the Day of the Sun (15 April); according to the testifier, practice continued in cold weather and even on weekends and sometimes late into the night.⁸⁸³ Another North Korean defector said that some students faint after practicing three to four hours in the mid-summer heatwave.⁸⁸⁴ There was a testimony revealing that the testifier could not learn properly as he/she was mobilized to practice in the mass gymnastics *Arirang* for more than six months, and there was a learning gap between the testifier and children from rich families who were not selected to perform due to paying money to the school.⁸⁸⁵ There was also a testimony reporting that half of the testifier's class paid money to be excused from participating in political events, and only the other half was mobilized.⁸⁸⁶ Although there remains a perception that such mobilizations are a duty and that students must participate even if they are burdensome,⁸⁸⁷ in most cases, avoiding participation by paying bribes is tolerated.

883_NKHR2016000123 2016-07-26.

884_NKHR2016000151 2016-09-06.

885_NKHR2019000023 2019-05-18.

886_NKHR2019000068 2019-08-26.

887_NKHR2016000143 2016-08-23; NKHR2016000152 2016-09-06. NKHR2018000103 2018-10-01; NKHR2018000104 2018-10-01; NKHR2019000023 2019-05-18; NKHR2019000053 2019-07-29.

(3) Compulsory Military Training

Despite the continued concerns expressed by the Committee regarding compulsory military training, North Korea still maintains a military subject titled “Military Activity for Beginners” in its advanced middle school program. In its fifth report to the Committee, North Korea avoided directly mentioning this issue, stating only that the educational goal of advanced middle school includes “promoting [...] sound body so as to make them fully prepared for military service, social life and campus life.”⁸⁸⁸ Students in the second year of advanced middle school receive military training for one week at a camp training facility of the Young Red Guards. Third-year students of advanced middle school develop basic military skills though one week of outdoor billeting. According to defector testimonies, military training includes shooting, disassembling and assembling of firearms, crawling, forming ranks and education on military regulations.⁸⁸⁹ There was a testimony stating that students fire live rounds on the last day of military training.⁸⁹⁰

888_ UN Doc. CRC/C/PRK/5 (2016), para. 198.

889_ NKHR2016000118 2016-07-26; NKHR2016000121 2016-07-26; NKHR2016000123 2016-07-26.

890_ NKHR2020000038 2020-09-26.

C. Labor Mobilization

Article 32 of the CRC stipulates that children have the right to be protected from labor that threatens their health, education, and development. North Korea prohibits child labor in its Constitution, Labor Law and Law on the Protection of the Rights of Children. However, as mentioned above, none of these laws is consistent with the CRC, as the current Law on the Protection of the Rights of Children defines a child as a person “up to the age of 16,” while the Constitution and the Labor Law stipulate the legal working age as 16.

In the 2019 UPR report, North Korea stated that all forms of child labor is prohibited by law in North Korea, and activities that students carry out on farms are educational in nature and are in line with their school curriculum.⁸⁹¹ In fact, in North Korea, the junior middle school curriculum includes tree-planting and the advanced middle school curriculum includes tree-planting and production labor.

891_UN Doc. A/HRC/42/10 (2019), para. 79.

Table IV-6 Reality of Student Labor Mobilization

Testimonies	Testifier ID
The testifier had been mobilized for a forest restoration campaign when he/she was in middle school in 2014-2015, and since then, he/she was mobilized every summer. The testified had to climb a mountain and plant trees. Work started in the morning and ended in the evening. Manual digging was also included in the list of tasks. One had to pay money to avoid participation.	NKHR2020000029 2020-07-06
The testifier had heard that his/her friend's younger sibling, who was in third or fourth grade in elementary school, was mobilized in 2019. Sometimes mothers take the duty of their children. People with money tend to send someone else to do the work. One can avoid participation if he/she pays the teacher. Students in advanced middle school study in the morning and often work in the afternoon. Students are often mobilized to construction sites to move stones or perform railroad construction work.	NKHR2020000001 2020-05-15
A North Korean defector in his/her early 20s who defected in 2019 said that all students in their fourth year of middle school (i.e., first year in advanced middle school) or older are required to work in rural areas. Work usually begins from dawn. Students work for about 20 days every year, starting from late May (before planting season) and ending in mid-June (after weeding). The work is physically demanding. As mobilization is compulsory, people often feel a severe mental burden and pressure.	NKHR2020000003 2020-05-15
In 2020, the testifier paid 200-300 yuan so that his/her child could avoid participating in the annual potato mobilization and focus on studying.	NKHR2020000038 2020-09-26
Labor mobilization is demanding for elementary school children, so they are often exhausted in the evening after work.	NKHR2020000012 2020-06-15
During the busy farming season, students are mobilized for weeding. Students who are ill or have other reasons can avoid participation after asking to be excused.	NKHR2020000022 2020-07-06

According to defector testimonies, students are frequently mobilized for various tasks after-school or during school hours. Students are mobilized for weeding and rice-planting in spring

and for potato-harvesting in fall.⁸⁹² It is said that annual rural mobilization, which is mandatory, is physically demanding as it involves work that mostly starts early in the morning; it is also said that rural mobilization imposes great psychological pressure as it is mandatory.⁸⁹³ Students are also mobilized for construction work such as transporting sand and pebbles, logging and railroad construction.⁸⁹⁴ Those who are ill can be exempted from participation,⁸⁹⁵ but it has become a custom to pay money to be excused from mobilization.

In addition, there was a testimony reporting that elementary school students are subjected to labor mobilization that is excessively physically burdensome for children.⁸⁹⁶ As a result, when elementary school students are mobilized for labor, their mothers take the duty of their children and do the assigned work;⁸⁹⁷ those with money avoid participation by paying a certain amount of money⁸⁹⁸ or hire someone to do the work instead. Despite

892_ NKHR2017000002 2017-04-10; NKHR2017000008 2017-04-10; NKHR2017000029 2017-06-05; NKHR2018000008 2018-03-12; NKHR2018000041 2018-06-04; NKHR2018000121 2018-10-22; NKHR2019000023 2019-05-18; NKHR2019000045 2019-07-01.

893_ NKHR2020000003 2020-05-15.

894_ NKHR2016000133 2016-08-09; NKHR2018000103 2018-10-01; NKHR2018000123 2018-10-22; NKHR2019000020 2019-05-07; NKHR2019000058 2019-07-29; NKHR2019000083 2019-09-25; NKHR2020000001 2020-05-15.

895_ NKHR2020000022 2020-07-06.

896_ NKHR2020000012 2020-06-15.

897_ NKHR2020000001 2020-05-15.

898_ NKHR2020000038 2020-09-26.

North Korea's reporting that child labor is prohibited by law, even elementary school students are mobilized for labor.

D. Children in Need of Special Protective Measures

(1) Treatment of Forcibly Repatriated Children

Article 37 of the CRC stipulates that no child shall be subjected to torture or other cruel, inhuman, or degrading treatment or punishment, unlawful imprisonment, or deprivation of liberty. Article 39 of the CRC stipulates that State Parties shall take all appropriate measures to promote the recovery and social reintegration of a child victim of torture, abuse, exploitation, etc. North Korea has enacted relevant provisions in its Criminal Law and Criminal Procedure Law. The Law on the Protection of the Rights of Children stipulates the basic requirement for the protection for children's rights in the judicial field, prohibition of the imposition of criminal responsibility and the death penalty on children, application of social educational measures and respect for the dignity of children in handling cases (Articles 47-49 and 51).

In its fifth report to the Committee, North Korea stated that returnees who have illegally crossed the border are subject to educational measures.⁸⁹⁹ In other words, the principle is to improve

899_ UN Doc. CRC/C/PRK/5 (2016), para. 239.

compliance with the law by making returnees 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 illegal border-crossing.⁹⁰⁰ North Korea also explained in the fifth report that schools ensure the adaptation of such children to school life by providing special care and that the local People's Committee continuously contact such children's parents to resolve any issues that parents may face in raising such children.⁹⁰¹

However, during in-depth interviews with North Korean defectors, some testified that children forcibly repatriated from China receive cruel treatment, including verbal abuse and violence, and torture during the interrogation process and that they suffer beatings, hard labor and hunger during their detention.⁹⁰² A North Korean defector ○○○ testified that his/her elder sister and her child were caught while defecting in 2016 and forcibly repatriated; the testifier said that his/her nephew/niece was beaten in front of his/her mother to make her confess.⁹⁰³

On the other hand, there also were testimonies stating that repatriated children were released after only receiving educational measures.⁹⁰⁴ Another North Korean defector testified that minors

900_ *Ibid.*

901_ *Ibid.*

902_NKHR2016000121 2016-07-26.

903_NKHR2018000109 2018-10-06.

904_NKHR2016000112 2016-07-26; NKHR2016000123 2016-07-26.

are sent to the 927 Permanent Committee as they cannot be detained in detention centers (*guryujang*) with adults.⁹⁰⁵ Recently, cases involving forcibly repatriated children have not been reported. It would be necessary to continuously observe how such cases are handled. Additional analysis should be conducted on the details and methods of the educational measures that have been applied in the past.

(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 cared for by their parents or guardians shall be raised, at a cost paid for by the state, at child-caring institutions (*yugawon*), orphanages (*aeuyugwon*) or other institutions” (Article 31).

In its fifth report to the Committee, North Korea did not explicitly mention *kotjebi*. It only explained that children who are deprived of their family environment due to natural disasters or the death or divorce of their parents are protected and that a suitable living and learning environment are provided for them.⁹⁰⁶

905_NKHR2016000143 2016-08-23.

906_UN Doc. CRC/C/PRK/5 (2016), para. 109.

Likewise, in its 2019 UPR report, North Korea pointed out that various measures implemented by the state for the care and education of children without parents and children living in remote or disaster-stricken areas are its noteworthy achievement.⁹⁰⁷

It has not been clearly identified how many *kotjebi* are accepted into orphanages (*aeugwon*) and secondary academies for orphans and to what extent they receive care and education. North Korean authorities are known to send *kotjebi* who are caught to accommodation facilities that are also called “relief centers,” “lodging centers,” “boys’ education centers,” “lodging centers for drifters” or “protection centers” for the purpose of protecting and managing them.

While there is a testimony claiming that the building of accommodation facilities for *kotjebi* has contributed to the decrease in the number of *kotjebi*,⁹⁰⁸ there are also testimonies that the number of *kotjebi* is still on the rise. Consequently, this issue requires further investigation and analysis. A North Korean defector ○○○ testified that while the number of *kotjebi* has decreased in the West Sea District (located in South Pyeongan Province) and the East Sea District after accommodation facilities for drifters were built in 2015–2016, the number of *kotjebi* has increased in Nampo due to the sanctions imposed in 2019.⁹⁰⁹ It is

907_UN Doc. A/HRC/WG.6/33/PRK/1 (2019), para. 65.

908_NKHR2020000012 2020-06-15.

909_NKHR2020000045 2020-10-31.

said that *kotjebi* are found in front of stations or near marketplaces (*jangmadang*) in border regions or provincial areas. A North Korean defector ○○○ who had lived in Chongjin, North Hamgyeong Province testified that in 2019, there were many *kotjebi* near the train station and in street alleys and that they looked shabby as they did not wash their face and were wearing winter clothes when it was summer.⁹¹⁰ There also was a testimony reporting that *kotjebi* are found in markets and streets where they beg or steal food.⁹¹¹

On the other hand, testimonies have been collected indicating that *kotjebi* sent to accommodation facilities eventually decide to leave such facilities. A North Korean defector who defected in 2019 testified that he/she had been told that living in accommodation facilities is more difficult than living on the streets as a *kotjebi*.⁹¹² In light of the previous testimonies that there are many cases where *kotjebi* decide to leave accommodation facilities because of the poor facilities and environment, harsh discipline and inadequate and poor quality food.⁹¹³ Continued attention must be paid to children in need of special protection and assistance from the state.

910_ NKHR2020000029 2020-07-06.

911_ NKHR2020000048 2020-11-28.

912_ NKHR2020000029 2020-07-06.

913_ NKHR2016000143 2016-08-23; NKHR2016000157 2016-09-20; NKHR2018000041 2018-06-04; NKHR2018000093 2018-08-27; NKHR2018000128 2018-11-19; NKHR2019000047 2019-07-01; NKHR2019000048 2019-07-01; NKHR2019000052 2019-07-20; NKHR2019000064 2019-08-17.

E. Evaluation

In its national report submitted for the third cycle of the UPR in 2019, North Korea did not include institutional measures or execution plans to resolve the issues of violence against children, the exploitation of children and children living in poverty. The 2020 survey found that the human rights situation of North Korean children still remains poor. The overall level of the health care and welfare of children is low despite various legal and institutional measures in place.

Although North Korean authorities reported that they have expanded medical and rehabilitation facilities for children with disabilities, such facilities do not appear to be providing uniform and consistent benefits to all disabled children. In particular, the testimony that disabled children tend to hide their disability for fear of possible disadvantages indicates that North Korean authorities should pay more attention to improving social perceptions of disabilities. In addition, North Korean children receive excessive education on political ideology and are mobilized for political events and propaganda campaigns for the North Korean regime. Such situations infringe upon the right of children to receive education that cultivates a spirit of understanding, tolerance, peace and solidarity. In particular, despite North Korea's reporting that child labor is prohibited by law, even elementary school students are mobilized for labor in North Korea.

Part I

Part II

Part III

Part IV
Vulnerable Groups

Part V

It has been evaluated that there have been some positive changes, such as modernization of facilities for orphans and preferential distribution of goods to orphans. However, recent testimonies report that *kotjebi* are often found on the streets of North Korea. North Korean authorities should pay continued attention to improve the treatment of *kotjebi* and help them reunite with their families.

3

Persons with Disabilities

The CRPD stipulates that “States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability” (Article 4). On 3 July 2013, North Korea became a signatory to the CRPD. By ratifying the Convention on 6 December 2016, North Korea became a State Party to the CRPD. In December 2018, North Korea submitted its initial CRPD implementation report to the UN Committee on the Rights of Persons with Disabilities (hereinafter in this chapter the Committee).

A. Policies on and Population of Persons with Disabilities

(1) Policies on Persons with Disabilities

Taking into consideration the criticism and concerns of the international community regarding discrimination against persons with disabilities, North Korea adopted the Law on the Protection

of Persons with Disabilities in June 2003. This law was enacted “to provide more favorable living environment and conditions for persons with disabilities by firmly establishing systems and order in terms of rehabilitation, education, cultural life and work” (Article 1). Article 2 of the law defines persons with disabilities as “citizens whose normal life is hampered for an extended period of time due to the restriction or loss of physical or mental functions.” It also states, “the state shall respect the personal dignity of all persons with disabilities, and guarantee them social and political rights, freedoms and interests that are equal to those granted to healthy citizens.” The Law on the Protection of Persons with Disabilities also stipulates details concerning rehabilitation (Chapter 2), education (Chapter 3), cultural life (Chapter 4) and work (Chapter 5) of disabled people. Provisions to protect disabled people also exist in the Social Insurance Law, the Socialist Labor Law and the Social Security Law.

The Korean Federation for the Protection of the Disabled (hereinafter KFPD) is an organization in North Korea that advocates for the rights and interests of disabled people. The KFPD carries out important tasks such as conducting surveys on the status of persons with disabilities, improving their health and living conditions and developing action programs to enhance social awareness of and interest in persons with disabilities. It has branch committees at the province, city and county levels.⁹¹⁴ The KFPD considers itself to be an NGO even though the Ministry of

Public Health pays staff salaries and maintenance costs.⁹¹⁵ Under the KFPD, the Deaf Association of Korea, the Korean Rehabilitation Center for Children with Disabilities, the Blind Association of Korea, the Korean Company Supporting the Disabled, the Korean Association for Sports of the Disabled and the Korean Art Association of the Disabled have been established.⁹¹⁶ In addition, the KFPD established its first mission in Beijing in July 2008, and its Shenyang mission in 2015. Pun-hui Ri, the former secretary general of the Korean Association for Sports of the Disabled, is serving as the first representative of the Shenyang mission.⁹¹⁷ According to the initial CRPD implementation report by North Korea, North Korean authorities established and implemented Action Plans for 2008–2010, 2013–2015 and 2016. They also implemented the Strategic Plan for the Protection of the Rights of Persons with Disabilities for 2018–2020.⁹¹⁸

914_ CRC, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention: The Combined Third and Fourth Periodic Reports of States Parties Due in 2007: Democratic People's Republic of Korea," UN Doc. CRC/C/PRK/4 (2008), para. 134.

915_ Katharina Zellweger, "People with Disabilities in a Changing North Korea." *Shorenstein APARC Working Papers* (2014).

916_ *Rodong Sinmun*, 30 September 2012; *Korean Central News Agency*, 16 December 2014.

917_ *Voice of America*, 13 May 2015.

918_ UN Doc. CRPD/C/PRK/1 (2018), para. 30.

(2) Size of the Population of Persons with Disabilities

North Korea stipulates in the Law on the Protection of Persons with Disabilities that “the state shall regularly investigate the reality of disabled people and accurately evaluate the degree of disability and establish the right standards” (Article 5). However, it has not been identified how often North Korean authorities conduct systematic surveys of the overall reality for persons with disabilities in accordance with this provision.

According to a survey conducted by the Korean Association for Supporting the Disabled (KASD) in 1999, there were 763,237 persons with disabilities in North Korea, accounting for 3.41% of the entire North Korean population. Among them, 296,518 were with physical disabilities, accounting for the largest portion of the total disabled population at 38.8%, followed by 168,141 persons with hearing impairments, 165,088 with visual impairments, 68,997 persons with severe disabilities and 37,780 persons with mental disabilities. Approximately 1.75% of the population of Pyongyang was found to be disabled. Persons with disabilities more often lived in cities (64%) than in rural areas (35.4%).⁹¹⁹

North Korea added disability-related survey items to its 2008 Population Census, such as the severity of disabilities, age, gender and population distribution of the disabled by region (i.e., rural

919_ *Yonhap News Agency*, 9 April 2006; *Yonhap News Agency*, 23 November 2006.

areas and cities). North Korea's 2009 Population Census suggests that North Korea's population includes 519,573 people with visual difficulty (2.4%), 374,452 with hearing difficulty (1.73%), 537,496 with mobility difficulty (2.48%) and 334,852 with cognitive difficulty (1.54%). What is noteworthy in the survey results is that the percentage of women with disabilities (62%) far outnumbered that of men (32%).⁹²⁰

In November 2011, the KFPD and the Central Bureau of Statistics conducted a sample survey of persons with disabilities on approximately 2,400 households in three provinces (South Pyongan Province, South Hwanghae Province and Gangwon Province).⁹²¹ Based on the results of that survey, North Korea claimed, in its fifth report on the implementation of the CRC, that the percentage of children with disabilities who are under the age of 15 is 0.9%.⁹²² Findings of the survey were partially disclosed by Mun-chol Kim, Deputy Chairman of the KFPD's Central Committee, who led the North Korean delegation to the 14th Paralympic Games held in London (30 August–10 September 2012). According to the survey, the number of persons with disabilities in five major categories — sight, hearing, physical movement (limbs), mental abilities (including intelligence) and

920_UN Doc. A/HRC/37/56/Add.1 (2018), para. 10.

921_ *Rodong Sinmun*, 30 September 2012.

922_UN Doc. CRC/C/PRK/5 (2016), para. 135.

multiple disabilities — equaled 5.8% of the population.⁹²³ According to the 2014 sample survey of persons with disabilities conducted in four provinces (i.e., South Hamgyeong Province, Gangwon Province, North Pyeongan Province and South Pyeongan Province), there were roughly 1.5 million persons with disabilities, which account for 6.2% of the entire population. Among those persons with disabilities, women (55.1%) outnumbered men (44.9%).⁹²⁴ A relief group for North Korea known as “Together-Hamheung,” which has its headquarters in Germany, held its 7th Gathering of Deaf Persons in Pyongyang for five days starting 7 August 2015. According to this group, around 350,000 deaf persons are said to be registered.⁹²⁵

In December 2018, North Korea submitted an initial report to the Committee, which reflects the latest information on the size and characteristics of the persons with disabilities in North Korea.⁹²⁶ According to the report, as of 2016, the disabled population in North Korea accounted for 5.5% of the total population in North Korea. The percentage of the disabled female population (5.9%) was higher than the percentage of the disabled male population (5.1%). The reason for this difference appears to

923_ *Yonhap News Agency*, 10 September 2012. In its report submitted for the second cycle of the UPR in 2014, North Korea also stated that 5.8% of its population are persons with disabilities. The National Report submitted in accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21.

924_ UN Doc. A/HRC/37/56/Add.1 (2018), para. 10.

925_ *Voice of America*, 13 August 2015.

926_ UN Doc. CRPD/C/PRK/1 (2018), Annex.

be due to the higher disability rate among women aged 60 years and older. In terms of the types of disability, physical disability accounted for 2.5% of the total population, followed by hearing disability (1.3%), visual disability (1.2%), language disability (0.4%), mental disability (0.4%) and intellectual disability (0.3%). The proportion of persons with disabilities among children aged between 0 and 16 years was 1.8% of the total population, 2.2% for boys and 1.4% for girls.

Table IV-7 Persons with Disabilities by Sex and Age (as of 2016) (Unit: %)

Age	Male	Female	Total
0-4	0.4	0.2	0.3
5-6	0.6	0.4	0.5
7-16	1.2	0.8	1.0
17-59	5.4	4.2	4.8
60+	13.3	19.1	16.9
Total	5.1	5.9	5.5

Source: UN Doc. CRPD/C/PRK/1.

B. Reality of the Rights of Persons with Disabilities

(1) Training and Rehabilitation

With respect to training and rehabilitation of disabled people, the CRPD stipulates that “States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life” (Article

26, paragraph 1). North Korea also stipulates, in its Law on the Protection of Persons with Disabilities, that “the state shall organize professional or comprehensive rehabilitation institutions for rehabilitation of persons with disabilities,” (Article 11) and that “health supervision institutions, institutions in charge and enterprises should guarantee the production of assistance devices including alignment apparatus, motor tricycles, glasses and hearing aids in a planned manner” (Article 14).

North Korean authorities have implemented measures for the training and rehabilitation of persons with disabilities in accordance with the Law on the Protection of Persons with Disabilities. To begin with, in March 2013, the Rehabilitation Center for Children with Disabilities was established in Pyongyang on a mission to conduct a project leading to the early detection and rehabilitation of disabilities in children, in particular those with mental disabilities or limb disorders.⁹²⁷ On 6 December 2013, the Munsu Functional Recovery Center was founded in Pyongyang to offer comprehensive services for functional rehabilitation of persons with disabilities. The Munsu Center functions as the parent hospital for physical therapy departments for the functionally impaired established in provincial, city and county hospitals.⁹²⁸ Moreover, North Korea

927. *Rodong Sinmun*, 30 September 2012; *Korean Central News Agency*, 29 March 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance*, p. 69. (In Korean)

928. *Chosun Shinbo*, 17 December 2013; *Korean Central News Agency*, 16 December 2014.

has constructed the Dongdaewon Gymnasium for the Disabled in Dongdaewon District, Pyongyang for athletes with disabilities.⁹²⁹

In North Korea, 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 Alignment Apparatus Factory produces various alignment apparatuses made of polypropylene resin. The employees of each of these factories provide mobile on-site repair services.⁹³⁰ However, it is said to be difficult for ordinary disabled people to purchase items such as prosthetic legs and hands as they are expensive.⁹³¹

According to North Korea's initial CRPD implementation report, North Korea has implemented a series of "Action Plans" to carry out projects to train and rehabilitate persons with disabilities, such as those on the modernization of alignment apparatuses and surgical equipment, promotion of vocational education for the disabled and establishment of remote education systems for children with disabilities.⁹³² However, most of the testimonies collected

929_ *Tongil News*, 27 February 2016.

930_ *Chosun Shinbo*, 23 May 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance*, p. 71; *Yonhap News Agency*, 3 December 2014.

931_ NKHR2015000131 2015-09-22..

932_ UN Doc. CRPD/C/PRK/1 (2018), para. 30.

during the interviews showed that there are virtually no training or rehabilitation programs given to those with disabilities.⁹³³

(2) Adequate Living Standards and Employment Situation

The CRPD stipulates that “States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability” (Article 28, paragraph 1).

North Korea has policies regarding care for persons with disabilities, such as operating factories where they can work, so that persons with disabilities can maintain an appropriate standard of living. In North Korea, the disabled are divided into two groups: “honored veterans,” who receive preferential treatment, and “general persons with disabilities.” There appears to be separate factories for these two groups.⁹³⁴ Those suffering from nanocormia or polio engage in work that is not labor intensive, such as carving seals and repairing clocks, bicycles, shoes and

933_ NKHR2018000017 2018-04-09; NKHR2018000018 2018-04-09; NKHR2018000101 2018-10-01; NKHR2018000007 2018-03-12; NKHR2018000121 2018-10-22; NKHR2018000114 2018-10-13.

934_ *Daily NK*, 28 August 2012; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, pp. 71-72.

televisions, at local convenience service centers, while some visually impaired people earn money by playing the guitar.⁹³⁵ North Korea is also known to provide job opportunities to persons with disabilities through the Botonggang Convenience Complex established in 2007, which is equipped with a sewing workshop, clock repair shop, hair salon and beauty salon.⁹³⁶ A North Korean defector ○○○ who had lived in Pyongyang until 2017 testified that there was a factory in Pyongyang where only disabled people work and that he/she heard that the factory produces buttons, simple hinges and zippers.⁹³⁷

According to North Korea's initial CRPD implementation report submitted in December 2018, as of 2016, 58.4% of North Koreans with disabilities aged between 17 and 59 years were engaged in economic activities (61.6% males and 54.7% females).⁹³⁸ Currently there are more than 60 factories across North Korea that are dedicated for visually impaired people to work in.⁹³⁹

935_NKHR2012000026 2012-02-21; NKHR2015000036 2015-02-10; NKHR2017000007 2017-04-10.

936_Katharina Zellweger, "People with Disabilities in a Changing North Korea," p. 21.

937_NKHR2020000047 2020-11-28.

938_UN Doc. CRPD/C/PRK/1 (2018), Table 5.

939_UN Doc. CRPD/C/PRK/1 (2018), para. 169.

Table IV-8 Factory Operation for Honored Veterans

Testimonies	Testifier ID
There is a factory employing honored veterans in Hyesan, Yanggang Province. It used to produce a variety of plates, but now, it does not produce anything.	NKHR2015000043 2015-02-24
There is a communications machinery factory operated by honored veterans in Gilju County, North Hamgyeong Province that provides rations. However, these rations are not provided in regular amounts, but a maximum of six months' worth of rations is provided per year.	NKHR2015000053 2015-03-10
There are factories employing honored veterans in Yeonbong 1-dong, Yeondu-dong, Songbong-dong and Wiyeon-dong in Hyesan, Yanggang Province. Currently, they are not in regular operation due to issues with electricity and raw materials.	NKHR2015000130 2015-09-22
There is a factory employing blind honored veterans in Hoeryong, North Hamgyeong Province.	NKHR2016000099 2016-06-14
There was a factory employing honored veterans in Gapsan County, Yanggang Province, which had been in and out of operation.	NKHR2017000046 2017-07-03
There was a factory employing honored veterans in Gapsan County, Yanggang Province.	NKHR2017000050 2017-07-03
There was a factory employing honored veterans in Namsan-gu, Musan County, North Hamgyeong Province.	NKHR2018000029 2018-05-08
There was a factory employing honored veterans in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2018000029 2018-05-08

Table IV-9 Factory Operation for General Persons with Disabilities

Testimonies	Testifier ID
In 2014, there was a light-duty workplace for persons with disabilities in Rimyongsu Rodongja-gu, Samjiyeon, but it was not in operation.	NKHR2016000030 2016-03-08
There is a factory employing visually impaired persons in Suseong District, Chongjin, North Hamgyeong Province.	NKHR2013000036 2013-02-19
There is a light-duty workplace for persons with disabilities in Seongcheon-dong, Hoeryong, North Hamgyeong Province. Currently, it is not in regular operation.	NKHR2013000095 2013-05-14 NKHR2015000131 2015-03-22
There was a factory employing persons with disabilities in Musan County, North Hamgyeong Province, but it is currently not maintained due to a lack of equipment.	NKHR2013000116 2013-06-11
There are light-duty workplaces for persons with hearing impairments and persons with physical disabilities.	NKHR2013000186 2013-09-17

Testimonies	Testifier ID
There are factories employing people with hearing, visual and physical disabilities in Samsu County, Yanggang Province.	NKHR2016000083 2016-05-31
There is a medium-sized factory employing persons with disabilities in Chukjeon-dong, Pyongyang.	NKHR2016000170 2016-11-01
There were two light-duty workplaces for persons with disabilities in Wonsan, South Hamgyeong Province. However, there were no disabled people who worked there. Those places were only used by merchants for sales purposes.	NKHR2017000007 2017-04-10
There was a factory employing the blind in Suseong-dong, Chongjin, North Hamgyeong Province. The factory was not big.	NKHR2018000016 2018-10-01

North Korean authorities provide some support for persons with disabilities so that they can sustain their lives. A North Korean defector in his/her late 20s who defected in 2014 said that his/her mother is a person with a limp and that she received 300 g of food as ration per day every month from the neighborhood (*dong*) office but did not receive a disability subsidy.⁹⁴⁰ There was also a testimony stating that a testifier witnessed a person with a physical disability who lived in his/her neighborhood receiving rice as well as occasional goods from the authorities.⁹⁴¹ However, it appears that most North Koreans with disabilities do not benefit from any care or protection from the state and live with the help of their families or by begging on the street. A North Korean defector ○○○ who defected in 2019 testified that there is no separate state support for those who are unable to engage in economic activities for an extended period of time due to illness

940_NKHR2018000096 2018-08-27.

941_NKHR2018000094 2018-08-27.

or disability.⁹⁴² A North Korean defector ○○○ who defected in 2019 testified that a person from Hyesan who had a leg disability was dependent on his/her family because he/she did not have a job and did not receive a separate pension.⁹⁴³ A North Korean defector ○○○ who defected in 2019 testified that there seems to be no subsidy for persons with disabilities.⁹⁴⁴ A North Korean ○○○ who defected in 2018 testified that his/her brother-in-law is a visually impaired person but did not receive any support from the state and was taken care of by his family members. A North Korean defector ○○○ who defected in 2017 testified that there are many persons with disabilities and honored veterans in the marketplace (*jangmadang*) who cannot make ends meet and that sometimes they either pressure people into buying goods or behave violently.⁹⁴⁵

Disability benefits or financial support from the state are mostly for honored veterans. Benefits and support for honored veterans appear to vary according to their rank. A North Korean defector ○○○ who defected in 2019 testified that benefits provided by the state to honored veterans are great. According to the testifier, when an honored veteran gets married, the state pays for expenses such as the wedding, house and household articles for the marriage

942_ NKHR2020000007 2020-05-16.

943_ NKHR2020000014 2020-06-15.

944_ NKHR2020000048 2020-11-28.

945_ NKHR2017000028 2017-06-05.

ceremony, and the chief secretary of the relevant Provincial Party and City Party attend the honored veteran's wedding.⁹⁴⁶

Factories that employ honored veterans are in operation in North Korea. A North Korean defector ○○○ who defected in 2019 testified that he/she was discharged as an honored veteran in December 1987 and worked at a factory for honored veterans since January 1988.⁹⁴⁷ A North Korean defector ○○○ who defected in 2019 testified that there is a factory employing honored veterans that produces goods made of resin in Namsan-dong, Wonsan.⁹⁴⁸ A North Korean defector ○○○ who defected in 2019 testified that he/she had seen a factory employing honored veterans located in Nampo producing furniture and umbrellas.⁹⁴⁹

Honored veterans with higher ranks seem to receive many benefits and support. A North Korean defector ○○○ who defected in 2019 testified that benefits for honored veterans vary depending on their rank; according to the testifier, honored veterans with lower ranks such as rank three do not receive any benefits, but when a special honored veteran gets married, his wife does not have to work and only takes care of him.⁹⁵⁰ A North Korean defector ○○○ who defected in 2019 testified that

946_NKHR2020000005 2020-05-15.

947_NKHR2020000019 2020-07-04.

948_NKHR2020000012 2020-06-15.

949_NKHR2020000045 2020-10-13.

950_NKHR2020000014 2020-06-15.

honored veterans in general receive 1–2 kg of seafood once every month and special honored veterans receive rations that are a little better.⁹⁵¹

In addition, there were testimonies reporting that honored veterans receive support for food, clothing and a place to live from the state. A North Korean defector ○○○ testified that his/her father, an honored veteran, was given potato rations from the state during potato harvest season, the amount of which differed every year.⁹⁵² A North Korean defector ○○○ said that he/she witnessed an honored veteran who became blind during military service being given preferential treatment, such as an apartment, telephone and rations.⁹⁵³ A North Korean defector ○○○ from South Hamgyeong Province testified that there are some cases in which schools ask students to give cash or supporting materials, including gloves or clothes, for honored veterans.⁹⁵⁴ A North Korean defector from Hyesan, Yanggang Province said that in 2015, he/she witnessed the Hyesan rations center providing rations only to honored veterans, not ordinary people.⁹⁵⁵

However, there were many testimonies claiming that the existing support system for honored veterans does not provide

951_NKHR2020000045 2020-10-31.

952_NKHR2017000018 2017-04-10.

953_NKHR2017000046 2017-07-03.

954_NKHR2016000135 2016-08-23.

955_NKHR2016000041 2016-04-05.

actual support. Support for honored veterans mostly does not seem to be provided in a stable manner. The scale and contents of the support vary based on the rank of honored veterans. It was found that the scale of support is not significant for honored veterans with lower ranks, and such support is not provided consistently from year to year and differs by region. A North Korean defector ○○○ who defected in 2015 testified that he/she had seen a disabled soldier who was discharged for a leg injury getting a new job, and so considering this, the state does not seem to provide special benefits to honored veterans.⁹⁵⁶ A North Korean defector ○○○ who defected in 2019 testified that an honored veteran support system is in place but only in a perfunctory manner.⁹⁵⁷ A North Korean defector ○○○ who defected in 2019 testified that North Korea offers little to no special guarantee for honored veterans.⁹⁵⁸

A North Korean defector from North Hamgyeong Province whose father was an honored veteran said that the goods or subsidies actually provided to honored veterans were at an extremely perfunctory level.⁹⁵⁹ A North Korean defector ○○○ who defected in 2018 testified that the son of his/her aunt became an honored military serviceman after injuring his eye while

956_NKHR2020000031 2020-08-03.
957_NKHR2020000007 2020-05-16.
958_NKHR2020000014 2020-06-15.
959_NKHR2016000046 2016-04-19.

serving in the military but received no support from the state.⁹⁶⁰ A North Korean defector in his/her mid-30s who defected in 2016 testified that his/her father was an honored veteran and received rations of corn or potatoes under the honored veteran rations. Potato rations were given once a year during the potato harvest season, which were sometimes 50 kg and other times 100 kg, with some years without any rations.⁹⁶¹ A North Korean defector in his/her late 20s who defected in 2019 testified that he/she was forcibly discharged as his/her back was injured while cutting wood when he/she was in the military, and there were no other guarantees other than receiving 50 won per month.⁹⁶²

There were also testimonies indicating that honored veterans do not receive benefits or that they do not register as honored veterans as there were more disadvantages than advantages after registration. A North Korean defector in his/her mid-30s who defected in 2018 said that his/her cousin became an honored veteran after injuring his/her eye, but there was no support from the state.⁹⁶³ A North Korean defector in his/her early 30s who defected in 2018 said that his/her spouse was injured during military service but did not register as an honored veteran and did not receive benefits. The testifier's mother-in-law kept the testifier's

960_NKHR2018000058 2018-07-02.

961_NKHR2017000018 2017-04-10.

962_NKHR2019000065 2019-08-17.

963_NKHR2018000058 2018-07-02.

spouse from registering because once registered as an honored veteran, the registered honored veteran’s spouse would have to work for an official workplace, which would disrupt private economic activities in the marketplace (*jangmadang*).⁹⁶⁴ A North Korean defector in his/her early 50s who defected in 2019 said that his/her son was discharged as he lost his sight while performing military service but did not register himself as an honored veteran as there is no special preferential treatment.⁹⁶⁵

It seems that there are more support and benefits offered to honored veterans who are injured while serving in dangerous areas. A North Korean defector in his/her early 20s who defected in 2019 said that his/her father was a professional soldier and discharged as a special honored veteran after being injured and disabled while serving in a place that deals with hazardous substances. The testifier said that special honored veterans receive exemptions from school expenses for their children, special rations on national holidays and hospital treatment for a certain period of time. The testifier also testified that his/her father received holiday rations four times a year and 40 days of treatment at a provincial hospital once a year.⁹⁶⁶

North Korean Law on the Protection of Persons with Disabilities stipulates that “educational supervision institutions and the

964_NKHR2018000072 2018-07-30.

965_NKHR2019000074 2019-08-26.

966_NKHR2019000071 2019-08-26.

institutions in charge can organize and operate training institutions and vocational schools for masseuses, computer typists, painters and designers in consideration of academic background, age and the level of disability of persons with disabilities” (Article 22). In accordance with such provisions, North Korea implements policies to support the employment of persons with disabilities. On 2 May 2012, the Chosun Technical and Vocational Skills Class for the Disabled, a specialized class providing vocational training to persons with disabilities, opened in Pyongyang to help the disabled to participate more actively in social life. This is a one-year course designed for persons with physical disabilities, including those with hearing loss and those without limbs.⁹⁶⁷ Moreover, a U.K.-based private relief organization for North Korea, DULA International, entered into an agreement with the KFPD to establish a design school for persons with disabilities in Pyongyang on 2 May 2016.⁹⁶⁸

967_ *Korean Central News Agency*, 2 May 2012; *Chosun Shinbo*, 9 May 2012; *Chosun Shinbo*, 23 May 2013; *Ablenews*, 9 August 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 70.

968_ *Voice of America*, 29 December 2015.

C. Efforts to Engage Persons with Disabilities at Home and in Local Communities

(1) Violation of the Right to Independent Life and Participation in Local Communities

The CRPD stipulates that “persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement” (Article 19 (a)). The CRPD also stresses the integration of persons with disabilities into local communities, stating, “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 violation of the CRPD is the segregation of persons with nanocormia, which interferes with the freedom of residence and integration into local communities. A substantial number of North Korean defectors testified that there are segregated areas for persons with nanocormia. One such area is Yeonha-ri, Kimhyeongjik County (formerly Huchang County).⁹⁶⁹ However, there are other testimonies claiming that people with

969_NKHR2015000074 2015-04-07; NKHR2015000106 2015-05-19; NKHR2016000083 2016-05-31.

nanocormia lived in non-segregated areas with other residents. A North Korean defector ○○○ from Rason, North Hamgyeong Province testified to having witnessed a person with nanocormia and a person with spinal lesions in downtown Rason in 2016.⁹⁷⁰ Given such testimonies, it seems that although there are some segregated areas for persons with nanocormia, not all persons with nanocormia are segregated. Therefore, it is necessary to continue to identify, through testimonies, the accurate situation regarding the segregation of persons with nanocormia.

Table IV-10 Testimonies on the Segregation of Persons with Nanocormia

Testimonies	Testifier ID
There were segregated accommodations and forced sterilization of persons with nanocormia.	NKHR2014000004 2014-02-18
The testifier heard that persons with nanocormia live in segregated areas and are restricted from having children.	NKHR2014000055 2014-05-20
The testifier witnessed persons with nanocormia in Yeonha-ri, Kimhyeongjik County, Yanggang Province. Persons with nanocormia could not live in general residential areas but lived separately in groups in remote mountain villages.	NKHR2014000076 2014-06-17
It is said that persons with disabilities were forced not to have children and live mainly in Huchang so that they do not move to other areas.	NKHR2014000137 2014-09-12
A North Korean defector in his/her 20s who defected in 2015 witnessed a segregated area for persons with nanocormia in Huchang on his/her way back from a field with his/her uncle.	NKHR2017000131 2017-12-18

970_NKHR2016000186 2016-12-13.

Table IV-11

Testimonies that Persons with Nanocormia Are Not Segregated

Testimonies	Testifier ID
From childhood up until the testifier defected from North Korea in 2015, there was a person with nanocormia living in Saneob-dong, Hoeryong, North Hamgyeong Province.	NKHR2015000141 2015-10-06
A North Korean defector in his/her 20s who defected in 2017 heard about the existence of segregated areas in Huchang but witnessed a person with nanocormia in Hyesan. The testifier thought it was a new change to allow those with nanocormia to live in non-segregated areas if they had relatives in those areas.	NKHR2017000022 2017-05-08
The testifier witnessed many persons with nanocormia selling CD-Rs, etc. in a marketplace (<i>jangmadang</i>) in Chongjin, North Hamgyeong Province.	NKHR2014000010 2014-03-04
The testifier witnessed many persons with nanocormia.	NKHR2014000027 2014-04-01
There was a person with nanocormia in the same People's Unit (<i>inminban</i>) as the testifier, and he had a wife and children. There are many persons with nanocormia living in Hyesan, Yanggang Province.	NKHR2014000075 2014-06-17
The testifier witnessed a person with nanocormia (male) living in the same neighborhood as his/her aunt in Bocheon County, Yanggang Province.	NKHR2014000131 2014-08-26

Another case of violation of the freedom of residence is the restriction on the place of residence of persons with disabilities. According to North Korean defectors, North Korean authorities restrict persons with disabilities from living in Pyongyang, which is a special district, and in Nampo, Gaeseong and Chongjin, which are frequently visited by foreigners. With exceptions granted to people with special skills, North Korean authorities control the residence of persons with disabilities under the pretext that they may leave an unpleasant impression on visiting

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foreigners.⁹⁷¹ A North Korean defector ○○○ testified that he/she had a conversation when watching a South Korean drama that “It seems there are many disabled people in South Korea, but why are there no disabled persons in Pyongyang?”⁹⁷²

(2) Violation of Respect for Home and the Family

The CRPD stipulates that “the right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized” (Article 23, paragraph 1 (a)). Moreover, it specifies that “the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children [...] are recognized” (Article 23, paragraph 1 (b)).

The most obvious case of inhumane discrimination and human rights violation that infringes upon the respect for home and the family is the sterilization of persons with nanocormia. A North Korean defector ○○○ testified that in 2014, persons with nanocormia were forced to be sterilized in Onsong County, North Hamgyeong Province.⁹⁷³ However, it was found that the number of cases of people with nanocormia having children has increased recently following continued protests and complaints. Defector

971_NKHR2014000078 2014-07-01.

972_NKHR2015000176 2015-12-15.

973_NKHR2015000171 2015-12-01.

testimonies on cases of forced sterilization of persons with disabilities is on the decrease. A North Korean defector testified that forced sterilization is not conducted on persons with nanocormia without the approval of their guardian.⁹⁷⁴

(3) Mobility

The CRPD stipulates that “States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities” (Article 20). After signing the CRPD, North Korea revised the Law on the Protection of Persons with Disabilities in November 2013 and added provisions that emphasize the accessibility of persons with disabilities to buildings and facilities, reflecting relevant provisions in the CRPD.⁹⁷⁵

As part of its remodeling plan, North Korea built restrooms for persons with disabilities at the Sunan International Airport. However, it has been identified that other than such special facilities, North Korea has failed to take measures that guarantee the mobility of persons with disabilities due to economic hardships. The UN Special Rapporteur on the rights of persons with disabilities visited North Korea in May 2017 and confirmed that even new public buildings, such as the Science and Technology

974_NKHR2019000084 2019-10-05.

975_ *Chosun Shinbo*, 6 December 2013; *Yonhap News Agency*, 6 December 2013.

Center, the Pyongyang Sunan International Airport (arrivals hall) and the Pyongyang Elementary Academy, were difficult to access by persons with disabilities.⁹⁷⁶ In addition, persons with disabilities seem to have difficulties in their daily lives due to the restrictions on access to residential facilities and public transportation facilities. North Korea reported to the Special Rapporteur that since May 2017, it has been providing a free taxi service in Pyongyang in a bid to improve accessibility for persons with disabilities and that the National Construction Committee operated under the Ministry of State Construction Control has developed guidelines on accessibility.⁹⁷⁷ The Special Rapporteur, however, found that North Korea is not using the most recent accessibility standards and welcomed North Korea's request for technical cooperation with international partners in international accessibility standards.⁹⁷⁸

In its initial CRPD implementation report, North Korea admitted that persons with disabilities in North Korea have little accessibility to public facilities and announced that it is planning to adopt and expand advanced technologies needed to grant disabled people an independent but socially integrated life.⁹⁷⁹ In this regard, North Korea adopted “barrier-free architectural design

976_ UN Doc. A/HRC/37/56/Add.1 (2018), para. 45.

977_ *Ibid.*, para. 46.

978_ *Ibid.*

979_ UN Doc. CRPD/C/PRK/1 (2018), para. 76.

standards” in 2019 under its Construction Law.⁹⁸⁰ This can be positively evaluated as part of the measures to improve accessibility for people with disabilities in North Korea.

D. Raising Awareness on Persons with Disabilities

The CRPD stipulates that the State Parties shall “promote positive perceptions and greater social awareness towards persons with disabilities” (Article 8, paragraph 2 (a) ii). North Korea is also engaged in activities to improve public awareness of persons with disabilities in accordance with the Law on the Protection of Persons with Disabilities. First, pursuant to Article 49 of the Law on the Protection of Persons with Disabilities, North Korean authorities have designated 18 June as the “Day of Persons with Disabilities” in 2011 and hold celebratory events every year.⁹⁸¹ Also, since 2010, North Korea has held the “Joint Celebrations on the Occasion of the International Day of Persons with Disabilities” every year, hosted by the Central Committee of KFPD, to celebrate the International Day of Persons with Disabilities in Pyongyang on 3 December.⁹⁸² North Korea has also carried out projects to raise awareness on persons with

980_ *Korean Central News Agency*, 18 December 2019.

981_ *Chosun Shinbo*, 24 June 2014.

982_ Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 72; *Chosun Shinbo*, 7 December 2013.

disabilities through joint sports events participated by both persons with and without disabilities. These efforts are observed in North Korea's Committee on Physical Training Guidance (November 2012), among others. Recently, table tennis matches between persons with and without disabilities have been held on a regular basis, with the number of participants increasing.⁹⁸³

The UN Special Rapporteur on the rights of persons with disabilities pointed out, in the report on her visit to North Korea, that there is a stigma and discrimination against persons with disabilities because of the perception that they are in need of support and that they are not capable of making contributions to society.⁹⁸⁴ The Special Rapporteur also noted that improper language is used in North Korean laws to refer to persons with disabilities and recommended that such language be revised.⁹⁸⁵ In addition, the Special Rapporteur found it to be problematic that those with cognitive and psychosocial disabilities are forced to appoint a guardian and have their legal rights restricted, including the right to vote and the right to be elected. The Special Rapporteur, therefore, urged the legislative authorities to conduct

983_ *Ibid.*, p. 72.

984_ UN Human Rights Council, *Report of the Special Rapporteur on the Rights of Persons with Disabilities on Her Visit to the Democratic People's Republic of Korea*, paras. 39-44.

985_ *Ibid.*, paras. 26-28. Articles 172 and 229 of the Criminal Procedure Law (the dumb, the deaf), Article 49 of the Civil Procedure Law (partially competent person, totally incompetent person), Article 78 of the Labor Law (the crippled), Article 13 of the Public Health Law (those who have lost ability to work) and Article 66 of the Constitution (insane person).

a comprehensive review so that North Korean laws can comply with Article 4 of the CRPD.⁹⁸⁶ In general, North Korea does not allow persons with disabilities to receive education or services in separate facilities. This prevents persons with disabilities from having access to facilities or services equivalent to those used by persons without disabilities.⁹⁸⁷

Recently, there have been efforts by the North Korean authorities to use mass media to alter public perception of persons with disabilities. A North Korean defector ○○○ who defected in 2018 testified that around 2016, he/she saw a TV commercial, which showed the state's consideration for persons with disabilities.⁹⁸⁸ A North Korean defector ○○○ also testified that since 2017 there has been an increasing number of news reports related to persons with disabilities, such as performance troupes consisting of persons with disabilities and schools for persons with disabilities.⁹⁸⁹ In 2019, the state media outlet KCNA actively publicized measures carried out by North Korean authorities to improve the human rights of people with disabilities during the year.⁹⁹⁰ Although this can be interpreted as a political effort to propagate the achievements of the authorities, it can also

986_ *Ibid.*

987_ *Ibid.*, para. 42.

988_ NKHR2018000056 2018-07-02.

989_ NKHR2018000117 2018-10-22.

990_ *Korean Central News Agency*, 18 December 2019.

be viewed as a positive change considering that the mentioning of persons with disabilities itself had been avoided in the past.

E. Cooperation with the International Community

North Korea has pursued cooperation with South Korea and the international community to support persons with disabilities. With respect to inter-Korean cooperation, as part of the inter-Korean exchange and support project for persons with disabilities, an inter-Korean seminar on scientific rehabilitation of persons with disabilities was held for the first time at the Yanggakdo Hotel in Pyongyang on 19 December 2006. The seminar included a discussion of research results on rehabilitative treatment and special education, which was attended by a delegation from Daegu University (South Korea) and a delegation from the Chosun Red Cross Hospital.⁹⁹¹ In addition, in May 2007, the Botonggang Convenience Complex was built and opened on Red Avenue, Botonggang District, Pyongyang with the support of South Korea's Lighthouse Foundation. This is the first self-reliant rehabilitation center for persons with disabilities and is jointly operated with the KFPD.⁹⁹²

Second, cooperation with international NGOs is also taking place. Green Tree International is seeking to build the Daedonggang

991_ *Yonhap News Agency*, 22 December 2006.

992_○○○, KINU Advisory meeting, 29 June 2012. The name is not disclosed upon request.

Rehabilitation Center for the Disabled in Pyongyang, which will offer medical support and training on rehabilitative skills for persons with disabilities, as well as educational programs for athletes and artists with disabilities.⁹⁹³ Humanity & Inclusion also teaches therapeutic skills to physical therapists working at facilities such as the Pyongyang-based Munsu Functional Recovery Center and the Korean Rehabilitation Center for Children with Disabilities.⁹⁹⁴ In April 2016, Together-Hamheung opened the first kindergarten for children with hearing loss in North Korea in Moranbong District, Pyongyang with support from a Catholic organization and donors. The kindergarten has around 10 classrooms and can accommodate approximately 40 children.⁹⁹⁵ In 2019, an American relief organization called IGNIS Community established the “Pyongyang Spine and Rehabilitation Center (PYSRC)” at Pyongyang Medical College. This research center plans to train North Korean healthcare providers on the treatment of children with behavioral development disabilities including cerebral palsy and autism.⁹⁹⁶

Third, exchange projects with persons with disabilities are also carried out with the international community. The Central Committee of the KFPD entered into a memorandum of understanding

993_ See Green Tree International, <www.greentreekorea.org>.

994_ See Humanity & Inclusion, <www.handicap-international.org>.

995_ *Nocut News*, 1 July 2016.

996_ *Voice of America*, 1 January 2020.

(MOU) with the World Federation of the Deafblind (hereinafter WFDB) on 9 February 2011, through which the Blind Association of Korea (launched in March 2014) and the Deaf Association of Korea (launched in December 2013) are working on projects to join the WFDB.⁹⁹⁷ On 7 November 2014, with the help of the Finnish Association of the Deaf, six North Korean delegates, including three persons with hearing impairment, went to Finland and paid a courtesy visit to Ms. Sirpa Paatero, Minister for International Development.⁹⁹⁸ In addition, a concert for students with disabilities was held in the U.K. and France from 20 February to 2 March 2015.⁹⁹⁹ Furthermore, 18 persons with hearing loss from Japan, Singapore and the Netherlands visited North Korea from 8 to 12 August 2014.¹⁰⁰⁰ An official from the International Paralympic Committee, headquartered in Bonn, Germany, visited Pyongyang from 13 to 16 May 2016 and explained the “disability grade system,” rules and categorization methods adopted by the Paralympic Games to 21 athletes, including 13 North Korean table tennis players and eight swimmers.¹⁰⁰¹

997_ *Chosun Shinbo*, 24 June 2014.

998_ *Voice of America*, 8 November 2014.

999_ *Chosun Shinbo*, 27 August 2014; *MK News*, 17 September 2014; *The Asia Economy Daily*, 6 February 2015.

1000_ *Chosun Shinbo*, 27 August 2014.

1001_ *Voice of America*, 7 June 2016.

Fourth, persons with disabilities have participated in international sport events. North Korea established the Korean Association for Sports of the Disabled in 2010 and the National Paralympic Committee in September 2011 and officially joined the International Paralympic Committee held in Athens from 22 to 24 November 2013. It has also taken part in a wide range of international competitions for persons with disabilities, including the 2012 London Summer Paralympics, the Asia Youth Para Games held in Kuala Lumpur, Malaysia in October 2013, the Asia Para Games held in Incheon in October 2014, the Rio Paralympic Games in September 2016 and the PyeongChang 2018 Paralympic Winter Games. In December 2016, the North Korean deaf football team, composed of athletes with hearing loss and linguistic disabilities, visited Australia for the second time, after their first visit in December 2014, to compete in a friendly match with the Australian deaf football team.¹⁰⁰²

F. Evaluation

North Korea defines persons with disabilities as targets for special protection and responds to the issue of disability with forward-looking policies. However, negative perceptions towards persons with disabilities still exist in North Korean society. In

¹⁰⁰² *Voice of America*, 19 November 2016.

addition, providing education and services to persons with disabilities in separate facilities has, in effect, served as a form of social discrimination. While honored veterans are found to receive some benefits, those with disabilities, whose disabilities have been caused by industrial accidents or other accidents do not seem to receive adequate levels of protection and support.

In addition, suspicion over practices that violate the right to integrate into local communities and the respect for the family has yet to be resolved. Such practices include the segregation and sterilization of those with nanocornia. Moreover, while efforts toward rehabilitation are also being made through factories employing honored veterans and factories employing general persons with disabilities, these are assessed as ineffective due to the economic hardships North Korea faces. North Korean authorities emphasize the need to care for persons with disabilities, but it seems that they do not invest significant financial resources towards this need. Meanwhile, North Korea has taken several measures in 2019 to improve the human rights of persons with disabilities, such as adopting barrier-free architectural design standards to improve accessibility for persons with disabilities.¹⁰⁰³

In addition, North Korea has accepted the recommendations¹⁰⁰⁴ of the UN member states made during the third cycle of the UPR

1003_ *Korean Central News Agency*, 18 December 2019.

1004_ UN Doc. A/HRC/42/10 (2019), para. 126.193–126.199.

in 2019 regarding the improvement of the rights of persons with disabilities.¹⁰⁰⁵ In order to promote the human rights of persons with disabilities in North Korea, North Korea must comply with its relevant domestic laws and the CRPD and continue to exchange and cooperate with the international community. What is encouraging is that North Korea is showing an open attitude to cooperation with the international community. In its initial CRPD implementation report, North Korea emphasized that it has made many efforts to improve the human rights of persons with disabilities through cooperation with the international community.¹⁰⁰⁶ It also stressed that such efforts were intended to fully meet the human rights standards of the international community.

1005_ UN Doc. A/HRC/42/10/Add.1 (2019), para. 9(a).

1006_ UN Doc. CRPD/C/PRK/1 (2018), paras. 199–204.



White Paper on Human Rights
in North Korea 2021



Part V

Major Issues

1. Political Prison Camps (*Kwanliso*)
 2. Overseas Defectors
 3. Overseas Workers
 4. Separated Families, Abductees and Korean War POWs
-

1

Political Prison Camps (*Kwanliso*)

There are political prison camps called *kwanliso* in North Korea. The reality of human rights violations against inmates in political prison camps (*kwanliso*) has been discovered through various testimonies. In the 2020 survey, there have been no additional testimonies about the detention process or treatment of inmates in political prison camps (*kwanliso*). In the following sections, major issues related to the human rights violations by North Korean authorities in political prison camps (*kwanliso*) are examined.

A. Overview of Political Prison Camps (*Kwanliso*)

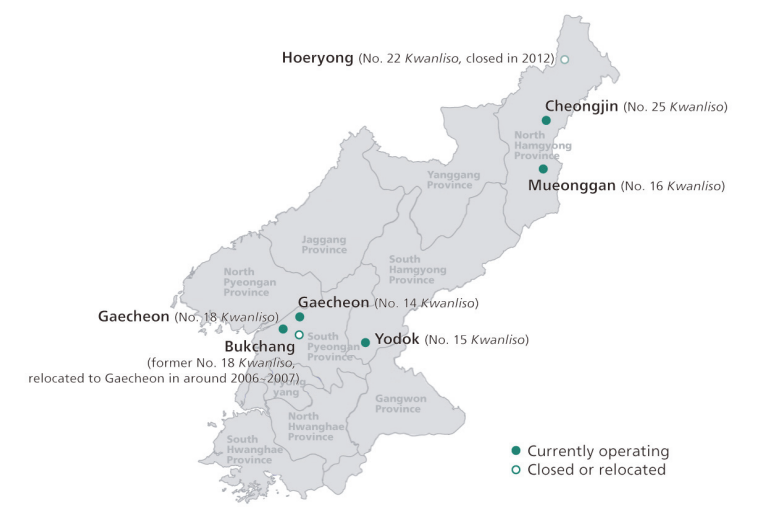
Political prison camps operated by North Korean authorities under the name of *kwanliso* are unofficial detention facilities run by the Ministry of State Security under strict surveillance. North Korean authorities have officially denied the existence of political prison camps (*kwanliso*). Five such camps have been identified:

No. 14 *Kwanliso* in Gaecheon, No. 15 *Kwanliso* in Yodok, No. 16 *Kwanliso* in Myeonggan, No. 18 *Kwanliso* in Gaecheon and No. 25 *Kwanliso* in Chongjin.¹⁰⁰⁷ No. 14 *Kwanliso* in Gaecheon is located in Dongchanggol, Jamsang-ri, Chang-dong, Gaecheon, South Pyeongan Province. No. 15 *Kwanliso* in Yodok is located across the five villages (*ri*) of Daesuk-ri, Ipseok-ri, Gueup-ri, Yongpyeong-ri and Pyeongjeon-ri; the camp occupies a large area equivalent to one-third of Yodok County. No. 16 *Kwanliso* in Myeonggan is located in Jungpyeong-dong, Gari-dong and Buhwa-ri in Myeonggan County, North Hamgyeong Province. No. 16 *Kwanliso* in Myeonggan is also called as Hwaseong *Kwanliso*, after the old name of the region. No. 18 *Kwanliso* in Gaecheon is located in Dongrim-ri, Gaecheon, South Pyeongan Province. It has been identified that sometime in 2006–2007, the former No. 18 *Kwanliso* in Bukchang, which had been located in Sepo-dong, Sampo-dong and Sinheung-ri, was downsized and moved to Dongrim-ri, Gaecheon, South Pyeongan Province. No. 25 *Kwanliso* in Chongjin is located in Suseong-dong, Songpyeong District, North Hamgyeong Province. Although No. 25 *Kwanliso* in Chongjin is also called Suseong *Kyohwaso*, it is actually a

1007_ Until recently, a total of six political prison camps (*kwanliso*) were known to be in operation. However, it has been identified from defector testimonies that No. 22 *Kwanliso* located in Naksaeung-ri, Haengyoung-ri and Namseok-ri in Hoeryong, North Hamgyeong Province closed around 2012. In the 2015 survey, many testimonies on the closing of No. 22 *Kwanliso* in Hoeryong were collected. 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.

political prison camp (*kwanliso*) accommodating political criminals. There have also been testimonies claiming that officials, including security chiefs of Provincial Parties and chairmen of provincial People’s Committees, are detained in No. 25 *Kwanliso* in Chongjin.¹⁰⁰⁸

Figure V-1 Location of Political Prison Camps (*Kwanliso*)



Political prison camps (*kwanliso*) in North Korea can be categorized as shown in <Table V-1>, based on their operation type, zone division, whether the prisoners can return to society, whether family members can accompany the prisoners and the managing entity.¹⁰⁰⁹

1008_NKHR2014000010 2014-03-04; NKHR2014000056 2014-05-20.

1009_ See Geumsoon Lee *et al.*, *Political Prison Camps in North Korea* (Seoul: KINU, 2013), pp. 11~16. (In Korean)

Table V-1

Management and Operation of Political Prison Camps (*Kwanliso*)

	No. 14 <i>Kwanliso</i> in Gaecheon	No. 15 <i>Kwanliso</i> in Yodok	No. 16 <i>Kwanliso</i> in Myeonggan	No. 18 <i>Kwanliso</i> in Gaecheon (formerly Bukchang <i>Kwanliso</i>)	No. 25 <i>Kwanliso</i> in Chongjin
Operation Type	Town	Town	Town	Town	Detention facility
Zone Division	Total control zone	Revolutionary zone Total control zone	Total control zone	No zone division	Prison camp (<i>kyohwaso</i>)
Possibility of Release into Society	Impossible	Impossible, possible	Impossible	Impossible, possible	Impossible, possible
Accompanying Families	Accompanying families	Criminals only/ accompanying families	Accompanying families	Criminals only/ accompanying families	Criminals only
Managing Entity	Ministry of State Security	Ministry of State Security	Ministry of State Security	MPS	Ministry of State Security

B. Imprisonment of Political Criminals

North Korean defectors who had been detained in political prison camps (*kwanliso*) have testified about the size and reality of North Korean political prison camps (*kwanliso*) through the media. Many testimonies on the reality of political prison camps (*kwanliso*) have been collected through in-depth interviews with North Korean defectors. North Koreans have a fear of political prison camps (*kwanliso*).¹⁰¹⁰ A North Korean defector ○○○ testified that knowing that there are political prison camps

1010_NKHR2019000020 2019-05-07.

(*kwanliso*), he/she always spoke carefully so as not to be accused of being a reactionary.¹⁰¹¹

While there is no internationally established definition of a “political crime,” such crimes are, in general, classified into (i) “absolute political crime,” such as a crime against the state, high treason and espionage; and (ii) “relative political crime,” in which acts of a general crime, including murder, arson and theft, are combined with the aspects of absolute political crime.¹⁰¹² Surveys carried out to date suggest that North Korean authorities imprison people in political prison camps (*kwanliso*) mostly for engaging in absolute political crimes, such as criticizing the North Korean system or insulting the Supreme Leader (*Suryeong*), attempting to defect to South Korea, contacting South Koreans or making favorable comments about South Korea and providing important documents or information to South Korea or other foreign countries.

In the 2019 survey, testimonies were collected revealing those who were caught receiving money from South Korea or making phone calls to South Korea were sent to political prison camps (*kwanliso*).¹⁰¹³ A North Korean defector ○○○ testified that in 2016, a 33-year-old woman in Yanggang Province was caught

1011_NKHR2019000104 2019-11-09.

1012_Geumsoon Lee *et al.*, *Political Prison Camps in North Korea* (Seoul: KINU, 2013), p. 9.

1013_NKHR2019000019 2019-05-07.

receiving and delivering money from South Korea, and her husband, who had been in service at the ○○ General Bureau, was discharged from his position as his wife was sent to a political prison camp (*kwanliso*).¹⁰¹⁴

It has been identified that those who commit human trafficking are generally sent to prison camps (*kyohwaso*), but those who commit organizational human trafficking or trafficking related to South Korea are sent to political prison camps (*kwanliso*). A North Korean defector ○○○ testified that a woman who was in the same Women's Union with the testifier was arrested for trafficking 70 people in 2015 and sent to a political prison camp (*kwanliso*).¹⁰¹⁵ A North Korean defector ○○○ testified that he/she heard that his/her schoolmate who lived in a border region was caught by the Ministry of State Security and sent to a political prison camp (*kwanliso*) sometime in 2015–2016 for trafficking people to China.¹⁰¹⁶ A North Korean defector ○○○ testified that a People's Unit (*inminban*) chief in Kimjongsuk County was detained in a political prison camp (*kwanliso*) for human trafficking around 2016 because he received money from South Korea in the process.¹⁰¹⁷

1014_ NKHR2019000031 2019-06-03.

1015_ NKHR2018000101 2018-10-01.

1016_ NKHR2019000046 2019-07-01.

1017_ NKHR2019000019 2019-05-07.

Cases have been continuously collected where people were detained in political prison camps (*kwanliso*) after being caught while attempting to flee to South Korea. A North Korean defector ○○○ testified that a family of 11 people who had lived in Musan County, North Hamgyeong Province was caught at an airfield in China after defecting from North Korea and sent to a political prison camp (*kwanliso*) in 2015 and that the testifier learned this information from an MSS agent who gathered people and announced such details. However, the testifier said that he/she heard that a minor of the family (presumed to be eight years old at that time) was sent to an accommodation in Musan County that raises orphans.¹⁰¹⁸ A North Korean defector ○○○ testified that he/she witnessed a family of five people who were caught while attempting to escape to South Korea being sent to a political prison camp (*kwanliso*) when the testifier was in the MSS county detention center (*guryujang*) in Onsong in 2017.¹⁰¹⁹

Testimonies have been continuously collected where brokers helping North Korean people defect to South Korea are sent to political prison camps (*kwanliso*). A North Korean defector ○○○ testified that his/her uncle, who worked as a broker aiding North Korean defectors, was sent to a political prison camp (*kwanliso*) in 2015.¹⁰²⁰ A North Korean defector in his/her 50s

1018_NKHR2019000033 2019-06-03.

1019_NKHR2019000075 2019-08-26.

1020_NKHR2017000099 2017-10-23.

who defected in 2017 testified that his/her sister, who was a broker for defectors, went missing after being arrested by the Ministry of State Security in 2016; the testifier said that his/her sister is assumed to have been sent to a political prison camp (*kwanliso*).¹⁰²¹ Another North Korean defector testified that his/her neighbor, who was a broker for defectors, was caught by the Ministry of State Security for handing over the children who remained in North Korea to a Chinese broker upon request by their parents who had already defected to South Korea; the testifier said that he/she heard that the neighbor was sent to a political prison camp (*kwanliso*).¹⁰²² A North Korean defector ○○○ testified that he/she heard that among the seven people who had attempted to defect through Daehongdan County in 2018, the woman who was their guide was sent to a political prison camp (*kwanliso*), and the others were released after paying 10,000 yuan.¹⁰²³

Testimonies have been continuously documented where people were imprisoned in political prison camps (*kwanliso*) after being caught providing documents or information to South Korea or other countries. A North Korean defector ○○○ testified that his/her spouse's in-law was caught for receiving a watch in exchange for

1021_NKHR2018000028 2018-05-08.

1022_NKHR2018000057 2018-07-02.

1023_NKHR2019000074 2019-08-26.

giving information about North Korea to China; according to the testifier, this was considered an act of espionage, and his/her spouse's in-law was sent to a political prison camp (*kwanliso*) in 2015.¹⁰²⁴ There were other cases where people were imprisoned for taking part in religious practices. For example, a North Korean defector ○○○ testified that his/her neighbor was sent to a political prison camp (*kwanliso*) because a copy of the Bible was found in his/her house in December 2015.¹⁰²⁵ A North Korean defector ○○○ testified that he/she heard in April 2018 that there was a relative who was caught by the Ministry of State Security and sent to a political prison camp (*kwanliso*) for distributing a Bible obtained from China to North Korean people and carrying out missionary work.¹⁰²⁶

In the 2020 survey, many testimonies were collected stating that making phone calls to South Korea, watching South Korean movies, narcotics, being involved in human trafficking or distributing recordings of the reality of North Korea to foreign countries are grounds for imprisoning people in political prison camps (*kwanliso*). In the survey, a North Korean defector ○○○ testified that he/she heard that a family had been sent to No. 25 *Kwanliso* for distributing recordings of public shootings to foreign

1024_NKHR2018000105 2018-10-01.

1025_NKHR2017000012 2017-04-10.

1026_NKHR2019000051 2019-07-20.

countries in 2006, which is called the crime of “*jeokseon*.”¹⁰²⁷ A North Korean defector ○○○, whose acquaintance was sent to a political prison camp (*kwanliso*) sometime in 2015–2016, testified that grounds for imprisonment include calling relatives in South Korea, watching South Korean movies, narcotics and being involved in human trafficking; according to the testifier, the acquaintance was sent to a political prison camp (*kwanliso*) because he/she had been convicted of multiple crimes repeatedly and classified as a repeat offender due to a record of past crimes.¹⁰²⁸ A North Korean defector ○○○ said that his/her relative had been detained in a political prison camp (*kwanliso*) for receiving “black money” during the time when political prison camps (*kwanliso*) were a place for lifetime imprisonment.¹⁰²⁹

Meanwhile, it has been identified that punishment for political criminals extends beyond the offender himself/herself to his/her family and sometimes even to his/her relatives. It is said that guilt-by-association applies to immediate family members. A North Korean defector ○○○ testified to having heard that when a woman and her mother were caught while defecting to South Korea in 2014, not only the woman and her mother, but also the woman’s grandmother were sent to a political prison camp

1027_NKHR2020000030 2020-08-03.

1028_NKHR2020000005 2020-05-15.

1029_NKHR2020000029 2020-07-06.

(*kwanliso*).¹⁰³⁰ One testimony claimed that when a spouse is accused of being a political criminal, one may avoid being sent to a political prison camp (*kwanliso*) by divorcing the accused spouse.¹⁰³¹ Several defectors have testified that unlike in the past, cases where an entire family is imprisoned in a political prison camp (*kwanliso*) for having a defector in the family have decreased since North Korean authorities have found it difficult to house so many prisoners due to an increasing number of North Koreans defecting to South Korea.¹⁰³² In addition, several defectors testified that even when a whole family was imprisoned based on guilt-by-association, children were released from the political prison camp (*kwanliso*) and that in cases where a family was imprisoned in a political prison camp (*kwanliso*) for attempting to defect to South Korea, children were exempted from imprisonment.¹⁰³³ A North Korean defector ○○○ testified to having heard that an entire family had been sent to a political prison camp (*kwanliso*) after being caught in their attempt to defect to South Korea and forcibly repatriated and that two minors (ages 14 and seven) in the family were released from the camp.¹⁰³⁴ In the 2019 survey, a case was reported where a family was sent to

1030_NKHR2017000038 2017-06-05.

1031_NKHR2013000154 2013-08-20.

1032_NKHR2015000028 2015-02-10; NKHR2017000067 2017-08-28.

1033_NKHR2015000015 2015-01-27; NKHR2015000030 2015-02-10.

1034_NKHR2016000171 2016-11-01.

a political prison camp (*kwanliso*) for attempting to defect to South Korea in 2015, but the children, who were minors, were exempted from imprisonment.¹⁰³⁵

It appears that those accused of committing political crimes do not receive due legal process in the process of being arrested and taken to political prison camps (*kwanliso*). A North Korean defector ○○○ testified that imprisonment in political prison camps (*kwanliso*) is decided exclusively by the Ministry of State Security without a trial.¹⁰³⁶ As suspects of political crimes are detained in political prison camps (*kwanliso*) in such a way, it is not easy for the general public to know whether their family members have been imprisoned in political prison camps (*kwanliso*) and what the situation is in political prison camps (*kwanliso*).

C. Overview of Prison Life

(1) Extrajudicial, Summary or Arbitrary Execution

According to defector testimonies collected to date, executions are carried out in political prison camps (*kwanliso*) by MSS agents without following legal procedures for reasons such as violation of rules or disobedience to orders. Defectors have testified that

1035_NKHR2019000033 2019-06-03.

1036_NKHR2016000171 2016-11-01.

such executions are mostly carried out in public, but sometimes carried out in secret.

(2) Forced Labor

It has been identified that prisoners in political prison camps (*kwanliso*) are forced into hard labor. The type of labor differs by each political prison camp (*kwanliso*), but it has been testified that at the former No. 18 *Kwanliso* in Bukchang, prisoners were mostly put to work in a coal mine, as farming was impossible due to the area's geological characteristics.¹⁰³⁷ It is said that work units at the No. 15 *Kwanliso* in Yodok include an industrial unit and an agricultural unit.¹⁰³⁸ As labor at coal mines is carried out according to "production plans," if one fails to fulfill the daily workload quota by the end of the normal work day, he/she must continue working until the quota is met.¹⁰³⁹ It has been identified that prisoners are mobilized for labor even on weekends without rest.

(3) Inhuman Treatment

Violence and cruel treatment appear to be widespread in political prison camps (*kwanliso*). A North Korean defector ○○○○

1037_North Korean defector ○○○, 14 September 2012, interviewed in Seoul; North Korean defector ○○○, 12 October 2012, interviewed in Seoul.

1038_North Korean defector ○○○, 27 September 2012, interviewed in Seoul.

1039_North Korean defector ○○○, 14 September 2012, interviewed in Seoul.

testified that in the former No. 18 *Kwanliso* in Bukchang, the mine vice-captain who was in charge of the coal mine shift kicked him/her and struck him/her with a sack when he/she failed to collect the required amount of coal. The testifier also testified that the MPS officer at the coal mine also beat him/her.¹⁰⁴⁰

It has been identified that prisoners also suffer from poor nutritional, sanitary and medication conditions in political prison camps (*kwanliso*). Hye-suk Kim, who had been imprisoned in the former No. 18 *Kwanliso* in Bukchang, testified that her family of seven was only given 8 kg of Annam rice per month.¹⁰⁴¹ Since there was no way to get more rice, Kim and her family had no choice but to climb hills and mountains to pick wild greens to fill their hungry stomachs, and, even when off-duty, the entire family went to the mountains to collect edible greens and store them for food.¹⁰⁴² A North Korean defector ○○○ testified that in the former No. 18 *Kwanliso* in Bukchang, his/her father died from chronic disease and malnutrition, and his/her two younger siblings died from malnutrition and illness, respectively.¹⁰⁴³ The testifier also said that when he/she injured his/her leg in April 2004, he/she did not receive treatment other than an X-ray and was told by

1040_NKHR2013000126 2013-07-09.

1041_Hye-suk Kim, *A Prison Camp Created in Tears* (Seoul: Sidajeongsin, 2011), pp. 73-76. (In Korean)

1042_*Ibid.*, pp. 73-76.

1043_NKHR2013000126 2013-07-09.

medical staff at Yongjong Hospital located within the former No. 18 *Kwanliso* in Bukchang that his/her leg should be amputated.¹⁰⁴⁴

(4) Restrictions on Family Life

According to defector testimonies collected to date, one cannot live with one's parents, siblings or spouse in a political prison camp (*kwanliso*) that is categorized as a total control zone. Moreover, in political prison camps (*kwanliso*) categorized as revolutionary zones, marriage and childbirth are generally prohibited. One testimony claimed that husbands and wives are assigned to opposite work shifts to prevent them from having sex.

D. Evaluation

In the 2020 survey, cases have been documented where people were imprisoned in political prison camps (*kwanliso*) for similar reasons as the past, such as making phone calls to South Korea, watching South Korean movies, narcotics, being involved in human trafficking or distributing recordings of the reality of North Korea to foreign countries. In addition, it was found that there are various perceptions about political prison camps (*kwanliso*): a testifier said that he/she has only heard about such places, and a testifier had a specific image about the facility as being “a place where you cannot come out once you enter.”

1044_ Above testimony.

In the recent survey, there was no specific testimony by North Korean defectors on the process of detention or treatment in political prison camps (*kwanliso*). In addition, there was no testimony on the actual lives of prisoners in political prison camps (*kwanliso*). However, assuming that the existing situation in political prison camps (*kwanliso*) has not changed significantly, it is inferred that the diverse rights and freedoms of the prisoners recognized by the ICCPR are being violated.

2

Overseas Defectors

In this chapter, the actual situation and human rights violations of North Korean defectors abroad will be examined. In the recent survey, testimonies were documented that punishment for forcibly repatriated North Korean defectors has generally intensified and border control and crackdowns on defectors have strengthened.

A. Amounts and Backgrounds of Overseas North Korean Defectors

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 third countries, such as China and Russia, it is impossible to collect accurate data on the exact number and conditions of North Korean defectors abroad, due to the defectors’ insecure status, which prevents them from openly asking for help.

(1) Tightening Control to Block Defection and Decrease in the Number of Defectors Living in China

Since the late 2000s, the number of defectors living in China has dropped dramatically. It has been identified that the reasons for this decrease include more stringent border control and crackdowns, continued forced repatriation, a decrease in the number of new defectors due to an increase in the cost of defection, an increase in the number of legal visits to China resulting from an increase in the issuance of border passes, improved economic conditions in North Korea including the reinvigoration of marketplaces (*jangmadang*) and an increase in the resettlement of North Korean defectors in third countries as well as in South Korea. It has been found that since 2009, the Ministry of State Security has reviewed the emergency measures in place to prevent defection and has strengthened the identification and monitoring of ideological trends in families and relatives of defectors, ideological education, inspection of travel permits and bed-checks in border regions and inspection of Border Guard Commands. Moreover, North Korean authorities have increased the severity of punishment of residents using mobile phones in border regions. In 2015, North Korea revised its Criminal Law and added a provision on the “crime of illegal international communications” (Article 222), which stipulates that “a person who is engaged in illegal international communications shall be subject to up to one year of labor training punishment,”

and “when the case is serious, the person shall be subject to up to five years of correctional labor punishment.” This is the same sentence as that for the “crime of illegal border-crossing” (Article 221), which suggests that illegal international phone calls are considered to be a crime as serious as illegal border-crossing.

In particular, in the Hyesan region, which has been used as the main defection route, authorities have implemented various measures to deter defection. Electronic barrages have been installed and activities to detect mobile phones have been greatly strengthened. As a result, it became very difficult for brokers to contact potential defectors. Moreover, a barbed wire fence was installed along 12 km of the border in Hyesan. The fence was only connected with horizontal wires as of June 2015, but vertical wires were additionally installed.¹⁰⁴⁵ Two-story guard posts have also been installed.¹⁰⁴⁶ There was also a testimony reporting that surveillance cameras started to be installed from 2016.¹⁰⁴⁷ A North Korean defector ○○○ who defected in 2017 testified that he/she had lived right across from Amnok River (Amnokgang) and that it was impossible to draw water from the river outside the set time range due to the barbed wires installed around 2017.¹⁰⁴⁸ A North Korean defector ○○○ who defected in 2019 testified

1045_NKHR2015000130 2015-09-22.

1046_NKHR2015000136 2015-09-22.

1047_NKHR2019000012 2019-04-20.

1048_NKHR2018000109 2018-10-06.

that surveillance of North Korean defectors has been intensified, and there were soldiers on stakeout every 50 m along the border.¹⁰⁴⁹

The substantial decrease in the number of defections seems to be attributed to the announcement of a severe warning that three generations of the family would be punished if any family member defected, or defectors would be executed on the spot. A testimony stated that since Kim Jong Un took power, live ammunition has been provided to guards with an order that border-crossers may be shot to death.¹⁰⁵⁰ Many testifiers have stated that guards actually used their firearms in the testifiers' defection process.

In contrast, there were testimonies claiming that firearms are only used as a threat to prevent defection and that guards are not allowed to actually shoot people.¹⁰⁵¹ In the 2020 survey, testimonies on the use of firearms in the process of North Korean people's defection were collected. A North Korean defector ○○ ○ who defected in 2019 testified that he/she heard that border guards actually shoot guns but only in the air as a threat.¹⁰⁵² In addition, a North Korean defector ○○○ who defected in 2019 testified that recently border guards seem to fire live bullets while monitoring the border area for defection, but he/she had never

1049_ NKHR2019000103 2019-11-09.

1050_ NKHR2016000028 2016-03-08.

1051_ NKHR2015000122 2015-09-08.

1052_ NKHR2020000005 2020-05-15.

heard of an actual case; the testifier also said that he/she heard that border surveillance has become stricter.¹⁰⁵³

Testimonies were also documented that North Korean residents who have attempted to defect were shot to death. A North Korean defector ○○○ who defected in 2019 testified that he/she heard that around five people who were caught while defecting from North Korea were shot to death and that he/she was told by a defector who had defected recently that people attempting to defect would be shot to death unconditionally.¹⁰⁵⁴

Table V-2 Cases Involving the Use of Firearms during Defection

Testimonies	Testifier ID
In 2016, three men who were assigned to flood restoration work in Onsong County, North Hamgyeong Province decided on impulse to defect when they saw China across the Duman River (<i>Dumangang</i>) but were shot to death in their attempt.	NKHR2018000107 2018-10-01
In 2017, an incident occurred where a Chinese who was fishing on the Chinese side of the Amnok River (<i>Amnokgang</i>) was shot in his leg by a North Korean border guard who thought he was a North Korean defector. The injury was not life-threatening, but the guard responsible for the shooting was transferred to another unit.	NKHR2018000057 2018-07-02
At the end of 2017, there was an incident where one out of three people who were defecting was shot in his/her thigh by a border guard. When discovered by soldiers while crossing the river, the defectors were first asked by the soldiers to stop, but if they disregarded the order and run, soldiers would fire with live ammunition.	NKHR2019000024 2019-05-18

1053_NKHR2020000022 2020-07-06.

1054_NKHR2020000019 2020-07-04.

Testimonies	Testifier ID
The guards opened fire on three people who were attempting to defect through human trafficking in winter 2017–early 2018. Two of the people who got scared were arrested on the spot, but the remaining person ran and crossed the river.	NKHR2019000019 2019–05–07
A North Korean defector who defected in 2019 testified that he/she heard that five people who got caught while attempting to defect from North Korea were shot to death. The testifier was told by a defector who had defected recently that people attempting to defect would be shot to death unconditionally.	NKHR2020000019 2020–07–04

As the risk of getting caught in the process of defection increased, the number of people trying to enter China simply to earn money dropped significantly. However, there was also a testimony stating that the excessively harsh orders to crack down on defections by Kim Jong Un actually backfired, leading to an increase in the number of defections.¹⁰⁵⁵

(2) Defector Attempts to Migrate Globally

In addition to China, North Korean defectors appear to be attempting to move to other parts of the world, including Russia and other CIS countries, Mongolia and countries in Southeast Asia. With the support of private organizations and volunteer activists, North Korean defectors have been seeking asylum and safe havens around the world, in countries including Thailand, Japan, Canada, Australia, the U.S., EU member states and Israel.

1055_NKHR2016000165 2016–11–01.

According to the UNHCR, as of the end of 2019, there are 886 North Korean defectors around the globe with refugee status.¹⁰⁵⁶ This includes the number of people who have applied for refugee status in third countries such as Thailand and thus may overlap with the 1,047 people who actually entered South Korea in 2019.

Table V-3 Number of Overseas Defectors with Refugee Status

Year	2011	2012	2013	2014	2015	2016	2017	2018
Number of Persons	1,052	1,110	1,166	1,282	1,103	1,422	1,175	802

Source: <https://unhcr.or.kr/unhcr/program/board/detail.jsp?boardTypeID=98&searchSelect=&keyWord=¤tPage=1&menuID=001006003007&finishIsYN=&boardID=20216&boardCategory=&mode=detail> (Accessed: 1 February 2021)

Since 2004, the number of North Korean defectors illegally entering Thailand in hopes of moving and settling in South Korea or the U.S. has risen continuously. As a result, there have been many cases of group arrests of North Korean defectors illegally entering Thailand. Furthermore, as the period of stay in detention facilities within immigration offices grew longer, some refugees have begun to stage hunger strikes demanding a speedy process, which have substantially reduced the time required for entry procedures. At one time, the number of applications for political asylum (refugee status) in EU member states had increased rapidly. However, many of the applicants were found to be

.....
 1056_ <https://www.unhcr.or./5ee200e37.pdf>

Chinese, including ethnic Koreans in China disguised as North Korean defectors, or North Korean defectors who had already settled in South Korea and acquired South Korean nationality, and as a result, the procedure for the review and recognition of refugee status has become stricter. Although as many as 512 North Korean defectors had been recognized as refugees from 2007 to 2008 in the U.K., not a single North Korean defector earned refugee status in the U.K. in 2016.¹⁰⁵⁷ For a North Korean resident to move to a western country such as an EU member state and apply for political asylum there, a large amount of money is needed. Therefore, with very few exceptions, it seems very difficult for any North Korean defector to file for asylum in a western country. In addition, the North Korean authorities have closed the border due to COVID-19, making it even more difficult for North Korean people to defect overseas. South Korea had revised its Enforcement Decree of the North Korean Refugees Protection and Settlement Support Act in 2009 so that the South Korean government could suspend or terminate protection and settlement support for any North Korean resident who fraudulently applies for political asylum in a third country after obtaining South Korean nationality.

1057_ Dong-ho Han *et al.*, *An Analysis on Policy Environment for North Korean Human Rights* (Seoul: KINU, 2017), p. 216. (In Korean)

B. Reality of North Korean Defectors Residing Overseas

As food shortages continued for a sustained period of time, more North Korean women went to China to earn money, and the number of North Korean women who did not return to North Korea but instead settled in China began to increase. Not only those women who were single, but also those who were married with children, ended up living with Chinese men in order to continue their life in hiding in China. In some cases, these women were introduced to Chinese men and lived with them voluntarily,¹⁰⁵⁸ but in many cases, North Korean women were sold without their knowledge and forced into marriage.¹⁰⁵⁹ In addition, there were many cases where female defectors were under the constant watchful eye of the families and neighbors of their husbands as they were sold as merchandise.¹⁰⁶⁰ A North Korean defector ○○○ who was trafficked into China in 2015 testified that she could not set foot outside the house without her husband since her Chinese husband always locked her in whenever he left home.¹⁰⁶¹

1058_NKHR2019000010 2019-04-08; NKHR2019000044 2019-07-01; NKHR2019000046 2019-07-01; NKHR2019000048 2019-07-01; NKHR2019000099 2019-10-21; NKHR2019000042 2019-07-01.

1059_NKHR2017000025 2017-05-08; NKHR2018000004 2018-03-12; NKHR2019000061 2019-07-29 and many other testimonies.

1060_NKHR2019000100 2019-10-21; NKHR2019000061 2019-07-29.

1061_NKHR2017000094 2017-10-23.

There have been some cases in which some female North Korean defectors were able to obtain residence permits (*hukou*) after staying in China for a prolonged period of time.¹⁰⁶² Also, some had children with their Chinese husbands,¹⁰⁶³ and some of these children also obtained residence permits.¹⁰⁶⁴ However, in many cases, female defectors are exposed to the threat of forced repatriation because of their unstable status,¹⁰⁶⁵ which is a reason why they have no choice but to remain forcibly married to Chinese men. A woman in her 30s ○○○ who defected in 2017 and became a victim of human trafficking in China testified that although she had no intention of getting married when she first crossed the river, she had no choice but to get married as the broker convinced her that she needed the protection of a Chinese man due to her unstable status.¹⁰⁶⁶ Moreover, there was also a testimony reporting that the testifier had to follow the broker's directions as the testifier had no acquaintances and no one to get help from in China.¹⁰⁶⁷

1062_ NKHR2017000046 2017-07-03.

1063_ NKHR2018000020 2018-04-09; NKHR2019000044 2019-07-01; NKHR2019000046 2019-07-01; NKHR2019000048 2019-07-01; NKHR2019000058 2019-07-29 and many other testimonies.

1064_ NKHR2017000014 2017-04-10; NKHR2018000021 2018-04-09; NKHR2019000044 2019-07-01; NKHR2019000048 2019-07-01; NKHR2019000099 2019-10-21 and many other testimonies.

1065_ NKHR2019000099 2019-10-21; NKHR2019000067 2019-08-26.

1066_ NKHR2019000067 2019-08-26.

1067_ NKHR2019000061 2019-07-29.

With more North Korean defectors staying in China for extended periods of time, their way of life has also changed. Unlike their initial years of living in China, North Korean defectors live more in the homes of Chinese people such as Han Chinese than in the homes of their North Korean relatives or ethnic Koreans in China. As they adapt to living in China, some defectors have developed their own ways of living, such as learning the Chinese language, becoming employed and getting involved in market activities.¹⁰⁶⁸ Also, although only very rarely, some female North Korean defectors have entered South Korea with South Korean men with whom they resided in China. In some cases, female defectors living in China go to South Korea through brokers after they find out about settlement support grants offered by the South Korean government through the Korean-Chinese men they live with. In such cases, the men typically travel to South Korea first to find jobs, learn about the support grants and then advise their North Korean partners to come to South Korea. There were also cases where North Korean defectors come to Jeju Island (South Korea), where no visa is required, after obtaining Chinese passports with forged residence permits and report their identity as North Korean defectors. However, it seems that a significant number of female defectors living in Han Chinese farming villages continue to live there as they do not have access to information on South Korea.

1068_NKHR2017000064 2017-07-31.

C. Punishment of Defectors

(1) Punishment Provisions

The North Korean Criminal Law divides charges for defection into two crimes: illegal border-crossing and treason against the fatherland. For illegal border-crossing, up to one year of labor training punishment may be imposed, and when the case is serious, up to five years of correctional labor punishment may be imposed (Article 221). The North Korean Criminal Law also stipulates that “a citizen who commits treason against the fatherland, such as betraying the fatherland by fleeing or surrendering to another country or turning over secrets to the enemy, shall be subject to five years or more of correctional labor punishment. When the case is extremely serious, the citizen shall be subject to unlimited-term correctional labor punishment or death penalty with confiscation of property” (Article 63). In addition, the North Korean Immigration Law stipulates that any North Korean citizen who violates immigration regulations shall be subject to fines and an administrative penalty that bans him/her from leaving the country, and, when the case is serious, a criminal penalty may be imposed (Article 55).

In addition to the Criminal Law, the terms of punishment for defection are dictated in the People’s Security Enforcement Law and the Administrative Penalty Law. Article 30 of the People’s Security Enforcement Law stipulates that “people’s security

institutions shall exercise control over violations of travel regulations and disorderly wandering on the streets.” Article 57 of the same law states that people’s security institutions may impose fines on people who violate Article 30. These provisions are not intended to punish the act of defection directly, but are utilized to prevent people from moving towards the border regions for defection. Article 271 of the Administrative Penalty Law stipulates that anyone violating border exit/entry rules shall be subject to admonitions, stern warnings, confiscation or up to three months of unpaid labor or re-educational labor discipline. In addition, Article 282 of the same law prescribes that those who violate travel regulations and engage in illegal exit/entry of restricted areas may be subject to admonitions, stern warnings, fines or up to three months of unpaid labor or re-educational labor discipline, and, when the case is serious, they may be subject to three months or more of unpaid labor or re-educational labor discipline, or demotion, dismissal or removal from jobs.

(2) Reality of Punishment

(A) Investigation and Transfer

North Korean defectors caught in China are deported to periphery military units along the border, then to the Ministry of State Security of the repatriation area for basic investigation and personal identity checks. They are then sent back to the authorities

in their area of residence. Depending on the case, deportees are sent to their respective regional institution (MPS) either directly or via the labor training camp (*rodongdanryundae*) or the provincial holding center (*jipkyulso*) in the repatriated area. The punishment procedure following repatriation differs depending on the initial detention facility to which a deportee is sent. If the initial detention facility is located at or near the area of the detainee's residence, the level of punishment is determined more quickly. On the other hand, if the detainee's hometown is far away from the MSS branch in the border region, the period of detention is extended because the MPS officers from the detainee's hometown have to travel to the border area detention facility in person to sign the detainee out. Other factors that affect the extended detention seem to include the risk of escape during transfer, securing of the means of transfer and lack of means to contact the families.

Those who are repatriated from China are investigated at a first-level detention facility for punishment. The MSS branch detention centers (*guryujang*) in repatriation areas are mostly in Onsong County, Musan County, Hoeryong, Sinuiju in North Pyeongan Province and Hyesan in Yanggang Province. Repatriated North Korean defectors are strip searched, have their belongings checked and undergo health inspections (for AIDS) before they are detained. Although men and women are known to be detained separately, there are cases in which they are detained together, depending on the number of people being repatriated.

North Korean defectors caught in China and awaiting deportation are mostly detained for days or even months in Chinese police stations, public security institutions or customs offices. Afterwards, they are sent to MSS provincial holding centers (*jipkyulso*) and MPS city branch detention centers (*guryujang*), go through preliminary examinations and trials and have their punishment determined. In the 2020 survey, a North Korean defector ○○○ who had defected in 2015 and was caught in China testified that after the arrest, he/she had spent a week in detention in a periphery military unit at the Chinese border and then was transferred to North Korean authorities through customs. The testifier said he/she stayed in an MSS holding center (*jipkyulso*) for 23 days and then in a holding center (*jipkyulso*) under the City Security Department and was sentenced to labor training punishment but was released after paying bribes.¹⁰⁶⁹ In addition, a testifier who had worked in a detention facility since April 2019 testified that those caught while defecting are detained in holding centers (*jipkyulso*) within the Ministry of State Security.¹⁰⁷⁰

Article 37 of the Law on the Protection and Promotion of the Rights of Women prohibits physical searches of women. However, it has been revealed that inspectors examine forcibly repatriated female defectors by forcing them to squat and stand up

1069_NKHR2020000024 2020-07-06.

1070_NKHR2020000035 2020-09-05.

repeatedly, conducting strip searches and carrying out uterus examinations.¹⁰⁷¹ Such examination is intended to search and seize the money defectors have earned while in China. A North Korean defector ○○○ who had been detained in an MSS city detention center (*guryujang*) in 2016 testified that she went through such uterus examination conducted by a female soldier, which was very painful and extremely shameful.¹⁰⁷² Moreover, there were even cases where defectors were repeatedly made to undergo strip searches every time their cases were transferred to another institution. A North Korean defector ○○○ testified that after being caught by the Border Security Command during his/her defection attempt in 2017, he/she went through a total of six strip searches at a platoon, company, battalion, MSS provincial bureau, MSS city branch and MPS city branch.¹⁰⁷³

In the 2020 survey, it was reported that North Korean defectors who are repatriated after fleeing to China receive relatively lenient punishment compare to those who are caught and repatriated while attempting to enter South Korea. It could be inferred from the survey that punishment is heavier for those trying to go to South Korea, but on the other hand, such punishment can be avoided to some extent through bribery.

1071_ NKHR2017000014 2017-04-10; NKHR2017000045 2017-07-03; NKHR2017000046 2017-07-03; NKHR2017000119 2017-11-20; NKHR2018000081 2018-07-30; NKHR2019000041 2019-07-01; NKHR2019000075 2019-08-26.

1072_ NKHR2017000045 2017-07-03.

1073_ NKHR2018000091 2018-08-27.

There seems to be a significant number of cases in which forcibly repatriated defectors offer bribes during the interrogation process to reduce the term of their sentence or be exempted from punishment.¹⁰⁷⁴ A North Korean defector ○○○ who was caught in an attempt to defect in 2016 testified that he/she was released, subject only to re-educational measures, after bribing the MSS intelligence chief of ○○ City, ○○ Province, with 5,000 yuan.¹⁰⁷⁵ Cases have also been found in which defectors bribed law enforcement personnel to forge the contents of their interrogation documents to avoid punishment. A North Korean defector ○○○ who had been forcibly repatriated from China in 2015 testified that he/she was able to reduce his/her sentence by bribing prosecutors, judges and lawyers to forge the length of time he/she stayed in China.¹⁰⁷⁶ Another North Korean defector ○○○ testified that he/she had been arrested during a defection attempt in 2017 but was able to receive a relatively light sentence of one month at a labor training camp (*rodongdanryundae*) by paying 3,000 yuan to a preliminary examination officer as a bribe.¹⁰⁷⁷ As such, it seems there is a widespread practice of avoiding punishment via bribery, even among those who are caught in their attempts to

1074_ NKHR2017000057 2017-07-31; NKHR2017000058 2017-07-31; NKHR2017000098 2017-10-23; NKHR2017000103 2017-10-23; NKHR2017000121 2017-11-20; NKHR2017000128 2017-12-18; NKHR2019000019 2019-04-08; NKHR2019000105 2019-11-09; NKHR2019000074 2019-08-26.

1075_ NKHR2017000057 2017-07-31.

1076_ NKHR2017000005 2017-04-10.

1077_ NKHR2018000091 2018-08-27.

defect. One testifier noted that those without money are often unable to evade punishment.¹⁰⁷⁸

A North Korean defector ○○○ testified that he/she had been caught after an attempt to defect in January 2018 and detained at an MSS holding center (*jipkyulso*) but was released without a trial as his/her mother paid 7,000–7,500 yuan as a bribe. The testifier said that an attempt to defect to South Korea constitutes treason against the fatherland, which is the most serious crime.¹⁰⁷⁹ A testifier ○○○ who had worked at a detention facility until 2019 said that he/she saw North Korean defectors being detained in the facility and that if they were people who had been repatriated after living in China for a long period of time, they received a maximum of five years of imprisonment after trial. According to the testifier, repatriated defectors who had attempted to defect to South Korea are sent to political prison camps (*kwanliso*), and other repatriated defectors are detained in detention centers (*guryujang*) within the Ministry of State Security and are able to avoid punishment if they offer bribes. The testifier further testified that if a repatriated defector's sentence is confirmed at an MPS city/county branch, avoiding punishment becomes impossible.¹⁰⁸⁰

1078_NKHR2017000026 2017-05-08.

1079_NKHR2020000020 2020-07-04.

1080_NKHR2020000035 2020-09-05.

The amount for a bribe to avoid punishment for defection seems to have increased significantly. Another North Korean defector ○○○ said that his/her spouse, a former money transfer broker, had been arrested and detained in the MSS city detention center (*guryujang*) in Hoeryong, North Hamgyeong Province in 2016 but was released after 15 days by offering a bribe of 15,000 yuan.¹⁰⁸¹ Another North Korean defector ○○○ testified that he/she had had been detained in a detention center (*guryujang*) after being caught in an attempt to defect in 2016 but was released by paying 15,000 yuan as a bribe.¹⁰⁸² A North Korean defector ○○○ testified that his/her sister-in-law's husband was caught during a defection attempt and that he/she offered a bribe of 10 million won, which was sent by his/her sister-in-law, who had already settled in South Korea.¹⁰⁸³ In addition, there were testimonies claiming that the testifiers had been released after paying 30,000–40,000 yuan¹⁰⁸⁴ and even 60,000 yuan as a bribe.¹⁰⁸⁵

The MSS branches located in border areas conduct interrogations on repatriated defectors to verify information such as personal information, home address, time and frequency of river-crossings and activities after river-crossing (e.g., whether the defectors have

1081_NKHR2018000099 2018-10-01.

1082_NKHR2018000056 2018-07-02.

1083_NKHR2018000105 2018-10-01.

1084_NKHR2018000109 2018-10-06.

1085_NKHR2019000009 2019-04-08.

contacted with South Koreans or Christians, attempted to go to South Korea, connections with human trafficking, or watched pornography or South Korean video recordings). After being interrogated at MSS branches in border areas, repatriated defectors are sent either to the MPS detection center (*guryujang*) or to provincial holding centers (*jipkyulso*) in the border areas. Under North Korean criminal procedures, there should be a preliminary examination in which prosecutors establish the facts of a crime and indict or exonerate the suspect. During the preliminary examination, prosecutors ask those who have been repatriated to describe in detail the purpose of their border-crossing and activities in China. During this phase, investigators use beatings, abusive language and threats and induce people to report on the activities of other repatriated defectors during their stay in China by telling them that their sentence would be reduced.

(B) Imposition of Punishment

It has been found that since Kim Jong Un came to power, punishment for repatriated defectors has been greatly strengthened,¹⁰⁸⁶ and more defectors are sentenced to correctional labor punishment rather than labor training punishment.¹⁰⁸⁷ There were testimonies

1086_ NKHR2017000001 2017-04-10; NKHR2017000002 2017-04-10; NKHR2017000067 2017-08-28.

1087_ NKHR2012000151 2012-07-24.

stating that until 2013, those who have been repatriated to North Korea for the first time were sentenced to approximately six months of imprisonment in labor training camps (*rodongdanryundae*) and those who had been repatriated for at least a second time were sentenced to correctional labor punishment, but since 2014, all repatriated defectors are sentenced to correctional labor punishment, regardless of the frequency of their attempted defection.¹⁰⁸⁸ The term of correctional labor punishment is three to five years, varying according to the number of attempted defections and the length of the defector's stay in China.¹⁰⁸⁹ In particular, testifiers noted that those whose stay in a third country after illegal border-crossing is three months or longer are subject to aggravated punishment because such situation is classified as a "serious case" under paragraph 2 of the provision on the crime of illegal border-crossing.¹⁰⁹⁰ However, it is said that for cases of simple defection, one could offer bribes to have his/her sentence reduced to labor training punishment.¹⁰⁹¹ People sentenced to correctional labor punishment for the charge of illegal border-crossing are mostly imprisoned at Jeongeori *Kyohwaso* in North Hamgyeong Province and Gaecheon *Kyohwaso* in South Pyeongan Province.¹⁰⁹²

1088_NKHR2015000084 2015-04-21; NKHR2015000092 2015-05-12.

1089_NKHR2015000023 2015-01-27; NKHR2015000035 2015-02-10; NKHR2015000080 2015-04-21.

1090_NKHR2017000005 2017-04-10.

1091_NKHR2015000031 2015-02-10.

1092_Dong-ho Han *et al.*, *Prison Camps in North Korea*, pp. 10~12. (In Korean)

In particular, it has been found that around 70% of convicted prisoners in Jeongeori *Kyohwaso* are imprisoned for the charge of illegal border-crossing.¹⁰⁹³ Many testifiers said that those who attempt to escape to South Korea are punished as political criminals,¹⁰⁹⁴ and there was even a testifier who said that defectors who are caught heading to South Korea would be unconditionally shot to death.¹⁰⁹⁵ A North Korean defector in his/her 50s who defected in 2019 said that since fall 2018, MSS agents came to every People’s Unit (*inminban*) meeting and said, “defectors are traitors, and they can be sentenced to death.”¹⁰⁹⁶

It has been identified that the overall punishment of forcibly repatriated defectors has been recently reinforced. In the past, North Korean people who defected to China and were repatriated were sentenced to correctional punishment for a period that corresponds to the length of their stay in China, but the punishment has recently been strengthened so that repatriated defectors are sentenced to prison terms that are twice as long as the period of their stay in China.¹⁰⁹⁷ A North Korean defector in his/her 20s who defected in 2019 testified that punishment for

1093_ *ibid.*, p. 14.

1094_ NKHR2015000031 2015-02-10; NKHR2017000007 2017-04-10; NKHR2017000039 2017-06-05; NKHR2017000111 2017-11-20; NKHR2017000112 2017-11-29; NKHR2017000130 2017-12-18; NKHR2019000048 2019-07-01; NKHR2019000101 2019-10-21.

1095_ NKHR2019000007 2019-04-08.

1096_ NKHR2019000019 2019-05-07.

1097_ NKHR2016000072 2016-05-17.

defection has strengthened from around 2015, and while those charged with defecting to China were previously sentenced to serve time in labor training camps (*rodongdanryeondae*), they are now all sentenced to two or three years of correctional labor punishment.¹⁰⁹⁸ A North Korean defector in his/her 20s who defected in 2018 testified that he/she was forcibly repatriated after defecting to and staying in China for three months in 2015 and was sentenced to one year of correctional labor punishment, but these days, people who defect even only for a day are sentenced to one year of correctional labor punishment.¹⁰⁹⁹

During the Kim Jong Il era, there were cases in which defectors who had voluntarily returned to North Korea were only sentenced to educational measures instead of criminal punishment. However, under the Kim Jong Un regime, even voluntary returnees are subject to harsh punishment.¹¹⁰⁰ According to a testifier who had defected twice in 2007 and 2014, voluntary returnees were not punished in 2007 under Kim Jong Il, but when the testifier voluntarily returned in 2014, he/she was not forgiven and investigations were carried out in a harsh manner.¹¹⁰¹ In the case of forcible repatriation, if it is clear that the defector has attempted to go to South Korea and does not pay bribes, the defector would be

1098_NKHR2019000039 2019-07-01.

1099_NKHR2019000043 2019-07-01.

1100_NKHR2016000131 2016-06-09.

1101_NKHR2016000148 2016-09-06.

sent to a political prison camp (kwanliso), which is the heaviest punishment.

Table V-4 Cases of Punishment for Defectors

Testimonies	Testifier ID
The testifier's son-in-law was caught in his attempt to defect in Yanggang Province in September 2015 and was sent to the MSS provincial bureau. The testifier was later told that he was sent to Suseong <i>Kyohwaso</i> (political prison camp) in Chongjin.	NKHR2018000123 2018-10-22
The testifier heard that a 33-year-old man who had been forcibly repatriated was sentenced to two years of correctional labor punishment in 2016. The testifier was told that this person had to have an operation as he ate needles to kill himself at a detention center (<i>guryujang</i>).	NKHR2019000093 2019-10-21
In 2016, the testifier's son defected from North Korea but was caught within six hours and forcibly repatriated. He was sentenced to three months of labor training punishment, but was released only after one month because he paid bribes.	NKHR2019000096 2019-10-21
The testifier was caught after attempting to defect from North Korea in January 2018 and was detained in an MSS holding center (<i>jipkyulso</i>). However, the testifier was released without a trial as his/her mother paid 7,000-7,500 yuan as a bribe.	NKHR2020000020 2020-07-04

Lastly, it seems that punishment for the defection of overseas dispatched workers has also intensified. In the 2020 survey, a North Korean defector ○○○ who had been dispatched overseas testified that while in the past dispatched workers tried to take responsibility if someone in their group went missing, after Kim Jong Un came to power, dispatched workers try to avoid responsibility as punishments are imposed mercilessly for those who take responsibility.¹¹⁰²

1102_NKHR2020000018 2020-07-04.

(C) Punishment for Defector Families

Since Kim Jong Un took office, the surveillance and punishment of defectors' families have tightened as part of strengthening control over defection.¹¹⁰³ It seems that there are also cases where the entire family is either deported or sent to a political prison camp (*kwanliso*).¹¹⁰⁴ A North Korean defector ○○○ who defected in 2016 testified that a father and daughter who had lived in his/her neighborhood were forcibly repatriated from China in 2015, and all the remaining family members were forcibly deported to Unheung County, Yanggang Province.¹¹⁰⁵

However, many testifiers have stated that the number of cases where defector families are actually punished or deported has decreased recently due to the overwhelming number of defectors.¹¹⁰⁶ A North Korean defector ○○○ testified that he/she had been under the Ministry of State Security monitoring after his/her spouse defected in 2015 but did not receive any punishment or sanction.¹¹⁰⁷ Another North Korean defector ○○○ testified that families of defectors are rarely punished since there is a defector

1103_NKHR2019000008 2019-04-08; NKHR2019000038 2019-06-15; NKHR2019000031 2019-06-03; NKHR2019000092 2019-10-21.

1104_NKHR2017000038 2017-06-05; NKHR2017000039 2017-06-05; NKHR2017000072 2017-08-28; NKHR2019000046 2019-07-01.

1105_NKHR2019000046 2019-07-01.

1106_NKHR2017000077 2017-08-28; NKHR2017000085 2017-09-25; NKHR2017000092 2017-09-25; NKHR2019000012 2019-04-20; NKHR2019000074 2019-08-26; NKHR2019000078 2019-09-25; NKHR2019000087 2019-10-05.

1107_NKHR2017000092 2017-09-25.

in one out of every two households.¹¹⁰⁸ Particularly in border regions, it is said that it is practically impossible to punish or deport all defector families as there are too many cases where one of the family members has defected. A North Korean defector ○○○ testified that since 90% of the residents in Hyesan, Yanggang Province have defectors in their family and if nieces/nephews are counted as family, all residents have defector relatives, it is impossible to forcibly deport or punish them.¹¹⁰⁹

In the 2020 survey, many testimonies were reported that the monitoring and crackdown on defectors' families are still being carried out.¹¹¹⁰ A testifier who defected in 2019 testified that he/she had been monitored since 2010 because his/her mother defected to China. According to the testifier, when he/she wanted to go somewhere, he/she was questioned by the authorities about the reason and destination, the house he/she visited had to contact the authorities for verification and he/she had to report to the security department of the area he/she visited.¹¹¹¹ A North Korean defector ○○○ who defected in 2019 testified that he/she had been monitored by a neighbor who was an MSS informer since his/her mother defected and went missing in 2011.¹¹¹² In

1108_ Above testimony.

1109_ NKHR2019000078 2019-06-10.

1110_ NKHR2020000012 2020-06-15; NKHR2020000013 2020-06-15; NKHR2020000014 2020-06-15; NKHR2020000024 2020-07-06; NKHR2020000028 2020-07-06 and other testimonies.

1111_ NKHR2020000021 2020-07-06.

1112_ NKHR2020000029 2020-07-06.

addition, a testifier whose mother defected to China in 2013 and entered South Korea in 2016 testified that he/she had been monitored wherever he/she went; according to the testifier, he/she had been monitored by the chief of his/her People's Unit (*inminban*) most of the time, but there also was someone monitoring him/her at work.¹¹¹³

Moreover, testimonies were collected declaring that having a defector in the family could prevent people from getting a desired job, entering into a school they wanted to attend or getting promoted at work. A North Korean defector ○○○ who defected in 2019 testified that it was impossible for him/her to join the military or the Party because of his/her defector mother who entered South Korea in 2007, and her defection records made it difficult for him/her to achieve anything he/she wanted in his/her life. However, the testifier said that there were no restrictions on marriage.¹¹¹⁴ A defector in his/her 50s who defected from North Korea in 2019 testified that his/her older brother was a renowned judge but had difficulty being promoted above the level of a general judge because his/her daughter had defected.¹¹¹⁵ A defector in his/her 40s who defected in 2019 said that in 2016, his/her older brother was expected to get promoted to become a Party secretary but was not promoted as it was found that there

1113_ NKHR2020000013 2020-06-15.

1114_ NKHR2020000017 2020-07-04.

1115_ NKHR2019000108 2019-11-18.

was a defector in the family.¹¹¹⁶ In other words, while judicial punishment has weakened, there are indirect restrictions imposed on families of defectors such as social discrimination.

Table V-5 Cases of Punishment for Defector Families

Testimonies	Testifier ID
In 2015, a father and daughter who had defected to China were forcibly repatriated, and all the remaining family members were forcibly deported to Unheung County, Yanggang Province.	NKHR2019000046 2019-07-01
The testifier was caught during a travel permit check conducted in 2016 on his/her way to his/her grandmother's in Hoeryong, North Hamgyeong Province. When interrogators discovered that the testifier's mother was a defector, they accused the testifier for attempting to defect and detained him/her at the Ministry of State Security for a month.	NKHR2017000054 2017-07-31
A testifier who defected in 2019 testified that he/she had been monitored by a neighbor who was an MSS informer since his/her mother defected and went missing in 2011. The testifier said that the informer did not search his/her house, but he threatened that he would send the testifier to a labor training camp (<i>rodongdanryundae</i>) unless he/she offered some money.	NKHR2020000029 2020-07-06
A testifier who defected in 2019 testified that the father of a friend who defected with the testifier had two of his houses confiscated and was sent to a labor training camp (<i>rodongdanryundae</i>), and the testifier's father received the same punishment. The testifier heard that Kim Yo Jong instructed the authorities to confiscate the houses of defector families and send defector families to labor training camps (<i>rodongdanryundae</i>) or sentenced them to correctional labor punishment.	NKHR2020000021 2020-07-06

1116_NKHR2019000009 2019-04-08.

D. Human Trafficking

International and national laws prohibit human trafficking, emphasizing its inhuman nature. In addition, a substantial number of human rights organizations engage in the monitoring of human trafficking activities and have launched international promotional campaigns to eradicate human trafficking. According to the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organized Crime (hereinafter the Protocol on Human Trafficking), human trafficking means “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” In the provision, the meaning of exploitation is very important, and includes “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” The difference between human trafficking and human smuggling is that exploitation continues to occur even after the arranged illegal border-crossing.¹¹¹⁷

1117_Norma Kang Muico, “An Absence of Choice: The Sexual Exploitation of North Korean Women in China.” (Anti-Slavery International, 2005), p. 3.

(1) Organized Human Trafficking

As the number of illegal border-crossings by North Korean residents rapidly increased, organized rings of human traffickers began to appear, earning profits by trafficking North Korean defectors. There were many incidents in which these ring members sought to capture North Koreans around train stations or markets in China for sale. There are many stages to this form of human trafficking. Organized human trafficking involves many people, such as those who lure women along the North Korean border, those who pick up women on the Chinese side of the border and those who keep female North Korean defectors in hiding in certain places and arrange their sales. In the process, the transaction cost is expected to increase at every stage. As organized human trafficking began to occur, the practice of selling North Korean defectors spread to the inner areas of China's three northeastern provinces, which are far away from the border. In most cases, North Korean women are the target of human trafficking, but North Korean men have also been traded to remote areas of China where labor is scarce.

With increasing attention to cases of human rights violations caused by human trafficking in China, Chinese authorities have launched a massive roundup campaign against human trafficking rings. Subsequently, the number of organized human trafficking cases is considered to have significantly decreased. However, as North Korean defectors stay in China for longer periods of time,

some defectors illegally residing in China become involved in the trafficking of fellow North Korean defectors. For example, there seem to be cases where female North Korean defectors living with Chinese men involved in human trafficking turn over other female defectors to Chinese men or adult entertainment establishments to make money. It has been identified that brokers trade female North Korean defectors to Chinese men, telling each woman that she can contact them if she does not like the man or has difficulties living with him, and if the female defector contacts them for help, the brokers would move and sell her to another area to make profit. A woman in her 20s who defected in 2015 testified that she had been traded as many as four times in China, and whenever she wanted to run away from the man she had been forced to marry, she would ask for help from a “*Chosun*” woman (i.e., a woman from North Korea) from Chongjin, who was a broker who connected her to a new man.¹¹¹⁸

Human trafficking is illegal in China, and, if detected, those involved would be fined. Since those involved in human trafficking pocket money in the process of transferring women, they become the subject of vigilance when others around them learn of their human trafficking activities. It seems that the border patrol battalions conduct intensive investigations of North Korean defectors arrested in China, focusing on human trafficking and narcotics trade.

1118_NKHR2019000061 2019-07-29.

On the other hand, in the 2020 survey, cases were reported where testifiers had been sold abroad without realizing that they were going to be sold. A North Korean defector ○○○ who was 16 when he/she was traded in 2015 testified that he/she was trafficked on his/her way to China to earn money.¹¹¹⁹ Another North Korean defector ○○○ said that his/her daughter, who only wanted to stay in China for a few months with her friend to earn money, was trafficked in 2017.¹¹²⁰

(2) Human Rights Violations of Trafficked Female Defectors

With China's industrialization, women in rural areas began to migrate into cities or foreign countries such as South Korea to earn money. As a result, there is an increased demand for women as marriage partners or objects to satisfy sexual desires in Chinese society. Due to such demand, female North Korean defectors are often traded as live-in partners of Chinese men. It seems that most North Korean women have been taken to Chinese men without knowing to whom they had been sold. However, some of them knowingly ask brokers to help them cross the border in order not to bear the cost of river-crossing. In addition, cases have been identified where some voluntarily decided to be sold as they

1119_NKHR2020000031 2020-08-03.

1120_NKHR2020000028 2020-07-06.

realized that trafficking is the only way to escape North Korea due to the tightened control on defection under the Kim Jong Un regime.¹¹²¹ A North Korean defector ○○○ who defected in 2015 testified that being sold in China through traffickers was the only way to defect from North Korea and that there are many women who wish to escape but cannot because it is difficult to find a broker.¹¹²²

Whereas there are cases where female North Korean defectors who have been forced into marriage with Chinese men continue to live with their Chinese partners for a long period of time, a significant number of female defectors appear to flee to other regions as their marriage encounters trouble due to sexual abuse, violence, drinking or gambling. When a Chinese husband desires to continue the relationship with a North Korean woman, he would make various efforts, such as helping the woman obtain a residence permit or providing financial help to the woman and her family. There are cases where women who have crossed the border without help from a trafficking broker choose to live with Chinese men as life in China is difficult. In these cases, their married life does not appear to be much different from the situation of women in forced marriages. Unable to speak Chinese, North Korean women find it impossible to get a job in a restaurant

1121_NKHR2017000033 2017-06-15; NKHR2017000094 2017-10-23; NKHR2018000033 2018-05-08.

1122_NKHR2017000094 2017-10-23.

or in any public place. Thus, they come to realize that there is no other alternative than to enter a common-law marriage with Chinese men to avoid being caught. In one case, a North Korean woman managed to run away after being trafficked and forced into marriage only to find herself in a relationship with another Chinese man because it was the only way for her to survive in China.¹¹²³

Cases have been found where female North Korean defectors who have been traded in China are forced to provide sexual services at karaoke bars and adult entertainment establishments.¹¹²⁴ A woman in her 20s who defected in 2015 testified that she followed a broker who said that he/she would help her find a job and found out where she arrived was a brothel.¹¹²⁵ It has also been identified that there is an increasing number of organizations operating pornographic computer chatting businesses in China using female North Korean defectors.¹¹²⁶ A North Korean defector ○○○ testified that she defected in 2015 with the help of a human trafficking broker but was sold to a pornographic computer chatting business in Shandong, China and worked there for two and a half years.¹¹²⁷ It is said that with the recent increase

1123_NKHR2017000065 2017-07-31.

1124_NKHR2017000066 2017-08-28; NKHR2019000043 2018-12-25.

1125_NKHR2019000043 2019-07-01.

1126_NKHR2015000125 2015-09-08.

1127_NKHR2018000133 2018-11-19.

in demand for human trafficking in China, there has been an increase in the number of cases where Chinese smugglers also become involved in human trafficking.¹¹²⁸

Meanwhile, it has become more difficult to find human trafficking agents in North Korea as the crackdowns against them have strengthened. Many testimonies were collected stating that human traffickers have been publicly executed or imprisoned in political prison camps (*kwanliso*).¹¹²⁹ There were also testimonies reporting that while human trafficking is still active in Hoeryong and Musan County, North Hamgyeong Province, it has decreased substantially in Onsong County due to intensified crackdowns.¹¹³⁰

E. Evaluation

Forced repatriation of North Korean defectors involves many human rights issues. Given that the issue of entering and exiting a country is at the discretion of that country, it cannot be said that it is illegal for North Korea to punish violations of border regulations based on its Immigration Law and Criminal Law. However, forcibly repatriated North Korean defectors are often deprived of their right not to be subjected to torture and inhuman

1128_NKHR2015000170 2015-12-01.

1129_NKHR2017000009 2017-04-10; NKHR2017000010 2017-04-10; NKHR2017000067 2017-08-28; NKHR2017000103 2017-10-23; NKHR2017000113 2017-11-20; NKHR2017000134 2017-12-18; NKHR2018000057 2018-07-02; NKHR2018000105 2018-10-01; NKHR2019000048 2019-07-01.

1130_NKHR2015000171 2015-12-01.

treatment in the process of investigation, trials and punishment at holding centers (*jipkyulso*), detention centers (*guryujang*), labor training camps (*rodongdanryundae*) and prison camps (*kyohwaso*). Those who have attempted to go to South Korea or contacted Christians during their stay in China are publicly executed or imprisoned in political prison camps (*kwanliso*), and such practices constitute a violation of the right to life and the right to a fair trial. Forced abortions of forcibly repatriated female defectors who got pregnant in China and trafficking of North Korean women also constitute serious human rights violations.

Border control and crackdowns on defection have been continuously strengthened since approximately the beginning of the Kim Jong Un regime. The amount of a bribe that must be paid to avoid punishment in the case of forced repatriation is skyrocketing, and it appears that the success rate of re-defection has also decreased dramatically. In addition, monitoring and crackdowns on defectors' families continue to be carried out. The problem of human rights violations of North Korean defectors can be ultimately solved by a policy change by North Korean authorities. In addition, the North Korean judicial, trial and correctional systems should be improved to comply with relevant international standards.

3

Overseas Workers

North Korea has dispatched workers to countries such as China and Russia. The number of overseas dispatched workers is estimated to be between 50,000 to a maximum of 100,000, although the precise number is not known.¹¹³¹ North Korea has sent a large number of workers overseas to earn foreign currency. The money coming into North Korea through such dispatched workers was estimated to be around hundreds of millions of dollars per year. As part of the sanctions against North Korea's nuclear and missile tests, the UN Security Council placed restrictions on issuing new work authorizations to North Korean workers in the jurisdiction of its Members States through Resolution 2375 adopted on 11 September 2017 and decided through Resolution 2397 of 22 December 2017 that North Korean workers staying in the jurisdictions shall be repatriated within 24 months from the date

1131_In October 2015, the National Intelligence Service of Korea reported to the National Assembly Intelligence Committee that the number of North Korean workers working overseas was approximately 58,000. "North Korea sent 80,000 workers on a mission to earn foreign currency despite the risk of being tainted with capitalism." *JoongAng Ilbo*, 10 November 2015.

of the adoption of the resolution. As a result, the number of overseas North Korean workers is estimated to have significantly decreased.

With respect to overseas North Korean workers, concerns have been raised that workers are used as a means of earning foreign currency and their human rights are not sufficiently protected. The current human rights situation of overseas North Korean workers will be analyzed below based on defector testimonies.

A. Discriminatory Selection Process

Every individual has the right to work so as to live a life of dignity. The right to work contributes to the survival of both the individual and his/her family, constitutes an inseparable and inherent part of human dignity and is essential to realizing other human rights.¹¹³² Article 6, paragraph 1 of the ICESCR stipulates that its States Parties shall “recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.” As a State Party to the ICESCR, North Korea has an obligation to protect the rights prescribed in the Covenant. However, in North Korea, workers’ freedom of occupation is substantially restricted as labor is in principle assigned according to the state labor supply plan.

1132_ UN CESCR, General Comment, No. 18 (2005), para. 1.

The freedom to choose one's occupation is restricted even for overseas dispatched workers who voluntarily apply to be sent abroad. In North Korea, being dispatched abroad has been perceived as a lucrative opportunity,¹¹³³ and thus, many North Korean residents have wished to be dispatched to overseas workplaces. However, there appears to be a tendency where such opportunity is granted mostly to those with a good family background (*todae*) and the ability to offer bribes.

In general, one needs to have a good family background (*todae*) and background (*songbun*) to be dispatched to overseas workplaces.¹¹³⁴ Family history is usually examined up to third cousins,¹¹³⁵ and in the case of married men, the wives' family is reviewed as well.¹¹³⁶ Most overseas dispatched workers are Party members,¹¹³⁷ and in many cases, their previous place of work was in Pyongyang. In this respect, it has been identified that the opportunity to be dispatched abroad is often granted to those who have good social status and are from the middle class or above in terms of economic capacity.

In addition, there were testimonies claiming that an unmarried person, who does not have a potential hostage at home, is not

1133_NKHR20170000007 2017-04-10; NKHR20180000022 2018-04-09.

1134_NKHR2020000014 2020-06-15.

1135_NKHR2013000196 2013-10-29.

1136_NKHR2014000020 2014-03-18.

1137_NKHR2014000080 2014-07-01.

allowed to be dispatched overseas for the risk of defection¹¹³⁸ and that a person has to have at least two children to be eligible to be dispatched abroad.¹¹³⁹ A North Korean defector ○○○ explained that he/she had applied for receptionist jobs to be dispatched to a restaurant in China but was not selected because his/her parents had divorced.¹¹⁴⁰ A North Korean defector ○○○ who had worked at an overseas workplace explained that the cadre department issues permission after screening applicants' resumes to check information such as whether they have relatives living abroad and their marital status.¹¹⁴¹

It seems that bribery is an essential factor in the selection process. A North Korean defector ○○○ who had helped people get selected as overseas workers through his/her connection with a Provincial Party Committee official around 2013 testified that each worker gave 250 dollars to the official as a bribe, and the testifier him/herself received approximately 150 dollars from each worker and that applicants had to pay larger amounts of bribes if they wanted to work as a restaurant server (700 dollars) or a doctor (2,000–3,000 dollars).¹¹⁴² A North Korean defector ○○○

1138_NKHR2018000031 2018-05-07.

1139_NKHR2018000008 2018-03-12.

1140_NKHR2019000005 2019-04-08.

1141_KKHR2019000050 2019-07-20.

1142_NKHR2018000022 2018-04-09. It is possible that the bribe amount was relatively larger in these cases since workers were sent abroad through an unofficial route.

whose father is said to have been dispatched to Russia in 2015 testified that his/her father paid approximately 1,000 dollars to be selected.¹¹⁴³ A testifier who said that he/she had been dispatched as a construction worker to Mongolia from 2016 to 2019 testified that he/she thought offering money to his/her superiors for selection was a customary practice and not bribery and explained that the amount workers had to pay was around 50–100 dollars.¹¹⁴⁴ A testifier who defected from North Korea in 2017 said that unmarried women tend to work at restaurants in China as servers or receptionists because it is difficult to make a living back home and that he/she learned that a bribe of 150–300 dollars must be paid for an applicant to be selected when the testifier tried to send his/her daughter for such jobs.¹¹⁴⁵ A North Korean defector who had accompanied his/her spouse when the spouse had worked abroad as a doctor in 2017 testified that his/her spouse paid approximately 10,000 dollars as a bribe before being dispatched.¹¹⁴⁶ Another testifier who defected in 2019 testified that he/she saw people being dispatched to China as receptionists, servers, sewing workers, food manufacturers and farmers and that they generally had to pay 1,000 yuan.¹¹⁴⁷ Although only exceptionally, some

1143_NKHR2019000020 2019-05-07.

1144_NKHR2019000023 2019-05-18.

1145_NKHR2017000073 2017-08-28.

1146_NKHR2020000047 2020-11-28.

1147_NKHR2020000014 2020-06-15.

cases were recorded where people were dispatched abroad without giving bribes.¹¹⁴⁸ A North Korean defector ○○○ who is said to have worked as a staff member in a restaurant in Thailand in 2015 testified that he/she was dispatched after passing the background check and physical examination and did not give bribes during the selection process.¹¹⁴⁹

As such, the importance of family background (*todae*) and prevalence of bribery in the selection process for overseas workers deprive people of the fair opportunity to seek a livelihood by working overseas. In particular, the qualifications based on background (*songbun*) and family background (*todae*) and party membership that are considered in the selection process violate the right to equality, which prohibits all kinds of discrimination based on social background, birthright, property ownership or other status. It has been found that as a result, the freedom to choose an occupation is not guaranteed for North Korean people. Moreover, factors such as whether the workers have close family members residing in North Korea prevent overseas dispatched workers from defecting from their workplaces. The consideration of such requirements could also serve as an obstacle for people in choosing jobs based on fair opportunity according to one's abilities.

1148_NKHR2018000043 2018-06-04.

1149_NKHR2019000014 2019-05-07.

B. Excessive Working Hours

It appears that overseas North Korean workers work excessively long hours. In most overseas construction sites, North Korean enterprises that have signed a subcontract with local companies directly manage dispatched North Korean workers, and in many cases, North Korean enterprises violate local labor regulations to expedite the work. A North Korean defector ○○○ who had worked in Magadan Oblast, Russia until 2014 testified that he/she worked 16 hours a day.¹¹⁵⁰

A North Korean defector ○○○ who is said to have worked as a plasterer at an overseas construction enterprise in Moscow, Russia from 2010 to 2017 testified that the working hours were from 8 am to 10 pm, and there were no days off even on weekends.¹¹⁵¹ A North Korean defector ○○○ who explained that his/her father had been dispatched to Russia as a logger but worked as a farmer testified that his/her father worked for as long as 14 hours a day but received only around 100 dollars per month.¹¹⁵² A North Korean defector ○○○ who had been dispatched to Mongolia as a construction worker from 2016 to 2019 explained that his/her day started at 8 am in the morning and continued until 10 pm, and there was hardly any time to rest

1150_NKHR2018000002 2018-03-12.

1151_NKHR2019000037 2019-06-15.

1152_NKHR2019000020 2019-05-07.

except for lunch time. The testifier also testified that there were no days off even on holidays or weekends.¹¹⁵³

A North Korean defector ○○○ who had been dispatched to Sochi, Russia in 2016 testified that he/she worked for 18 hours a day from early in the morning until late at night, but monthly wages were not paid properly.¹¹⁵⁴ A North Korean defector ○○○ who had worked in Kuwait until 2017 testified that he/she lived a slave-like life where he/she went to work in the morning and went to bed late at night after drinking alcohol.¹¹⁵⁵ A testifier who had worked at a construction site in Russia until the end of 2019 said that he/she worked from 8 am to 10–11 pm and could not rest on weekends; according to the testifier, he/she was given two days off a month at the discretion of the manager.¹¹⁵⁶

Meanwhile, North Korean workers sometimes face situations where they not only have to endure excessive working hours, but also have to carry out “personal contract work” outside normal working hours to earn money that they have to pay to the state. This practice infringes upon the basic rights of workers to safe and healthy working conditions. A North Korean defector ○○○ who had been dispatched to Kuwait from 2006 to 2008 testified that he/she had to earn extra money through personal contract

1153_ NKHR2019000023 2019-05-18.

1154_ NKHR2019000050 2019-07-20.

1155_ NKHR2018000031 2018-05-07.

1156_ NKHR2020000049 2020-11-28.

work to pay part of the amount he/she had to submit to the state because the monthly salary he/she received from the Kuwaiti company was not enough.¹¹⁵⁷

C. Money Submitted to the State and Misappropriation of Wages by Middle Managers

As described above, it appears that while overseas North Korean workers suffer from excessive labor in poor working environments, they do not seem to receive a fair amount of wages corresponding to their work. Two factors are believed to be at play in this respect.

First, it is possible that North Korean workers are given relatively lower wages than those from other countries. A North Korean defector ○○○ who had worked at a construction site in Russia from 2014 to 2015 said that the wage of North Korean workers was the lowest and was only 75% of that of their fellow workers from Tajikistan, Ukraine and Chechnya.¹¹⁵⁸

A second and more important factor is that overseas North Korean workers are required to pay an excessive amount of money as the “state planned quota.” North Korean workers usually belong not to local companies but to North Korean enterprises

1157_NKHR2015000144 2015-10-06.

1158_North Korean defector ○○○, 12 October 2016, interviewed in Seoul.

that have signed a labor supply contract with local companies. Therefore, overseas dispatched North Korean workers mostly receive wages from North Korean enterprises they are affiliated to, not local companies of host countries,¹¹⁵⁹ and it appears that North Korean enterprises pay workers their wages after deducting the money for the state planned quota. It has been found that part of the state planned quota is submitted to the state and part of it is used to pay taxes, social insurance premiums, company operating expenses and workers' lodging expenses, but workers are not informed of how the state planned quota is used.¹¹⁶⁰

The amount of the state planned quota assigned to each overseas worker appears to differ depending on the region or job sector. In general, however, the amount each worker must submit is estimated to be several thousand dollars per year. A testifier who had worked as a construction worker in Russia until the end of 2019 testified that he/she had to submit 600 dollars a month, which was equivalent to the monthly income of a well-paid

1159_ There were also testimonies reporting that overseas workers had received their wages directly from local companies. Even in such cases, however, they must submit a substantial part of their wages as loyalty funds, Party contributions or the state planned quota. A North Korean defector ○○○ who had worked at a construction site in Sakhalin Island, Russia from 2006 to August 2013 testified that he/she earned an average of 60,000-70,000 rubles per month and submitted 25,000 rubles to the state every month until 2013 (NKHR2015000001 2015-01-13).

1160_ A North Korean defector ○○○ who had been dispatched to Kuwait from 2006 to 2008 testified that the Kuwaiti company paid him/her a monthly salary, but 60% of it was submitted to the state, and he/she received only 40% of the monthly salary (NKHR2014000144 2015-10-06); NKHR2020000050 2020-11-28.

Russian worker.¹¹⁶¹ In addition, a North Korean defector who had also been dispatched to Russia from 2013 to 2019 testified that in 2016, the amount assigned to each worker was 8,000 dollars per year, but the actual amount workers had to submit to the state was approximately 10,000 dollars because there were other funds that workers had to contribute to.¹¹⁶² A testifier who had worked as a doctor in an African country between 2018 and 2019 testified that each doctor had to submit 600 dollars a month but was exempted from the duty for the first three months after arrival.

It seems that the assigned amount of the state planned quota has imposed a considerable burden on overseas workers. It appears that as a result, while there were people who had earned a substantial amount of money while working abroad, there also were many people who had not earned much. The testifier who had worked as a construction worker in Russia and had to submit 600 dollars a month said that he/she only received approximately 230 dollars a month as an actual salary.¹¹⁶³ A North Korean defector ○○○ who had worked in Eastern Europe until early 2018 testified that his/her monthly salary was supposed to be approximately 500 dollars a month, but the amount recorded as

1161_NKHR2020000049 2020-11-28.

1162_NKHR2020000050 2020-11-28.

1163_NKHR2020000049 2020-11-28.

his/her monthly salary was only about 150–200 dollars, and the rest was reportedly submitted to North Korean authorities.¹¹⁶⁴ A North Korean defector ○○○ whose father had worked as a logger in Russia from 2015 to 2016 testified that his/her father was supposed to receive 500 dollars as a monthly wage, but there were times when he received less than 100 dollars as a substantial part of his wages was submitted to the state for various reasons including payment for Party contributions.¹¹⁶⁵ A North Korean defector ○○○ who had been dispatched to Mongolia as a construction worker from 2016 to 2019 testified that he/she did not receive any wages during the first seven months and only received 20 dollars per month thereafter, and it appeared to him/her that approximately 70–80% of his/her wages was deducted and submitted to the state.¹¹⁶⁶

Since labor-related contracts are mostly negotiated between the manager dispatched from a North Korean enterprise and the local company, many North Korean overseas workers do not know the exact amount of their wages and the amount they have to submit to the state. A North Korean defector ○○○ who had worked in Eastern Europe said that he/she had asked the head of his/her work group for the details of payment but was told that the head of

1164_ NKHR2018000043 2018-06-04.

1165_ NKHR2019000020 2019-05-07.

1166_ NKHR2019000023 2019-05-18.

his/her work group was not allowed to inform him/her of such details.¹¹⁶⁷ The approximate amount overseas dispatched workers had to submit to the state can be estimated by examining defector testimonies. It appears that a substantial part of their wages have been deducted in the name of the state planned quota.

It seems that there are even cases where overseas workers are unable to submit the quota assigned to them by the state due to poor local conditions. A North Korean defector ○○○ who had worked at a construction site in Russia in 2013 testified that he/she had to pay 800–850 dollars per month to the enterprise he/she was affiliated to and that as the value of the ruble declined due to the Russian financial crisis in 2013, cases occurred where workers could not fulfill the assigned state planned quota when they remitted the assigned amount in dollars.¹¹⁶⁸ A North Korean defector ○○○ who had been dispatched to Sochi, Russia in 2016 also testified that he/she made little money due to the aggravated economic situation in Russia and the rise of the exchange rate.¹¹⁶⁹ A testifier who had been dispatched to Russia from 2013 to the end of 2019 testified that in 2017–2018 he/she could not send money home as his/her company ran into a deficit, and in 2019 he/she borrowed and sent 200 dollars home.¹¹⁷⁰

1167_NKHR2018000037 2018-05-08.

1168_NKHR2016000163 2016-11-01.

1169_NKHR2019000050 2019-07-20.

1170_NKHR2020000050 2020-11-28.

There was a testimony reporting that 60% of overseas workers' salaries was taken by the state, and only 40% was given to the workers themselves. Even among the remaining 40%, 10% of the wages was spent on buying gifts for the central authority and paying administrative expenses.¹¹⁷¹ A North Korean defector ○○○ who had been dispatched to Sochi, Russia in 2016 testified that approximately half of the workers' wages were taken by the authorities.¹¹⁷²

On the other hand, there were testimonies reporting that some of the money deducted to be submitted to the state seems to have been pocketed by middle managers and officials instead. A North Korean defector testified that a greater part of overseas workers' wages go to middle-level officials than to the state.¹¹⁷³ A testifier who defected from North Korea in 2017 said that there were times when he/she received less than 30% of his/her monthly wages as middle-level officials siphoned off much of his/her salary; the testifier explained that because of such wage exploitation, people now think that working abroad is not as lucrative as it once used to be.¹¹⁷⁴ A North Korean defector ○○○ who had been dispatched to Moscow, Russia in 2010 and worked until 2017 explained that workers received 100–250 dollars a month, and wages differed

1171_ NKHR2017000063 2017-07-31.

1172_ Above testimony.

1173_ NKHR2015000158 2015-11-17.

1174_ NKHR2017000134 2017-12-18.

between individuals because they were calculated by the affiliated enterprise based on worker rankings so that the best performing worker received 250 dollars while the worst performing worker received 100 dollars. The testifier said that he/she thinks that the wages he/she had received were only 10% of what he/she had earned and assumed that the reason why the wages were so low was because officials pocketed much of the wages for themselves. The testifier also testified that he/she did not receive any wages from the end of 2014 when sanctions against North Korea began.¹¹⁷⁵

In addition, there seem to be cases where local companies employing North Korean workers delay their payment of wages.¹¹⁷⁶ A North Korean defector who had worked at a construction site in Russia from 2011 to 2015 said that when the local workplace he/she had worked at did not pay him/her for six months, the North Korean enterprise he/she was affiliated to did not respond to the situation appropriately.¹¹⁷⁷

D. Monitoring and Control by North Korean Authorities

Workers dispatched from North Korea live under the management of North Korean enterprises that have signed a contract with local

1175_NKHR2019000037 2019-06-15.

1176_North Korean defector ○○○, 29 September 2016, interviewed in Seoul.

1177_North Korean defector ○○○, 10 October 2016, interviewed in Seoul.

companies. The North Korean enterprises provide workers with interpreting services and accommodations and manage workers. Most overseas North Korean workers live in groups in areas close to their workplaces, and they are mostly identified as living under poor living conditions. A North Korean defector who had worked as a construction worker in St. Petersburg, Russia in 2013 testified that he slept in a container and was supplied with bedding and that the container was divided into three sections, and about 10 people lived in each section. The testifier said that the sanitary conditions were very poor with shared bathrooms used by hundreds of people, and he/she could not do laundry or take any break from work.¹¹⁷⁸ Some testified that the workers had prepared their meals on their own,¹¹⁷⁹ and some said that they had paid about 30 dollars a month for meals, which were of poor quality.¹¹⁸⁰ Cases where the workers live in dormitories provided by local companies have also been identified.¹¹⁸¹ Depending on the worksite, there are also cases where workers live in temporary accommodations built at the worksite.¹¹⁸² Given the characteristics of worksites, one cannot conclude that these forms of living indicate that organizational life is forced upon overseas dispatched workers or

1178_NKHR2014000112 2014-08-12.

1179_NKHR2020000005 2020-05-15.

1180_NKHR2020000050 2020-11-28.

1181_North Korean defector ○○○, 6 October 2016, interviewed in Seoul.

1182_North Korean defector ○○○, 10 October 2016, interviewed in Seoul; North Korean defector ○○○, 12 October 2016, interviewed in Seoul.

constitute arbitrary or illegal intervention on individuals' right to housing. However, it is true that such ways of living restrict the possibility of individual activities as they essentially induce people to carry out daily activities in assigned groups.

What is more worrisome regarding the possible breach of personal privacy is the daily life surveillance and mutual monitoring system implemented by officials dispatched by the North Korean authorities. North Korean authorities operate a centralized controlled system at overseas workplaces. To this end, they send a Party secretary and an MSS agent to each North Korean enterprise abroad to manage overseas workers.¹¹⁸³ According to the testimonies of North Korean defectors who had been dispatched to Russia and Kuwait, MSS agents are found to be dispatched in the position of “safety officer” in charge of labor safety.¹¹⁸⁴

Overseas North Korean workers are monitored by dispatched MSS agents or managers of their companies. Overseas North Korean workers living in groups are obligated to participate in Life Review Sessions (*saenghwalchonghwa*) held at their dormitories.¹¹⁸⁵ It is said that MSS agents or managers inspect

1183_North Korean defector ○○○, 29 September 2016, interviewed in Seoul.

1184_North Korean defector ○○○, 12 October 2016, interviewed in Seoul; North Korean defector ○○○, 30 October 2016, interviewed in Seoul.

1185_Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean Workers in the Maritime Province of Russia* (Seoul: KINU, 2015), p. 35. (In Korean)

workers' belongings two to three times a week and that workers are not allowed to possess mobile phones.¹¹⁸⁶ There was also a testimony indicating that the testifier did not write any specific details in his/her letters since it was 100% certain that all letters exchanged with his/her family would be censored by the Ministry of State Security.¹¹⁸⁷ Those who engage in deviant behavior can be punished or forcibly repatriated to North Korea. Listening to South Korean radio or watching South Korean TV programs are punished most severely.¹¹⁸⁸

However, there appear to be cases where the aforementioned rules are not strictly observed. A North Korean defector who had been dispatched to Sakhalin Island, Russia from 2006 to 2013 testified that workers may be punished when caught watching South Korean TV programs but can avoid punishment by offering bribes to MSS agents and writing a self-criticism report; according to the testifier, this is possible because earning money is the goal of dispatched MSS agents as well.¹¹⁸⁹ A testifier who had been dispatched to Russia from 2013 to the end of 2019 testified that his/her company prevented the workers from using a mobile phone, but the workers secretly used mobile phones, and these phones were not censored. The testifier also said that he/she

1186_ NKHR2013000196 2013-10-29.

1187_ NKHR2020000049 2020-11-28.

1188_ NKHR2015000068 2015-04-07.

1189_ NKHR2015000001 2015-01-13.

secretly watched numerous YouTube videos, including the 2018 Inter-Korean Summit, and listened to South Korean music through YouTube.¹¹⁹⁰ There also was a testimony stating that no Life Review Sessions (*saenghwalchonghwa*) were actually held and that the dispatched MSS agents did not care much about holding them and told the workers to fill out some documents for possible inspections.¹¹⁹¹

It is known that workers dispatched overseas are restricted from going outside their worksites alone.¹¹⁹² A North Korean defector who had worked at a construction site in Russia from 2012 to 2014 testified that the workers had to move in groups and around 10 to 15 people moved together.¹¹⁹³ A North Korean defector ○○○ who had been dispatched to Eastern Europe up until early 2018 also testified that he/she was allowed to visit a designated store in a group of three only when he/she reported to the authority in advance.¹¹⁹⁴ In addition, it is said that North Korean workers are in principle prohibited from contacting people, and only worksite managers and interpreters have the authority to do so.¹¹⁹⁵ However, there were testimonies stating that testifiers

1190_NKHR2020000049 2020-11-28.

1191_NKHR2020000050 2020-11-28.

1192_North Korean defector ○○○, 4 October 2016, interviewed in Seoul.

1193_North Korean defector ○○○, 5 September 2016, interviewed in Seoul.

1194_NKHR2018000043 2018-06-04.

1195_Aeliah Lee and Chang-ho Lee, *The Reality and Human Rights of North Korean Workers in the Maritime Province of Russia*, p. 35. (In Korean)

moved alone after obtaining the supervisor’s approval or testifiers were able to move alone.¹¹⁹⁶ For example, one testifier who had been dispatched to Russia testified that although there was a rule that workers were prohibited from going out individually, he/she occasionally went outside by him/herself because he/she speaks some Russian, and he/she had much experience working abroad.¹¹⁹⁷ In addition, there was a testimony reporting that restrictions on personal outings of overseas workers are due to external factors such as language barriers and the risk of going out alone.¹¹⁹⁸

E. Risk of Being Subject to Forced Labor

Article 8, paragraph 3 of the ICCPR prohibits forced labor, which refers to “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”¹¹⁹⁹ Here, the term “penalty” includes deprivation of rights or privileges and is not limited to criminal penalties.¹²⁰⁰

1196_North Korean defector ○○○, 30 October 2016, interviewed in Seoul; North Korean defector ○○○, 7 October 2016, interviewed in Seoul; North Korean defector ○○○, 10 October 2016, interviewed in Seoul.

1197_NKHR2020000050 2020-11-28.

1198_North Korean defector ○○○, 6 October 2016, interviewed in Seoul.

1199_Convention Concerning Forced or Compulsory Labour, No. 29 (1930), Article 2, paras. 1 and 2.

1200_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.

Whether the labor of overseas North Korean workers constitutes “forced labor” can only be determined by examining various contexts in detail. In terms of whether the labor is voluntary, which is the primary criterion in establishing forced labor, it is difficult to regard the labor of overseas North Korean workers as labor that is forced under the threat of punishment and thus involuntarily provided. This is because testimonies suggest that most workers were dispatched overseas on a voluntary basis and that they offered bribes to be selected.¹²⁰¹ When asked about the motivation for application, North Korean defectors who had been dispatched overseas answered that they had the expectation that they would be able to earn money if they went abroad, regardless of the time of their dispatch.¹²⁰² When asked about the autonomy to suspend or terminate work, testifiers said that while requests to take a break on the grounds of excessive labor are not accepted,¹²⁰³ it is possible to terminate one’s work if the worker wishes to return to North Korea for health reasons.¹²⁰⁴ A testifier who had worked as a construction worker in Russia until the end of 2019 testified that those who were physically unable to

1201_NKHR2017000064 2017-07-31; NKHR2017000120 2017-11-20.

1202_North Korean defector ○○○, 4 October 2016, interviewed in Seoul; North Korean defector ○○○, 7 October 2016, interviewed in Seoul; North Korean defector ○○○, 23 October 2016, interviewed in Seoul.

1203_“No, it is not possible. Unless you are dead or broke your legs, you need to keep going to work,” North Korean defector ○○○, 4 October 2016, interviewed in Seoul.

1204_North Korean defector ○○○, 29 September 2016, interviewed in Seoul; North Korean defector ○○○, 7 October 2016, interviewed in Seoul.

continue their work were sent home as arranged by the manager.¹²⁰⁵

It seems that in some exceptional cases, workers are allowed to terminate their work even when it is not based on health reasons, out of concern that the continuation of overseas work may lead to deviant behavior.¹²⁰⁶ In view of such circumstances, it could be understood that North Korean people are not necessarily forced to work at overseas workplaces and overseas North Korean workers are not necessarily forced into labor.

However, the International Labour Organization (hereinafter ILO) views that even such voluntary dispatch and work can also be regarded as “forced labor” if certain indicators that point to a possible forced labor case exist, such as debt bondage, withholding of wages, retention of identity documents and abuse of vulnerability.¹²⁰⁷ As described above, overseas North Korean workers live in groups and are prohibited from external contacts, and their identity documents (e.g., passports, etc.) are seized and retained by the manager sent by North Korean authorities. As shown in <Table V-9>, it appears it is the Ministry of Social

1205_NKHR2020000049 2020-11-28.

1206_North Korean defector ○○○, 5 September 2016, interviewed in Seoul.

1207_ILO, “Indicators of Forced Labour, Special Action Programme to Combat Forced Labour,” 2012, <www.ilo.org/forcelabour>. The ILO presented 11 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 (i) abuse of vulnerability, (ii) deception, (iii) restriction of movement, (iv) isolation, (v) physical and sexual violence, (vi) intimidation and threats, (vii) retention of identity documents, (viii) withholding of wages, (ix) debt bondage, (x) abusive working and living conditions, and (xi) excessive overtime.

Security (i.e., the police), officers in charge and the Party Committee that seize and retain workers' identity documents. There were also testimonies reporting that identity documents were seized by local companies not by North Korean authorities.¹²⁰⁸ As it became difficult to dispatch workers abroad due to sanctions against North Korea, cases occurred where overseas North Korean workers whose contract period had expired and who wished to return to North Korea are forced to continue working overseas. This practice can also be considered under the category of a forced labor situation.¹²⁰⁹

Table V-6 Testimonies on Agents Confiscating Identity Documents

Testimonies	Testifier ID
"(Immediately upon arrival at the destination country,) we need to give it all to the Ministry of Social Security."	North Korean defector 000, 4 October 2016, interviewed in Seoul.
"The officer in charge collected and took all of our identity documents and passport."	North Korean defector 000, 5 October 2016, interviewed in Seoul.
"I carried my passport until we arrived at the destination. After that, the police took everything. They did not give it back. They took all the passports."	North Korean defector 000, 6 October 2016, interviewed in Seoul.
"When workers arrive, they give the passports back before the workers cross (the border), and after passing (the border), they would collect and take all the passports. Workers cannot hold their passports for more than five minutes because the Ministry of Social Security, which is the police, take them all."	North Korean defector 000, 17 October 2016, interviewed in Seoul.
"Workers cannot carry their passports and have to give them to the Party Committee while staying there."	North Korean defector 000, 12 October 2016, interviewed in Seoul.

1208_North Korean defector 000, 10 October 2016, interviewed in Seoul; North Korean defector 000, 12 October 2016, interviewed in Seoul.

1209_NKHR2018000043 2018-06-04.

In addition, most North Korean workers abroad start their overseas life with debts as they have to reimburse expenses such as flight costs and visa fees. As a result, they are required to work for several months to repay the costs associated with their dispatch. A North Korean defector who had worked as a construction worker in St. Petersburg, Russia in 2013 testified that he/she was paid around 1,500 dollars per month, of which 950 dollars were taken to pay Party contributions and by the head of his/her company, the head of his/her work unit and the Party secretary. The testifier said that for the first year, he/she worked without pay because he/she also had to pay other expenses such as airfare and accommodation costs.¹²¹⁰ A testifier who had worked as a construction worker in Russia until the end of 2019 testified that in addition to the assigned state planned quota, he/she had to pay about 1,000 dollars for airfare and railroad fares.¹²¹¹ Such circumstances could lead overseas North Korean workers into forced labor.

As such, control over workers' lives imposed by managers sent by North Korean authorities, confiscation of workers' identity documents and debt that automatically incurs in the process of workers' overseas travel function as factors that place overseas North Korean workers into situations where they have no choice

1210_NKHR2014000112 2014-08-12.

1211_NKHR2020000049 2020-11-28.

but to continue their work against their will, despite whether the workers have voluntarily applied to work abroad.

F. Evaluation

In North Korea, being dispatched abroad has been perceived as a lucrative opportunity, and thus, many North Korean residents have wished to be dispatched to overseas workplaces. However, there appears to be a tendency for this opportunity to be granted mostly to a selected few who have good family backgrounds (*todae*) and the ability to offer bribes. This discrimination has led to the violation of the right to equality in the process of selecting overseas dispatched workers.

Workers dispatched aboard through such processes seem to face various difficulties in the destination countries. First, workers often suffer from excessive labor, and cases have been reported where a substantial portion of their wages earned from such hard labor is submitted to the state, some of which is misappropriated by middle managers. In addition, overseas North Korean workers are deprived of privacy as they live in groups under the monitoring and control by North Korean authorities with their identity documents taken away from them. In addition, it has been identified that there is a possibility that overseas North Korean workers are placed in a forced labor situation as they have to pay debts that inevitably incur in the process of their overseas travel.

Since the second half of 2017, the number of overseas North Korean workers is estimated to have significantly decreased as the dispatching of North Korean workers has been prohibited as part of the sanctions against North Korea. However, it seems that there are still North Korean workers illegally staying abroad, and it is expected that North Korea would again actively send its workers abroad once sanctions are lifted. Therefore, it would be necessary to continue collecting data on the human rights situation of North Korean workers abroad and finding ways to improve the human rights situation of overseas North Korean workers.

4

Separated Families, Abductees and Korean War POWs

The issues surrounding separated families, abductees and Korean War POWs can be categorized as humanitarian issues subject to the application of international humanitarian law. At the same time, they are also human rights issues to which international human rights law apply. Therefore, it can be said that they are pressing issues that call for urgent solutions regardless of the ups and downs in inter-Korean relations. This chapter will examine the current status of separated families, abductees and Korean War POWs and their human rights situations.

A. Separated Families

(1) Current Status

The term “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.¹²¹² The causes of family separation vary depending on the circumstances of the times, including the division of the Korean Peninsula, voluntary defection to the South or North, abduction or joining of the Korean Volunteer Army (hereinafter KVA) during the Korean War, repatriation to the North from Japan, the failure or inability to return after the signing of the Armistice Agreement, abduction to North Korea and defection from North Korea. In a 2005 survey, 720,000 of people in South Korea responded that they have family in North Korea, and among them, approximately 160,000 were from North Korea.¹²¹³

The Ministry of Unification, the Korean Red Cross and the Committee for the Five northern Korean Provinces have jointly established and operated the Integrated Information System for

1212_ Article 2 of Act on Inter-Korean Confirmation of the Life or Death of Separated Families and Promotion of Exchange.

1213_ In the 1990 survey, a question addressed to the respondents was whether they came from North Korea. In the 1995 and 2000 survey, a question was revised to ask whether they were born in North Korea. Results of each survey show no significant difference. Starting with the 2005 survey, a question on the place of birth was removed from the questionnaire. However, at the request of the Ministry of Unification, a separate survey was carried out to investigate whether the respondents have family in North Korea. The Korean Red Cross, *The White Paper on Separated Korean Families* (Seoul: The Korean Red Cross, 2016).

Separated Families. As of 31 December 2020, there are a total of 133,406 registered members of separated families, with 49,452 surviving and 83,954 deceased. As of December 2020, more than 64% of surviving members are those aged 80 or above, and among surviving members, those aged 70 or above account for more than 85%. With each year passing, the surviving separated family population is aging rapidly and the number of deceased members is increasing.

Table V-7 Registered Separated Family Members

Year	Registered (persons)	Survivors (persons)	Deceased (persons)
2010	128,461	82,477	45,984
2011	128,668	78,892	49,996
2012	128,779	74,836	53,943
2013	129,264	71,480	57,784
2014	129,616	68,264	61,352
2015	130,808	65,674	65,134
2016	131,143	62,631	68,512
2017	131,344	59,037	72,307
2018	133,208	55,978	77,221
2019	133,370	52,730	80,640
2020	133,406	49,452	83,954

Source: Ministry of Unification, Integrated Information System for Separated Families (as of 31 December 2020) prepared in reference to <https://reunion.unikorea.go.kr/reuni/home/pds/reqststat/list.do?mid=SM00000129>.

Table V-8 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	12,189	19,621	10,421	4,168	3,053	49,452
Percentage (%)	24.6	39.7	21.1	8.4	6.2	100

Source: Ministry of Unification, Integrated Information System for Separated Families (as of 31 December 2019) prepared in reference to <https://reunion.unikorea.go.kr/reuni/home/pds/reqststat/list.do?mid=SM00000129>.

Table V-9

Surviving Members of Separated Families: Those Aged 80 or Above

Year	2014	2015	2016	2017	2018	2019	2020
Survivors (persons)	68,264	65,674	62,631	59,037	55,987	52,730	49,452
80 years or older (persons)	37,717	37,442	37,259	36,499	34,546	33,318	31,810
Percentage (%)	55.3	57.0	59.5	61.8	61.7	63.2	64.3

Source: Ministry of Unification, Integrated Information System for Separated Families (as of 31 December 2020) prepared in reference to <https://reunion.unikorea.go.kr/reuni/home/pds/reqstat/list.do?mid=SM00000129>.

On 25 March 2009, South Korea enacted the Act on the Confirmation of Life or Death and Promotion of Exchanges of Inter-Korean Separated Families (hereinafter the Inter-Korean Separated Families Act) for the purpose of providing for the matters necessary to verify the life and death of separated family members and promote exchanges between the two Koreas. The Act entered into force on 26 September 2009 and stipulates that surveys be conducted to identify the current status and exchanges between the separated families (Article 6, paragraph 1). Accordingly, the Ministry of Unification and the Korean Red Cross jointly conduct an extensive survey every five years on the current status of separated families. The first survey was carried out in 2011, followed by the second survey in 2016. In the second survey, accurate personal data of 51,174 people who have applied to find their family members in the North was reviewed. In addition, after the Inter-Korean Separate Families Act was partially amended in 2013 to include a new provision on DNA

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testing to confirm family relationships of separated families, from 2014 to 2019, the South Korean government conducted tests on a total of 51,328 genetic samples such as blood, saliva and hair.

Table V-10 Status of Genetic Testing to Confirm Family Relations of Separated Families

Tests	2014	2015	2016	2017	2018	2019	Total
No. of Tests	1,211	10,274	10,030	1,178	11,245	17,390	51,328

Source: Separated Families Division, Ministry of Unification (as of 31 December 2019).

(2) Human Rights Issues

(A) Infringement on the Right to Family Unification

Separated families live without the knowledge of whether their family members are still alive, without the opportunity to exchange letters or freedom to reunite with their family members. In other words, separated families are deprived of their family rights guaranteed under international humanitarian law. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949 (Geneva Convention (IV)) specifically stipulates the protection of family rights.¹²¹⁴

Table V-11 Provision on Family Rights in the Geneva Convention (IV)

Article 27, paragraph 1	Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. (The rest is omitted)
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1214. International Committee of the Red Cross, "Geneva Convention Relative to the Protection of Civilian Persons in Time of War," (12 August 1949).

At the time of the Korean War in 1950, South and North Korea were not Parties to the Geneva Convention (IV). South Korea signed the Convention on 16 August 1966, and North Korea signed the Convention on 27 August 1957. However, soon after the outbreak of the Korean War, the President of the International Committee of the Red Cross (hereinafter ICRC) stated that both South and North Korea are entitled to the benefits of the Convention even if they are not signatories. On 5 July 1950, South Korean President Syng-man Rhee pledged that his government would observe all provisions of the Geneva Convention (IV). On 13 July 1950, the North Korean authorities also sent an official letter to the UN Secretary General accepting the proposition of the ICRC. Consequently, the Geneva Convention (IV) became legally binding for both South and North Korea since the Korean War.¹²¹⁵

The right to family unification of separated families, which is recognized by international human rights law, is also being violated. Among family rights, the right of a family to live together is referred to as the “right to family unification” or “right to family reunification.” The UDHR and other international human rights treaties stipulate that men and women of full age

1215_ Seong-ho Jhe, “A Study on Kidnapping Civilians in 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)

have the right to marry and form a family, and the family is entitled to protection by the State.¹²¹⁶ Moreover, a family is expanded with the birth of a child. 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 is a concept that derives from the right to marry and form a family and the right of children not to be separated from their parents. Family rights and the right to family unification are also stipulated in the Constitution of both South and North Korea. The South Korean Constitution stipulates that “marriage and family life shall be entered into and sustained on the basis of individual dignity and equality of sexes, and the state shall do everything in its power to achieve that goal” (Article 36, paragraph 1). The North Korean Constitution stipulates that “marriage and family shall be protected by the state. The state shall take deep interest in consolidating the family, which is the basic unit of social life” (Article 78). In order to realize the right to family unification, the South Korean government has made efforts to resolve the issues surrounding separated families through various measures such as inter-Korean Red Cross meetings and ministerial-level talks. A family reunion event for separated families was held at Mount Geumgang (Geumgangsán) in August 2018, and at the third

¹²¹⁶ 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).

Inter-Korean summit held in September of the same year, the two Koreas agreed that resolving the issue of separated families would be a priority. However, a permanent meeting place for the reunion of separated families has not been established, and exchanges and reunions of separated families have not taken place. In 2019 and 2020, there have been no government-level exchanges between separated families, including confirmation of survival/death, exchange of letters, reunion meetings in South or North Korea or video reunions.

Table V-12 Exchanges between Separated Families at the State Level
(Unit: Cases/(Persons))

Year/ Category	Confirmation of Survival/Death	Exchange of Letters	Reunion Meetings in South Korea	Reunion Meetings in North Korea	Video Reunions
1985-2003	963 (19,096)	8 (679)	331 (2,700)	735 (2,817)	-
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)	-

Year/ Category	Confirmation of Survival/Death	Exchange of Letters	Reunion Meetings in South Korea	Reunion Meetings in North Korea	Video Reunions
2015	317 (2,155)	-	-	186 (972)	-
2016-2017	-	-	-	-	-
2018	292 (1,996)	-	-	170 (833)	-
2019	-	-	-	-	-
2020	-	-	-	-	-
Total	8,262 (59,563)	679 (679)	331 (2,700)	4,024 (18,061)	557 (3,748)

Source: Ministry of Unification, Integrated Information System for Separated Families, (as of 31 December 2020), prepared in reference to <https://reunion.unikorea.go.kr/reuni/home/pds/reqststat/list.do?mid=SM00000129>).

In view of the urgency of resolving the issue of separated families, the South Korean government has been preparing for the revitalization of inter-Korean exchanges and producing a series of “video letters” of South Korean families to be delivered to their families in the North even after their death. A total of 1,010 video letters were produced in 2019, and 1,001 were produced in 2020.¹²¹⁷

In addition to government-level exchanges, the South Korean government has continuously provided support to private-level exchanges between separated families. The government enacted the “Guidelines on the Support of Expenses for Exchanges between Separated Families” and has provided expenses necessary for various projects, such as the confirmation of life or death of separated family members, reunion of separated families and exchange of letters. However, private-level exchanges between

1217_Separated Families Division, Ministry of Unification (as of 31 December 2020).

separated families also decreased significantly in 2020. There were only four cases of exchanges of letters, and there were no cases of confirmation of life/death of separated families or family reunions reported. Private-level exchanges are barely maintained.

Table V-13 Exchanges between Separated Families at the Civilian Level

(Unit: Cases)

Year	Confirmation of Survival/Death	Exchange of Letters	Reunions
1990-2006	3,667	10,680	1,614
2007	74	413	55
2008	50	228	36
2009	35	61	23
2010	16	15	7
2011	3	21	4
2012	6	16	3
2013	9	22	3
2014	6	11	5
2015	4	5	1
2016	6	43	3
2017	10	46	1
2018	7	36	1
2019	2	16	1
2020	-	4	-
Total	3,895	11,638	1,757

Source: Ministry of Unification, Integrated Information System for Separated Families, Ministry of Unification (as of 31 December 2020), prepared in reference to (<https://reunion.unikorea.go.kr/reuni/home/pds/reqststat/list.do?mid=SM00000129>).

(B) Social Discrimination against Families of Those Who Had Fled to South Korea

North Korean residents whose family members had fled to South Korea and became separated families appear to be not

allowed to join the Party or the military and are discriminated against in college admissions and marriage. In addition, family members of those who had fled to South Korea are subject to constant surveillance by North Korean authorities. For example, a North Korean defector ○○○ testified that since it became known through a 2006 program of finding separated families in South Korea that his/her paternal grandfather is still alive in South Korea, the testifier had been followed and monitored by the authorities for 10 years, and this had made him decide to defect in 2016.¹²¹⁸

Discrimination based on a specific social status, such as being a family member of a person who had 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 discrimination of any kind.

Table V-14 Cases of Discrimination against Separated Families in North Korea

Testimonies	Testifier ID
The testifier had a bad family background (<i>todae</i>) as his/her spouse's grandfather was a traitor who had fled to South Korea and his/her uncle is an overseas resident. The testifier's spouse joined the military in 2005 but was not promoted. Moreover, as the testifier's grandfather went missing during the Korean War and the testifier's cousin defected to South Korea and had a press conference, all relatives of the testifier were sent to political prison camps.	NKHR2016000021 2016-01-26

1218_NKHR2017000084 2017-09-25.

Testimonies	Testifier ID
The testifier's family background (<i>todae</i>) was bad because his/her father's family had been labeled as a family of traitors having a family member who had fled to South Korea. The testifier's father's family had been deported from Pyongyang in the 1960s. The testifier's older brother could join the military only after he paid bribes, and the testifier's son joined the military but could not enter the school for military officers. People with bad family backgrounds (<i>todae</i>) are severely restricted.	NKHR2016000041 2016-04-05
The testifier had been under the surveillance of North Korean authorities and subjected to social discrimination all his/her life because his/her maternal grandfather is a traitor who had fled to South Korea. The testifier had no choice but to marry a person who does not have a good family background (<i>todae</i>) because he/she was told that "birds of a feather flock together."	NKHR2017000032 2017-06-05
The testifier's entire family was forcibly deported to Geumsan, Yanggang Province since the testifier's grandfather had moved to the U.S. during the Korean War. The testifier was born in Geumsan.	NKHR2018000025 2018-04-09
The testifier's entire family was forcibly deported to Anju, South Pyeongan Province in 1976 since the testifier's grandfather and uncle had fled to South Korea during the Korean War. The testifier was born in Anju.	NKHR2018000085 2018-08-11

B. Abductees

(1) Current Status

(A) South Koreans Abducted during the Korean War

The exact number of South Koreans abducted to North Korea during the Korean War is unclear. The seven lists of abducted persons identified thus far show significant differences. It is only possible to make partial estimations of the number of abducted persons based on the following: a list of abducted Seoul citizens prepared by the Statistics Bureau of South Korea's Ministry of

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Public Information (2,438) in 1950; a list of persons abducted during the Korean War published by the Statistics Bureau of South Korea's Ministry of Public Information in 1952 (82,959); a list of abducted persons by the Police Headquarters of the Ministry of Internal Affairs (17,940) in 1954; the Missing Civilians List compiled by the Korean Red Cross in 1956 (7,034); and the List of Missing Civilians compiled by the Ministry of National Defense in 1963 (11,700).¹²¹⁹ It is easier to confirm abduction when the same name appears on different lists, but there are many abductees who are not listed on any of them. There are even cases where the same person appears on a list of South Koreans abducted to North Korea and a list of people who had fled to the North (1952, Ministry of Public Information).

Table V-15 Number of South Koreans Abducted during the Korean War

Category	Compiled by	Year	Number of Abductees	Existence of the List
List of Abducted Seoul Citizens	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	○
List of Abducted Persons during the Korean War	Police Headquarters of the Ministry of Internal Affairs	1952	(126,325)	×

1219_ In addition to these lists, there is a list of persons abducted during the Korean War (2,514) published by the Family Association for the Korean War Abducted Persons, which was founded in September 1951. The Association has compiled the list based on the registry of its members who have registered themselves since the Second Battle of Seoul on 28 September 1950. Korean War Abductees' Family Union (KWAFU), "Korean War Abductee List - Abductees' Database," <<http://www.kwafu.org/korean/directory.php>>.

Category	Compiled by	Year	Number of Abductees	Existence of the List
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	○
Missing Civilians List	Korean Red Cross/ Statistical Bureau, Ministry of Public Information	1956	7,034	○
List of Missing Civilians	Ministry of National Defense	1963	11,700 -	Vol. 1 ○ Vol. 2 ×

Source: Website of the Committee on Fact-Finding of Korean War Abductions and Restoration of the Reputation of the Victims, "Information Board – Current Status of South Koreans Abducted during the Korean War," <http://www.abductions625.go.kr/home/dta/dta01/dta01_02.jsp> (Accessed 23 January 2021).

It has not been officially confirmed whether anyone who had been forcibly abducted to the North during the Korean War has returned to South Korea. Although the number of wartime South Korean abductees is very large, none of them have been able to return on their own. The reasons are as follows. First, it appears that a large number of these wartime abductees were killed as they did not cooperate with the North, and 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 Korean people defected to South Korea, but none of them included the wartime abductees, 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.

The Committee to Find the Truth of Damage from North Korea’s Abduction during the Korean War and Recover the Honor of Victims, which officially launched on 13 December 2010, collected cases of wartime abductees until December 2015 and published the following findings after excluding duplicate and withdrawn cases.

Table V-16 Decisions on Status of Alleged Abduction Cases

(Unit: cases)

Decision as Abductions	Decision as Non-Abductions	Impossible to Determine	Total
4,777	138	460	5,375

Source: Separated Families Division, Ministry of Unification (as of 31 December 2020).

(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. It is known that some of them have been held by the North Korean authorities against their will based on their utility, taking into consideration their physical condition and educational background.¹²²⁰ Among post-war abductees, 3,310 (86.5%) have been repatriated to South Korea after being held for six months to a year, and nine of them have defected from the North and returned to the South after

1220_ According to ○○○ Lee, a former abductee who had returned to South Korea, 27 crew members of boats Bongsan No. 21 and No. 22 had been transferred from Haeju to Pyongyang and underwent interrogations to ascertain whether they were spies. In the process, North Korean authorities selected seven healthy and educated (high school or above) crew members and provided them special training in Chongjin. The North released the rest of the crew back to South Korea.

2000. As of the end of 2020, there are eight surviving returning abductees as one of them has passed away. As of end of 2020, the total number of abducted South Koreans still detained in North Korea is estimated to be 516 individuals.

Table V-17 Current Status of Post-War Abductees (Estimated)

(Unit: persons)

Category	Total	Fishermen	Staff of Korean Airlines	Soldiers/ Policemen	Others		
					Domestic	Foreign	
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 31 December 2020).

Table V-18 Number of Detained Abductees by Year

(Unit: persons)

Year	Number of Abductees	Cumulative Total	Year	Number of Abductees	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 31 December 2020).

Table V-19 Current Status of Abducted Persons Who Have Returned to South Korea

Name	Date of Abduction	Occupation	Date of Return
○○ Lee	29 April 1970	Crew member, Bongsan No. 22 (fishing boat)	26 July 2000
○○ Jin	12 April 1967	Crew member, Cheondaeh No. 11	30 October 2001
○○ Kim	24 November 1973	Chief engineer, Daeyoung	23 June 2003
○○ Go	17 August 1975	Crew member, Chunwang	12 July 2005
○○ Choi	17 August 1975	Crew member, Cheonwang	16 January 2007
○○ Lee	17 August 1975	Crew member, Cheonwang	10 September 2007
○○ Yoon	2 July 1968	Crew member, Geumyung	9 January 2008
○○ Yoon	17 August 1975	Crew member, Cheonwang	26 February 2009
○○ Jeon	28 December 1972	Crew member, Odaeyang No. 61	5 September 2013

Source: Separated Families Division, Ministry of Unification (as of 31 December 2020).

Based on the Act on the Compensation and Assistance for Victims Abducted to North Korea enacted in 2007, victims of post-war abductions who have returned to South Korea, or returned post-war abductees, are entitled to a re-settlement grant and support from the government. In addition, families of such abductees and families of post-war abductees who have not returned to South Korea or died while residing in North Korea are entitled to consolation payments also as the victims of post-war abductions. Post-war abductees' families and returned post-war abductees who have been injured or died as a result of the exercise of state power related the abduction are also defined as the victims of post-war abductions and are entitled to compensation. As of

December 2020, the Committee on the Compensation and Assistance for Victims Abducted to North Korea established in 2007 has received a total of 460 applications. After holding 53 meetings, the Committee on the Compensation and Assistance for Victims Abducted to North Korea has recognized 436 cases and paid approximately 15 billion won in consolation payments, etc.

Table V-20

Application and Receipt of Consolation Payments, etc. for Returning Abductees by Year

(Unit : cases)

Category	2008	2009	2010	2013	2015	2019	2020	Total
Consolation Payment	232	99	97	0	1	2	6	437
Settlement and Housing Support	7	1	0	1	0	0	0	9
Compensation	0	8	4	1	0	0	1	14
Total	239	108	101	2	1	2	7	460

Source: Separated Families Division, Ministry of Unification (as of 31 December 2020).

Table V-21

Decisions on Consolation Payments, etc. for Returning Abductees

Category	Number of Applications	Cases of Disbursement	Amount (1 million won)
Consolation Payment	437	425	13,210
Settlement and Housing Support	9	9	1,773
Compensation	14	2	181
Total	460	436	15,164

Source: Separated Families Division, Ministry of Unification (as of 31 December 2020).

Table V-22

Meetings of the Committee on the Compensation and Assistance for Victims Abducted to North Korea

Category	2007-2010	2011	2013	2014	2015	2016	2019	2020	Total
No. of Meetings	34	6	2	2	3	2	2	2	53

Source: Separated Families Division, Ministry of Unification (as of 31 December 2020).

(2) Human Rights Issues

(A) Infringement on the Right to Family Unification

As with separated families, abductees also suffer from human rights issues related to family unification, letter exchanges and family reunions. In this regard, abductees and Korean War POWs are sometimes categorized as special separated families.

Since the inter-Korean summit in 2000, the South Korean government has continuously raised the issue of abductees and Korean War POWs to North Korea. North Korea, however, has never acknowledged the existence of South Korean abductees and POWs, seeking to avoid drawing attention to these issues. At the 2012 and 2013 working-level, inter-Korean Red Cross meetings, the South Korean government proposed to solve the issue of Korean War POWs and abducted South Koreans together with the issue of reunion of separated families. However, the only confirmation it has received at the 19th reunion for separated families held in February 2014 at Mount Geumgang (Geumggangsan) resort was that two of the South Koreans who had been abducted during the Korean War, whose whereabouts were requested by the South, were dead. In the 20th reunion of separated families held in October 2015, Geon-mok Jeong, a fisherman abducted in the Odaeyangho (a South Korean trawler) incident in 1972, reunited with his mother living in South Korea.¹²²¹ In the inter-Korean

¹²²¹ *Yonhap News Agency*, 24 October 2015.

family reunion held in August 2018, the survival or death of 21 Korean War POWs and abductees was confirmed and 12 people from six South Korean families were reunited with their family members residing in the North. After the 2000 inter-Korean summit and up until the end of 2018, the survival or death of 133 South Korean abductees and POWs has been confirmed. During the same period, 60 cases of family reunions were held.¹²²² In 2020, on the 70th anniversary of the outbreak of Korean War, the OHCHR has urged North Korea to repatriate those it had abducted during and after the Korean War.¹²²³ North Korea's active cooperation is required to verify the status of abductees and to allow them to communicate and reunite with their relatives in South Korea.

(B) Forcible Transfer and Detention

The abduction of civilians during the Korean War by North Korea constitutes a serious violation of Article 49 of the Geneva Convention (IV), which prohibits forced transfer of civilians. At the time, this was already an established norm under customary international law.¹²²⁴ Moreover, the Geneva Convention (IV) in principle prohibits the detention of civilians by a state (Article 79).

1222_ Ministry of Unification, *2019 Unification White Paper* (Seoul: Ministry of Unification 2019), p. 184. (In Korean)

1223_ OHCHR, "UN experts urge DPRK to repatriate abductees on 70th anniversary of the Korean War," 25 June 2020 <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25998>> (Accessed 28 January 2021).

1224_ Min-jeong Jeong, "Analysis of the Issues of Abductees and Korean War POWs from the Perspective of International Laws," in *Abduction and Enforced Disappearances by North Korea*, eds. Center for North Korean Human Rights Research (Seoul: KINU, 2015), p. 93. (In Korean)

Table V-23 Provisions on Forced Transfer and Detention in the Geneva Convention (IV)

Article 49	Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. (The rest is omitted)
Article 79	The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

(C) Enforced Disappearance

Abduction of civilians by North Korean authorities is closely related to enforced disappearances. An enforced disappearance is a serious issue in that it violates various human rights on multiple levels. In other words, committing enforced disappearances not only infringes upon the rights of individuals in itself, but also violates various civil, political, economic, social and cultural rights as it tends to entail inhuman treatment such as torture as well as deprivation of rights such as the right to health and education.¹²²⁵

Since 1950, North Korea has systematically abducted nationals of other countries as part of its state policy and refused their repatriation. The COI estimates that victims of enforced disappearances far exceed 200,000 persons, including children.¹²²⁶

1225_OHCHR, Enforced or Involuntary Disappearance, Fact Sheet No. 6/Rev.3. (2009); Ku-youn Chung, "Emergence and Spread of the Concept of Enforced Disappearances," in *Abduction and Enforced Disappearances by North Korea*, eds. Center for North Korean Human Rights Research, requoted on p. 7. (In Korean)

1226_UNHRC, "Report of Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea," (2014), para. 64.

The majority of the enforced disappearances were carried out to exploit abductees' labor and technology for North Korean authorities, and some victims were deployed for espionage and terrorist activities. Women abducted from Europe, the Middle East and Asia were forcibly married to men from other countries.¹²²⁷

North Korea, however, has strongly denied the existence of enforced disappearances. The “Korean Air Abductees’ Families Committee” (hereinafter the Families Committee) has registered with the UNHCR Working Group on Enforced and Involuntary Disappearances (hereinafter WGEID) cases of abductees of the Korean Airlines (KAL) incident who have not yet returned: Won Hwang (17 June 2010), Dong-gi Lee (8 October 2010) and Jeongwoong Choi (8 November 2010).¹²²⁸ In this regard, North Korea has responded that “the cases of three people who have not returned do not constitute enforced disappearances” and “there is not a single case in North Korea which constitutes enforced or involuntary disappearance and detainment against their will.” On 13 February 2020, the WGEID sent a letter to North Korea urging

1227_ *Ibid.*

1228_ In 1969, a Korean Airlines plane carrying 50 persons (four crew members and 46 passengers) was hijacked. On 14 February 1970, North Korea repatriated 39 passengers to South Korea, but did not return seven of the passengers and all four crew members. The WGEID established by the resolution of the UN Commission on Human Rights (currently UN Human Rights Council) receives and reviews the cases of disappearances submitted by families of victims of enforced disappearances or by civil organizations and notifies the countries suspected of abduction to conduct investigations on such cases and report the results.

the North Korean authorities to repatriate 11 people who were forcibly disappeared in the KAL hijacking incident of 1969.¹²²⁹ In addition, the Working Group on Arbitrary Detention (hereinafter WGAD) issued a statement of opinion on Won Hwang. The WGAD stated that it has transmitted to North Korea on 17 July 2019 the allegations it has collected regarding the current situation of Hwang – that he is under house arrest with heavy security and is in a situation where his rights protected under the ICCPR are not guaranteed. On 26 August 2019, North Korea submitted its response in which it stated that there is no one in North Korea “who has been forcibly detained against his or her will.” Convinced that Hwang is a South Korean citizen who is staying in North Korea against his will, the WGAD urged North Korea to immediately release Hwang and take actions to provide reparations. However, North Korea argues that such arguments and demands by the WGAD are malicious and stereotypical political plots against the country.¹²³⁰

Moreover, in its 2020 report on enforced disappearances submitted to the UN Human Rights Council, the WGEID included North Korea on a list of countries that requires urgent attention.¹²³¹ The

1229_OHCHR, “UN experts urge North Korea to repatriate 11 abducted from plane hijack 50 years ago,” 13 February 2020.

1230_WGAD, Opinion No. 69/2019 concerning Hwang Won (Democratic People’s Republic of Korea), UN Doc. A/HRC/WGAD/2019/69 (7 February 2020).

1231_WGEID, Report of the Working Group on Enforced or Involuntary Disappearances, UN Doc. A/HRC/45/13 (7 August 2020), para. 27.

WGEID reported that it had requested a visit to North Korea for the first time on 22 May 2015 and for the second time 11 April 2020, which were both unsuccessful.¹²³² The WGEID has determined that there are a total of 316 pending cases of enforced disappearance concerning North Korea. According to the WGEID, it has sent one urgent appeal and one allegation letter to North Korea, but North Korea only responded to the allegation letter. Of the 316 pending cases, 48 cases involved female victims.¹²³³ The WGEID showed concern over the lack of engagement and cooperation from certain countries and specifically mentioned that North Korea “continues to send standard replies without substantive information on the cases transmitted.”¹²³⁴

The WGEID requested in its report submitted to the UNHRC in 2014 that the UN Security Council refer North Korea’s enforced disappearances to the International Criminal Court (ICC).¹²³⁵ It has also made a request to the North Korean authorities to disclose information on a total of 66 cases of enforced disappearance sometime between May 2017 and May 2018,¹²³⁶ among which requests on Jeong-uk Kim, Guk-gi Kim and Chun-gil Choi were included.¹²³⁷ The WGEID has requested North Korea to disclose

1232_ UN Doc. A/HRC/45/13 (2020), Annex 1, p. 26.

1233_ *ibid.*, p. 9.

1234_ *ibid.*, para. 43.

1235_ UN Doc. A/HRC/27/49 (2014), para. 72.

1236_ UN Doc. A/HRC/39/46 (2018).

1237_ UN Doc. A/HRC/WGEID/114/1 (2018).

information on a total of 233 enforced disappearance cases by 2018.¹²³⁸

Among the forcibly disappeared, there must be people who were abducted through physical coercion or false persuasion, and there must be also those who voluntarily entered North Korea. In any case, however, their right to leave North Korea has been violated as a result, and thus, it can be said that all of them are victims of enforced disappearance. Moreover, such people have been deprived of the right to freely move within North Korea and the right not to receive torture and cruel or inhuman treatment. All those who were forcibly disappeared live under strict surveillance and are deprived of education or employment opportunities.¹²³⁹ In the 2014 Resolution on North Korean human rights adopted after the publication of the COI report, the UNHRC condemned the organized abduction, refusal of repatriation and subsequent enforced disappearance of persons by North Korea¹²⁴⁰ and urged North Korean authorities to allow abducted or forcibly disappeared persons to return immediately to their countries of origin.¹²⁴¹ Since then, numerous UNHRC resolutions on North Korean human rights have expressed concerns about enforced disappearances.¹²⁴²

1238_UN Doc. A/HRC/39/46 (2018).

1239_UN Doc. A/HRC/25/63 (2014), para. 68.

1240_UN Doc. A/HRC/RES/25/25 (2014), para. 2(f).

1241_ *Ibid.*, para. 3(f).

1242_UN Doc. A/HRC/RES/28/22 (2015), paras. 1(f), 2(f).

(D) Use of Abductees by North Korean Authorities

Some of the abducted South Koreans were used in broadcasts delivered to South Korea or in espionage training. Two Korean Airlines flight attendants, Kyung-Hee Sung and Kyung-sook Chung, have been used in broadcasts sent to South Korea. In addition, South Korean abductees were also used as instructors for North Korean espionage agents to the South. According to the testimony of a North Korean defector who entered South Korea in 1993, about 20 unidentified abductees from South Korea had been working as spy instructors at the “Center to Revolutionize South Korea” located in Yongseong District in Pyongyang. This center replicates parts of South Korea and is designed to teach and train graduates of the Kim Jong Il Political Military College (renamed in 1992) on how to adjust to life in South Korea. The center is under the direct control of the Operations Division in Building No. 3 of the Central Party, which is responsible for training espionage agents to infiltrate the South. In addition, North Korea has made some South Korean abductees work in anti-South Korea operations. According to the testimony of a former abductee/fisherman who defected and returned to South Korea in June 2006, some of his colleagues were engaged in anti-South Korea operations after undergoing a period of special training. The testifier himself admitted to having received espionage training.¹²⁴³

1243_ North Korean defector ○○○, 7 January 2004, interviewed in Seoul.

However, it is presumed that other abductees who were of no useful value to North Korean authorities have been detained in political prison camps (*kwanliso*) for a certain period of time. Amnesty International has identified in its special report “New Information on Political Prisoners in North Korea” published in 1994 that some of the detainees in political prison camps (*kwanliso*) are South Korean abductees. The special report specifies the names of abductees who are presumed to have been detained in the now defunct political prison camp (*kwanliso*) at Seungho-ri until 1990. Moreover, in January 1999, the National Intelligence Service of Korea reported that 22 South Korean abductees, including Jae-hwan Lee, are detained in political prison camps (*kwanliso*).

C. Korean War POWs

(1) Current Status

The term “Korean War POWs” refers to those members of the South Korean Armed Forces detained in enemy countries who are unable to return to South Korea. At the time of the Korean War Armistice, the UN Command estimated that approximately 82,000 members of the South Korean Armed Forces were missing. However, only 8,343 Korean War POWs were repatriated during three rounds of prisoner exchanges held between April 1953 and January 1954. Accordingly, it is estimated that many Korean War POWs remain detained in North Korea.¹²⁴⁴

Starting with the late Lieutenant Chang-ho Cho who returned to South Korea in 1994, other Korean War POWs have continued to return to South Korea. As of December 2019, a total of 80 Korean War POWs have returned to South Korea, and there are about 430 family members of Korean War POWs who are still alive. An absolute majority of former Korean War POWs who have returned to South Korea are from North Hamgyeong Province. This is because most of the Korean War POWs had been assigned to work at coal mines in the region. No Korean War POWs have returned since 2011 due to the aging Korean War POWs and the strengthened border patrols and surveillance under the Kim Jong Un regime.¹²⁴⁵

Table V-24 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	2011-2020	-	80
2003	5	34	Total		80
2004	14	48			

Source: Ministry of National Defense (as of 31 December 2020).

1244_ Ministry of National Defense, *2012 Defense White Paper* (Seoul: Ministry of National Defense, 2012), p. 110. (In Korean)

1245_ Ministry of National Defense, *2020 Defense White Paper* (Seoul: Ministry of National Defense, 2020), p. 253. (In Korean)

Table V-25 Origin of POWs in North Korea (Including the Deceased)

Province/ Category	North Hamgyeong Province	South Hamgyeong Province	North Pyeongan Province	South Pyeongan Province	Yanggang Province	Jagang Province	North Hwanghae Province	South Hwanghae Province	Gangwon Province	Total
Number of persons	60	9	0	3	4	1	1	1	1	80
Percentage (%)	75.0	11.25	0.0	3.75	5.0	1.25	1.25	1.25	1.25	100

Source: Ministry of National Defense (as of 31 December 2020).

(2) Human Rights Issues

(A) Infringement on the Right to Family Unification

As is the case for separated families and abductees, Korean War POWs suffer from human rights violations related to family unification, letter exchanges and family reunions. The UN Command had repeatedly requested North Korea, through the United Nations Command Military Armistice Commission, to solve the issue of non-repatriated Korean War POWs, starting from immediately after the mutual exchanges of Korean War POWs took place in accordance with the Armistice Agreement until the 1960s. However, North Korea has maintained its position that they had returned all Korean War POWs to the Neutral Nations Supervisory Commission and that there is not a single Korean War POW forcibly detained in North Korea.¹²⁴⁶

The reunion of Korean War POWs and their families must be promptly carried out for humanitarian reasons and to realize the

1246_Ministry of National Defense, *2012 Defense White Paper*, p. 110. (In Korean)

right to family unification. As four returned Korean War POWs passed away in 2020,¹²⁴⁷ there are only 20 surviving Korean War POWs of the 80 who have returned to South Korea. All of the surviving Korean War POWs are 86 years old or older, and 11 of the remaining 20 are 90 years old or older. By 2018, 56 Korean War POWs were identified through reunion events of separated families, and 18 of them have met with their families.¹²⁴⁸

Table V-26 Age of Surviving Korean War POWs

Age (years)/ Category	86	87	88	89	90	91	92	93	96	Total
No. of Persons	1	1	3	4	2	5	1	2	1	20
Percentage (%)	5.0	5.0	15.0	20.0	10.0	25.0	5.0	10.0	5.0	100

Source: Ministry of National Defense (as of 31 December 2020).

Table V-27 Age of Korean War POWs at the Time of Death

Age (years)/ Category	70 or younger	71-75	76-80	81-85	86 or above	Total
No. of Persons	1	4	11	23	21	60
Percentage (%)	1.7	6.7	18.3	38.3	35.0	100

Source: Ministry of National Defense (as of 31 December 2020).

1247_ "Korean War POW who escaped from North Korea after 58 years dies at age 88," *Chosun Ilbo*, 11 December 2020.

1248_ Ministry of National Defense, *2020 Defense White Paper*, p. 253. (In Korean)

(B) Forced Detainment

The Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949 (Geneva Convention (III)) stipulates that prisoners of war must be released or returned without delay after the cessation of hostilities (Article 118).¹²⁴⁹ North Korea joined the Geneva Convention on 27 August 1957. Its denial of the existence of Korean War POWs and refusal to repatriate them constitute a violation of Article 118 of the Geneva Convention (III), which stipulates the release and repatriation of prisoners of war. Even under customary international law, prompt release and repatriation of prisoners of war are regarded as duties of all states.¹²⁵⁰ This was already an established norm under customary international law at that time.¹²⁵¹

(C) Forced Labor

According to the testimonies of North Korean defectors and returned Korean War POWs, many POWs were either forced to join the Korean People's Army (hereinafter KPA) during the Korean War, or assigned to coal mines, enterprises and rural areas

1249_ International Committee of the Red Cross, "Geneva Convention Relative to the Treatment of Prisoners of War," 12 August 1949.

1250_ International Committee of the Red Cross, *Customary International Humanitarian Law* (Cambridge: Cambridge University Press, 2005), p. 451; Requoted in Buhmsuk Baek, "Enforced Disappearances by North Korea and the Crime against Humanity," in *Abduction and Enforced Disappearances by North Korea*, eds. Center for North Korean Human Rights Research, p. 63. (In Korean)

1251_ UN Doc. A/HRC/25/CRP.1 (2014), para. 1143, footnote 1626.

to participate in post-war rehabilitation projects between 1954 and 1956 after the Armistice Agreement had been signed. According to a U.S. Department of Defense document declassified on 12 April 2007 titled “The Transfer of U.S. Korean War POWs to the Soviet Region,”¹²⁵² thousands of Korean War POWs were transferred to Okhotsk and other Soviet Far Eastern ports between November 1951 and April 1952. They were then detained at Kholima detention center near Yakutsk.¹²⁵³ The number of POWs transferred to the Chukchi Sea region was at least 12,000. The report also mentioned that the death toll was high due to the difficult road and airfield construction work to which they were assigned. With regard to this issue, the South Korean Ministry of National Defense announced on 18 December 2007 that it was unable to confirm or discover any evidence concerning the transfer of Korean War POWs into the Russian Far Eastern Provinces, even though it had visited Russian military research institutes and conducted extensive interviews with the Pentagon personnel who wrote the report; the son of former Soviet Union general officer Seong-ho Kang, who claimed that the Korean War POWs were transferred to the Soviet Union; around 10 Korean Russian veterans, who had participated in the Korean War; former

1252_ This report was written by the U.S. and Russia on 26 August 1993, as a part of the investigative activities of the “Joint U.S.-Russian Committee for POWs and MIAs,” which was formed after the Cold War to confirm the status of Korean War U.S. POWs in Russia and the return of their remains.

1253_ *Yonhap News Agency*, 13 April 2007.

Korean War POWs who have returned to South Korea; and over 100 North Korean defectors living in Russia.

Most Korean War POWs were deployed to coal mines in North and South Hamgyeong Provinces because North Korea was in great need of manpower in their coal mines at the time, and ordinary North Koreans were reluctant to work there. It was also easy to control and conduct surveillance on those living in coal mine communities.¹²⁵⁴ According to a series of research studies conducted by KINU, many Korean War POWs were assigned to work and live at coal mines that included Sanghwa Coal Mine in Onsong County, North Hamgyeong Province (Hwa-sik Ahn, Kwang-yoon Woo, ○○ Jang, Seung-ro Hong, In-kong Park, Sang-jin Kim, Sang-won Shin, ○○ Choi, Sam-sik Ok, Myong-jo Bae, Bu-jae Baek, Won-mo Chung and Bok-man Lee), Musan Coal Mine (Gap-do Lee, Young-ho Kang and Hee-keun Lee), and Hakpo Coal Mine in Sechon County, Hoeryong (Yong-yeon Jang, Tae-in Ryu, ○○ Oh, Jeung-ho Lee and Soo-hwan Jeong). The Korean War POWs assigned to work as miners had to work 12-hour shifts. It is estimated that the number of Korean War POWs assigned to coal mines in North Hamgyeong Province had reached 1,100–1,200 at a certain point of time.

It appears that immediately after the Korean War, Korean War POWs had been detained at No. 25 *Kwanliso* in Chongjin. This

¹²⁵⁴ *The Chosun Ilbo*, 30 April 2013.

Kwanliso had been used as a POW camp after the Korean War and was later transformed into a political prison camp (*kwanliso*).¹²⁵⁵ In June 1956, Korean War POWs were released from the political prison camp (*kwanliso*) after receiving People’s Registration Cards, but most were assigned to coal mines located within the political prison camp (*kwanliso*) where they had been previously detained.

In October 2016, the two Korean War POWs (○○ Han, aged 86 and ○○ Roh, aged 91) who had defected from North Korea in 2001 filed a damages suit against North Korea and Kim Jong Un for the forced labor they endured for 47 years. The two won the suit on 7 July 2020.¹²⁵⁶ Following the first lawsuit, five POWs filed another lawsuit against North Korea and Kim Jong Un. One of the plaintiffs claimed that he had worked for 51 years at the Aoji Coal Mine located in Gyeongwon County, North Hamgyeong Province, and another claimed that he had been detained for 40 years for attempting to defect from North Korea eight times.¹²⁵⁷ In the second lawsuit, damages were claimed for illegal acts under the Civil Act and violation of the obligation under the Armistice Agreement to repatriate prisoners of war.¹²⁵⁸

1255_ North Korean defector ○○○, 27 September 2012, interviewed in Seoul.

1256_ “47 Years of Forced Labor: Korean War POWs defected from North Korea wins a lawsuit against North Korea and Kim Jong Un,” *Edaily*, 7 July 2020.

1257_ “Five Korean War POWs filed a lawsuit against North Korea and Kim Jong Un, each claims for damages of 600 million won,” *Chosun Ilbo*, 2 September 2020.

1258_ “Five Korean War POWs filed a lawsuit against North Korea and Kim Jong Un... Each claims for damages of 21 million won,” *Dong-A Ilbo*, 2 September 2020.

Forced labor imposed on Korean War POWs constitutes violations of both international humanitarian law and international human rights law. First of all, it violates Articles 13, 51 and 52 of the 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, the Geneva Convention (III) prohibits labor that is dangerous or harmful to the health of a prisoner of war (Article 52). Forced labor by Korean War POWs also violates Article 8, paragraph 3 of the ICCPR, which stipulates the prohibition against forced labor, and Article 10, paragraph 1 of the ICCPR, which stipulates humane treatment to everyone deprived of liberty.

Table V-28 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. Cases were reported where Korean War POWs

and their families were restricted in their choice of place of residence and jobs, and children of Korean War POWs were discriminated against in Party membership, college admissions and choosing a career.¹²⁵⁹ There were testimonies stating that exceptional cases exist where former POWs can join the Party or live without experiencing significant discrimination. In recent surveys, testimonies of Korean War POWs and their families are rarely collected. Thus, it is not clear whether the long-standing discrimination against Korean War POWs and their families has been resolved. Social discrimination against Korean War POWs and their families or relatives may constitute violations of both the ICCPR (Article 2, paragraph 1) and the ICESCR (Article 2, paragraph 2), which prohibit discrimination of any kind.

Table V-29 Cases of Discrimination against Korean War POWs and Their Families

Testimonies	Testifier ID
The testifier's uncle faced discrimination in job assignments on the grounds that the testifier's grandfather was a Korean War POW from South Korea.	NKHR2014000093 2014-07-15
The testifier's nephew/niece was accepted into the No. 5 Department of the Central Party, but this was cancelled on the grounds that his/her grandfather was an exchanged POW.	NKHR2014000168 2014-10-07
The testifier's family background (<i>todae</i>) was considered very bad because his/her grandfather was a Korean War POW. Other family members faced discrimination in joining the Party, being selected as an official and getting promotions at work.	NKHR2016000099 2016-06-14

1259_ NKHR2015000095 2015-05-12.

(3) Treatment and Support for Returned Korean War POWs

Based on the Act on Repatriation and Treatment of the Republic of Korea Armed Forces Prisoners of War, the South Korean government provides all returned Korean War POWs with pensions, settlement grants, housing assistance and remunerations calculated based on the length of their stay in captivity, starting from the date they were taken prisoner and ending with the date they retired from duty after returning to South Korea. If a POW died in North Korea, special grants for POW families would be provided to his/her spouse or children upon their arrival in South Korea; these special grants are provided in addition to the settlement assistance provided to North Korean defectors upon their entry into South Korea.

The Ministry of National Defense revised the Act on Repatriation and Treatment of the Republic of Korea Armed Forces Prisoners of War on 31 December 2008 and inserted a new provision that establishes the legal grounds for the provision of “social adjustment education” for returning Korean War POWs (Article 6-2). Since late 2008, the Ministry of National Defense has conducted special reorientation programs for returning POWs, so they can quickly adjust to life in South Korea. Returned Korean War POWs also receive professional education and psychiatric assistance offered by civilian organizations to gain the necessary skills and knowledge for their new lives.¹²⁶⁰ The Act on Repatriation and Treatment of

1260_Ministry of National Defense, *2012 Defense White Paper*, p. 112. (In Korean)

the Republic of Korea Armed Forces Prisoners of War was revised on 22 March 2013 to improve the level of assistance and support for Korean War POWs and their families. As a result, provisions on the protection of Korean War POWs and families of Korean War POWs born in the place of detention (Article 5-2), support for employment of family members of Korean War POWs born in the place of detention (Article 15-2), support for admission to ancient palaces, etc. (Article 15-3) and respectful treatment for Korean War POWs (Article 15-4) were newly added.

Table V-30 Residence of Returning Korean War POWs (Including the Deceased)

Region/ Category	Seoul	Incheon	Gyeonggi	Gangwon	Daejeon	S. Chung- cheong	N. Chung- cheong	Daegu	N. Gyeongsang
No. of Persons	22	1	20	5	2	0	1	4	6
Percentage (%)	27.5	1.3	25.0	6.3	2.5	0.0	1.3	5.0	7.5

Region/ Category	Busan	Ulsan	S. Gyeongsang	Gwangju	S. Jeolla	N. Jeolla	Jeju	Total
No. of Persons	5	2	6	1	3	2	0	80
Percentage (%)	6.3	2.5	7.5	1.3	3.8	2.5	0.0	100

Source: Ministry of National Defense (as of 31 December 2020).

Table V-31 Residence of Surviving Korean War POWs

Region/ Category	Seoul	Incheon	Gyeonggi	Gangwon	Daejeon	S. Chung- cheong	N. Chung- cheong	Daegu	N. Gyeongsang
No. of Persons	6	0	9	2	0	0	0	1	0
Percentage (%)	30.0	0.0	45.5	10.0	0.0	0.0	0.0	5.0	0.0

Region/ Category	Busan	Ulsan	S. Gyeongsang	Gwangju	S. Jeolla	N. Jeolla	Jeju	Total
No. of Persons	1	0	0	0	1	0	0	20
Percentage (%)	5.0	0.0	0.0	0.0	5.0	0.0	0.0	100

Source: Ministry of National Defense (as of 31 December 2020).

D. Evaluation

The issues of separated families, abductees and Korean War POWs are humanitarian issues to which international humanitarian law applies and at the same time, have the characteristics of human rights issues to which international human rights law applies. As for separated families, their family rights are being infringed upon in violation of international humanitarian laws (Article 27 of the Geneva Convention (IV)). Moreover, the right to family unification is being violated in terms of separated families, abductees and Korean War POWs, i.e. the right of a family not to 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). In

order realize the right to family unification for these people, the accurate status of these people must be fully confirmed, reunions between separated families must be regularly held and the scale of family reunions must be expanded. During the third cycle of the UPR in 2019, South Korea urged North Korea to implement the commitment it has made at several of inter-Korean summits to resolve the issue of separated families,¹²⁶¹ and North Korea stated in response that it would accept such request.¹²⁶² However, as in 2019, exchanges between separated families did not yield many results in 2020.

The war-time abduction and detention of civilians by North Korea constitute violations of Articles 49 and 79 of the Geneva Convention (IV), which prohibit forced transfer and detention of civilians. Moreover, North Korea's denial of the existence of Korean War POWs and its refusal to repatriate them violate Article 118 of the Geneva Convention (III), which stipulates the release and repatriation of prisoners of war. Furthermore, forced labor imposed on Korean War POWs violates the right to humane treatment (Article 13), the right to appropriate work conditions (Article 51) and the right not to be used for labor that is harmful to health or dangerous (Article 52) specified in the Geneva Convention

1261_ Report of the Working Group on the Universal Periodic Review, Democratic People's Republic of Korea. UN Doc. A/HRC/42/10 (25/June/2019), para. 126.149.

1262_ Report of the Working Group on the Universal Periodic Review, Democratic People's Republic of Korea. UN Doc. A/HRC/42/10/Add.1 (28 August 2019), para. 9(a).

(III), as well as the right not to be forced into labor (Article 8) and the right to receive humane treatment when deprived of liberty (Article 10) provided for in the ICCPR. In addition, social discrimination against families of those who have fled to South Korea, Korean War POWs and their families, may constitute violations of Article 2 of the ICESCR and Article 2 of the ICCPR, which stipulate that discrimination must be prohibited. Meanwhile, it has been found that there is a substantial number of victims of enforced disappearances among those who had been abducted to North Korea. During the third cycle of the UPR in 2019, North Korea promptly rejected the recommendations related to abductees, Korean War POWs and enforced disappearances.¹²⁶³

In order to make progress in resolving the issues of separated families, abductees and Korean War POWs, such issues must be addressed separately from the political situation between the South and the North. North Korea should positively review the recommendations made by the international community and actively engage in dialogues and negotiations with the South Korean government so that the issues raised can be fundamentally resolved.

1263_UN Doc. A/HRC/42/10 (2019), paras. 127, 127.30, 127.31, 127.51-127.53.

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