

White

Paper

on

Human

Rights

in

North

Korea

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## White Paper on Human Rights in North Korea 2018

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





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### Part I

## Purpose and Research Methodology

The Korea Institute for National Unification has published the *White Paper on Human Rights in North Korea* since 1996 to raise awareness on North Korean human rights issues at home and abroad, and provide basic materials by objectively surveying and analyzing the North Korean human rights situation. The *White Paper on Human Rights in North Korea 2018* incorporates information from in-depth interviews with 137 North Korean defectors who entered South Korea in 2017. These interviewees were selected with consideration to their demographic and social backgrounds. This *White Paper* looks into human rights situations in the North in the following parts: the Reality of Civil and Political Rights, the Reality of Economic, Social and Cultural Rights, Vulnerable Groups, and Major Issues.



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## Part II

### The Reality of Civil and Political Rights

The right to life is still not properly protected in North Korea. In the 2017 survey, several cases of execution in prison camps (*kyohwaso*) and the military have been identified. North Korea has an extensive list of crimes that are punishable by death as the regime added a unique supplementary provision called “Addendum to the Criminal Law (General Crimes).” According to the 2010 revision of the Addendum, which was obtained in 2017, North Korea has decreased the number of crimes that are subject to the death penalty, and has added lifetime correctional labor punishment to crimes that were previously only punishable by death or the death penalty with confiscation of property. This can be considered as a slight improvement in laws and regulations.

According to the 2017 survey, numerous testimonies claimed that severe physical and mental pain was inflicted on detainees at the Ministry of State Security (MSS) in the border region as they were being investigated for their attempt to escape North Korea. Public executions are still being held; however, the number of people who are going out to watch such executions is decreasing, even though the authorities continue to send notifications. In the 2017 survey, much like in 2016, there were testimonies that public executions have decreased recently, but it is unclear

whether this is related to the increase of non-public executions or secret summary executions.

Forced labor by the State constitutes a serious violation of human rights; for example, imposing labor training punishment for minor crimes, re-educational labor discipline according to the Administrative Penalty Law and the People's Security Enforcement Law, and forcing labor on people who are temporarily detained in holding centers (*jipkyulso*), etc. Moreover, arbitrary or illegal arrests and detentions are still carried out in North Korea, and the Criminal Procedure Law does not have any provision related to informing the suspect of the reasons for his or her arrest and the facts of the charge. It also does not include a system to review the validity of a warrant by a judge.

Severe human rights violations are still found in various detention facilities such as prison camps, labor training camps (*rodongdanryundae*), holding centers, and detention centers (*guryujang*). In particular, the level of violence and mistreatment in holding centers and MSS detention centers near border regions for repatriated North Koreans were extremely serious. In the 2017 survey, there were many cases of forced abortion in holding centers and detention centers near the border region.

The freedom of movement and residence of the North Korean people is also seriously violated: for example, travel permit system, crackdowns by zone, forced deportation, restriction of

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access to certain areas, etc. It seems that forced deportation of those who are involved with defection is decreasing, but this is more likely because the North Korean authorities have limited space to accommodate deported residents. Ultimately, reinforced border control is adopted as a preventive method to discourage defection.

Considering the perfunctory nature of trials and the passive roles taken on by the judge, prosecutor, lawyer, and People's juror, it is hard to say that trials are conducted fairly. Moreover, the operation of quasi-judicial systems, including the Comrade Trial System, the Socialist Law-Abiding Life Guidance Committee, etc., raise the question of a violation of the right to be tried by a tribunal established by law. The right to have access to and legal assistance of a defense counsel does not seem to be protected. In addition, the State also violates the right to a fair trial for foreigners as the State appoints their defense counsels in a perfunctory manner, and arbitrarily limits the right to consult with consul.

Regarding the right to privacy, it seems that surveillance in border regions and social control have been reinforced since Kim Jong Un came to power. Against such backdrop, house searches to reduce smuggling and to crackdown on fugitives are conducted, and punishment after forced repatriation is reinforced. On the other hand, in the 2017 survey, some testifiers reported that they requested a warrant when faced with a house search, indicating

raised awareness of some North Koreans against the regime's control.

The right to freedom of ideology, conscience, and religion of the North Korean people is seriously violated. In particular, the *Juche* ideology and the Ten Principles of the Unitary Leadership System have a fundamental limitation, as they cannot stand together with the right to freedom of ideology, conscience, and religion. The concept of the freedom of ideology and conscience seems somewhat unfamiliar among the people, and practically speaking, there is lack of freedom of religion as shown from the fact that most North Koreans have never heard the word "religion."

Regarding the freedom of expression, most defectors testified how dangerous showing political opinion in daily lives would be. In addition, the 2017 research confirmed that there were crackdowns on and punishment for recordings and mobile phones, which play an important role in introducing and circulating external information. North Korea does not guarantee the residents' right to assembly and association. Rather, people are forced to participate in assemblies and organizations that have been approved and institutionalized by the authorities. As for elections, the principles of direct, universal, equal, and secret ballots are not abided by and rather, North Korean authorities utilize elections as a means to reinforce and legitimize the regime.

In North Korea, discrimination by background (*songbun*) and

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class continues to function as a key system that creates inequality in diverse aspects of people's lives. Meanwhile, the prevalent corruption and widening gap between the rich and the poor caused by marketization beget another form of discrimination. Moreover, since Kim Jong Un came to power, there have been testimonies that movement between cities and rural areas has become more strictly prohibited, and surveillance and discrimination against those ethnic Chinese and returnees has been reinforced. Therefore, existing discrimination and inequality can be interpreted as a continuous phenomenon.

### Part III

## The Reality of Economic, Social and Cultural Rights

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

the scarce food.

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

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

Meanwhile, North Korea claims to have institutionalized a free educational system but the distribution of resources for basic school operation as well as teachers' remuneration is not properly operated at the national level. This seems to pass down huge financial burdens to students and parents. Students' right to

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education is severely infringed due to mobilization of various dimensions such as agriculture, construction, and political events

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

## Part IV

### Vulnerable Groups

North Korean women are easily exposed to domestic violence, gender-based exploitation and violence in society, and the social conditions where women can be protected from such violence or seek relief were found to be lacking. The most serious human rights violations against women imposed by the North Korean authority are the forced abortions, which take place during the repatriation process and their inhumane treatment during the investigation process. Meanwhile, North Korean women were found to suffer from poor overall health conditions due to the food crisis that has continued since the 1990s, excessive labor to support the livelihood of their families and the psychological pressure caused by their increased responsibility to support their families,

etc. Regarding maternal health care, there are also positive changes, including the decrease in the maternal mortality rate and the increase of childbirths at medical facilities. However, in rural areas, maternal health care is still at a poor level due to inadequate medical facilities and unprofessional pre-/post-natal care.

The 2017 survey found that the human rights situation of North Korean children still remains poor. It has been identified that the overall level of the health care/welfare of children is low, and the gap between Pyongyang and the provinces, and between the cities and rural areas, is also serious. It seems that children are still being mobilized for manpower and political events in order to supplement the labor shortage. However, there are some positive changes, including an increase in the vaccination rate, and declining child malnutrition and infant/child mortality.

Since its ratification of the Convention on the Rights of Persons with Disabilities (CRPD) in 2016, North Korea has made efforts of its own by defining persons with disabilities as targets for particular protection. The Special Rapporteur on the Rights of Persons with Disabilities was also allowed to visit North Korea in 2017. Despite such efforts, however, it appears that a negative perception toward persons with disabilities as being ‘crippled’ still prevails in North Korean society.



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## Part V

### Major Issues

Although in the 2017 survey, there were very few testimonies on political prison camps (*kwanliso*), cases of imprisonment in such camps due to attempts to defect to South Korea have continued to be found. In particular, some testimonies suggest that there have been cases of being sent to political prison camps on charges of aiding defection or talking to family members in South Korea. It indicates that even if one does not directly defect, all acts related to defection to South Korea are considered to be political crimes.

In the 2017 survey, testimonies suggest that bribery was found to be prevalent in North Korean society. Although one's background is still an important factor in determining whether one can be accepted for employment as a senior official or accepted as a student in one of the central colleges, it seems that whether one can become a Party member or enter a general college, can now be handled through bribery. North Korean people consider the practice of bribery normal, which indicates that they do not perceive using bribery to handle certain issues as negative.

As the border control and crackdown on defectors have become more severe since Kim Jong Un came to power, a concern has been raised about the possible violation of human rights of North

Korean residents who are caught in their defection attempt or are forcibly repatriated. It seems that the number of success in re-defection has significantly dropped.

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

The issues of separated families, abductees, and Korean War POWs are humanitarian issues where international humanitarian laws apply and at the same time, have the characteristics of human rights issues where international human rights laws apply. Also in the 2017 survey, there were very few testimonies on the specific realities and human rights violations of families of those who had fled to South Korea, or abductees and Korean War POWs and their families. To realize their right to family unification, there is a need to confirm the survival or death of these groups on a massive scale, and a need for regular reunions and expansion of the size of those reunions.





White Paper on Human Rights  
in North Korea 2018



## Part I

### Purpose and Research Methodology

1. Purpose
  2. Research Methodology
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# 1

## Purpose

North Korea has one of the worst human rights records in the world. The international community has expressed concerns and urged North Korea to address its serious human rights violations. The United Nations Commission on Human Rights (hereinafter UNCHR) adopted resolutions on North Korean human rights between 2003 and 2005, and the United Nations Human Rights Council (hereinafter UNHRC), the successor to the UNCHR, has adopted resolutions on North Korean human rights every year since 2008.<sup>1</sup> The United Nations (hereinafter UN) General Assembly has also adopted resolutions on North Korean human rights every year since 2005, expressing its grave concerns regarding the situations in North Korea.<sup>2</sup> In accordance with the UNHRC resolution, the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (hereinafter COI) as

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

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

established in March 2013. After a year of investigation, the COI reported that systematic, widespread, and grave human rights violations exist in North Korea, many of them constituting crimes against humanity. In June 2015, a field office on North Korean Human Rights under the Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR) was established in Seoul as part of the follow-up measures to the COI report. Meanwhile, the UN Security Council discussed North Korean human rights issues for four consecutive years, from 2014 to 2017. 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) established Center for North Korean Human Rights Research in December 1994 to conduct in-depth research and professional, systematic collection and management of data on North Korean human rights. Since 1996, it has published the *White Paper on Human Rights in North Korea* in Korean and English every year. This *White Paper* aims to raise awareness of North Korean human rights issues in South Korea and abroad, and provide relevant basic materials for discussion and action by objectively conducting investigations and analysis of the North Korean human rights situation, and comprehensively and systematically handling those issues.

## 2

# Research Methodology

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



**Table I -1** Ratification and Access of International Human Rights Treaties by North Korea

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

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

International human rights treaties, which North Korea is a State Party to, stipulate that necessary measures shall be taken to

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

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

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

and publishes the *White Paper* based on the following methods.

First, KINU uses in-depth interviews with North Korean defectors who have settled in South Korea as the most important tool for investigation. The *White Paper on Human Rights in North Korea 2018* is based on interviews with 137 North Korean defectors who have recently entered South Korea. They were selected based on their demographic and social backgrounds (area of residence, experience in detention facilities, etc.) The following is the demographic profile of the 137 defectors with whom we had in-depth interviews in 2017.

**Table I -2** Demographic Profile of In-Depth Interviewees in 2017

Category	Details	Events (persons)	Percentage (%)
Gender	Male	32	23.36
	Female	105	76.64
Total		137	100
Year of Last Defection	Before 2012	1	0.73
	2013	2	1.46
	2014	17	12.41
	2015	16	11.68
	2016	30	21.90
	2017	71	51.82
Total		137	100
Date of Arrival in South Korea	2017	137	100
	Total		137
Age Groups	Teens (1998~)	2	1.46
	20s (1988~1997)	66	48.18
	30s (1978~1987)	30	21.90
	40s (1968~1977)	22	16.06
	50s (1958~1967)	15	10.95
	60 or over(~1957)	2	1.46
Total		137	100

Category	Details	Events (persons)	Percentage (%)
Number of River Crossing	Once	102	74.45
	Twice	24	17.52
	Three Times	3	2.19
	Four Times or More	4	2.92
	No response	4	2.92
Total		137	100
Place of Last Residence	Pyongyang	8	5.84
	South Pyeongan Province	3	2.19
	North Pyeongan Province	4	2.92
	Jagang Province	0	0
	South Hwanghae Province	2	1.46
	North Hwanghae Province	2	1.46
	Gangwon Province	3	2.19
	South Hamgyeong Province	8	5.84
	North Hamgyeong Province	29	21.17
	Yanggang Province	73	53.28
	Gaeseong Industrial District	0	0
	No Response	5	3.65
Total		137	100

KINU systematically manages this data by assigning personal identification numbers (e.g., NKHR2017000000) to all North Korean defectors who were interviewed. When citing their responses in the *White Paper*, we use identification numbers to protect their personal information. When more interviews were needed to obtain information on certain rights or topics in addition to the in-depth interviews held in the early stages of entering South Korea, additional interviews were conducted. For these additional interviews, the sources of information were indicated as “a North Korea defector interviewed on [Month] [Day], [Year], in Seoul.” Moreover, memoirs written by North Korean defectors were used as supplementary data.

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

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

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

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

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

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

The *White Paper on Human Rights in North Korea 2018* is written in accordance with the following principles:

(1) The *White Paper* focuses on describing the information obtained in the 2017 survey. However, when KINU considers that a previous survey is necessary for suggesting a tendency or trend in changes, the result of surveys before 2017 is included. Moreover, the *White Paper* uses surveys from before 2017 when dealing with topics that do not have sufficient information.

(2) In order to look into relatively recent human rights situations in North Korea, we used events that took place within five years of the survey for our research and analysis. In other words, the *White Paper on Human Rights in North Korea 2018*, which is based on the 2017 survey, only looks into events that took place between 2013 and 2017. However, if certain events that took place before 2013 were considered to be particularly meaningful, they were also included as exceptions.

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

(4) The latest North Korean laws and regulations obtained were

used. However, when it was necessary to refer to previous laws, it is noted in the *White Paper* with a clear statement that it is a previous law.

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



White Paper on Human Rights  
in North Korea 2018





## Part II

### The Reality of Civil and Political Rights

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

## Right to Life

All human rights are meaningless unless the right to life is effectively protected. Therefore, the right to life is the supreme right, as well as the foundation of all other human rights. This is why all the key international documents on human rights both at the universal and regional level include regulations to improve and protect the right to life, without exception. 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.

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

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

## A. Extrajudicial, Summary, or Arbitrary Execution

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

authorities, in particular, is a matter of the utmost gravity and thus should be strictly controlled and limited by laws.<sup>4</sup> The meaning of “arbitrary” is somewhat ambiguous; however, it can be understood as a broader concept than simply “illegal.” In other words, even the deprivation of life regarded as “legal” under the domestic laws of a State Party could be considered as “arbitrary” under Article 6 of the ICCPR. Ultimately, prohibition against the “arbitrary” deprivation of life means that life should not be deprived unreasonably. According to the provisions of Article 6 of the ICCPR, Article 14 of the ICCPR (which stipulates the right to a fair trial), and Article 15 of the ICCPR (which stipulates the principle of non-retroactivity of punishment), extrajudicial, summary, or arbitrary execution is prohibited.

In North Korea, it has often been identified that extrajudicial, summary, or arbitrary executions are conducted particularly in detention facilities. In the 2017 survey, there were several testimonies from interviewees who witnessed detainees being shot to death without any trial procedures. According to a North Korean defector, in 2013 in Jeongeori *Kyohwaso*, there was a case where two detainees were fighting, and one ended up dead. The perpetrator was publicly shot to death in front of all the male and female detainees, who were gathered to witness the execution.<sup>5</sup>

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

5\_ NKHR2017000044 2017-07-03.

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 sentenced through open trial in prison camps (*kyohwaso*).<sup>6</sup> However, the trial may be meaningless if it is only perfunctory in nature.

Sometimes extrajudicial, summary, or arbitrary executions are conducted in a general context, not in the context of escaping while imprisoned. In some cases, trials are not held, while in other cases, trials are held in a perfunctory manner with no respect for even the most minimum rights for the accused. Since Kim Jong Un came to power, we have confirmed continuous cases of purges of high-ranking officials such as Jang Sung-taek, Hyon Yong-chol, Ri Yong-ho and Kim Yong Jin. In most cases, such purges are identified as extrajudicial, summary, or arbitrary executions. In the 2017 survey, cases of execution in the military were collected as well. According to a North Korean defector who has served in the naval command, a head of operation in the IV Corps was shot to death in December 2012 after he carelessly criticized the regime by saying whether “the days of a strong and prosperous country would ever come?”<sup>7</sup> Another defector testified that four officials from his division, including the Chief of Staff, were shot

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6\_NKHR2015000031 2015-02-10.

7\_NKHR2017000033 2017-06-05.

to death a week after being dismissed from their positions for not following Kim Jong Un's orders.<sup>8</sup>

## B. Broad Imposition of Death Sentence for Crimes

Article 6, paragraph 2 of the ICCPR states that in countries which have not abolished the death penalty, a death sentence can only be imposed for the most serious crimes based on the law in force at the time of the commission of the crime. The “law” here is generally understood as law in a formal sense, and the expression “the most serious crimes” may be difficult to define due to its ambiguity. However, the Human Rights Committee explained in its General Comment on the right to life that it should be restrictively interpreted to mean that the death penalty should be an exceptional measure.<sup>9</sup> Moreover, in its Concluding Observation on multiple national reports, the Committee pointed out that sentencing the death penalty for treason, piracy, robbery, trading of toxic or hazardous substances, narcotics-related crimes, draft dodging, property crimes, economic crimes, adultery, corruption, and political crimes violates Article 6 of the ICCPR, as these offenses do not constitute the “most serious crimes.” This leaves premeditated murder or attempted murder, and deliberate infliction of serious injury to be classified as the “most serious crimes.”

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8\_ NKHR2017000069 2017-08-28.

9\_UN Human Rights Committee, General Comment, No. 6 (1982), para. 7.

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

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

Conspiracy to overturn the State (Article 60)	Extremely serious cases of participation in political revolts, civil disturbances, demonstrations or violent attacks, and conspiracies for anti-state purposes.	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Terrorism (Article 61)	Extremely serious cases of murder, kidnapping or harming of officials or citizens for anti-state purposes.	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Treason against the fatherland (Article 63)	Extremely serious cases of betraying the fatherland by fleeing and surrendering to another country; betraying the fatherland or turn over secrets to the enemy.	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Crime of clandestine destruction (Article 65)	Extremely serious cases of disloyal destruction for anti-state purposes	Unlimited-term correctional labor punishment or death penalty and confiscation of property
Treason against the people (Article 68)	Extremely serious cases of treason against nationals where Korean nationals, living under imperialist rule, engage in persecution of North Korea's National Liberation Movement, hinder the struggle for unification of the fatherland, or sell the benefits of Korean nationals to imperialists.	Unlimited-term correctional labor punishment or death penalty and confiscation of property

<p>Illegal cultivation of opium and manufacturing of narcotics (Article 206)</p>	<p>Extremely serious cases of cultivating large amounts of opium or manufacturing of narcotics.</p>	<p>Unlimited-term correctional labor punishment or death penalty</p>
<p>Trafficking/distribution of narcotics (Article 208)</p>	<p>Extremely serious cases of trafficking/distribution of large amounts of narcotics.</p>	<p>Unlimited-term correctional labor punishment or death penalty</p>
<p>Premeditated murder (Article 266)</p>	<p>Extremely serious cases of premeditated murder based on greed, jealousy or other despicable motivation.</p>	<p>Unlimited-term correctional labor punishment or death penalty</p>

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



Table II -3

## Change of Provisions in Criminal Law related to the Cultivation of Opium and Manufacturing of Narcotics

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

Meanwhile, North Korea established a unique supplementary provision, the Addendum to the Criminal Law (General Crimes), in 2007. The Addendum reinforced the punishment for general crimes, some of which are subject to the death penalty or the death penalty together with confiscation of property. Moreover, the

Addendum to the Criminal Law stipulates that “cases where multiple crimes committed by a single criminal are extremely serious or the criminal displays no feeling of remorse (*gaejunseong*)”<sup>10</sup> at all are punishable by the death penalty. This is a serious issue, as it means that the range of crimes for which the death penalty is applicable can be broadly expanded. However, according to the 2010 Addendum to the Criminal Law, which was obtained in 2017, North Korea decreased the number of crimes punishable by death, and the unlimited-term of correctional labor punishment was added to the crimes that were previously only punishable by death or the death penalty together with confiscation of property.<sup>11</sup> This is a slight improvement, considering that the number of crimes subject to the death penalty decreased, and certain crimes are punishable not just by the death penalty but also by restricting physical freedom. Crimes subject to capital punishment under the Addendum to the Criminal Law (General Crimes) of 2007 and 2010, and their statutory penalties, can be seen in <Table II-4>.

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

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

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

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

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

Extremely serious escape by a prisoner (Article 7)	Unlimited-term correctional labor punishment or death penalty
Extremely serious kidnapping (Article 8)	Unlimited-term correctional labor punishment or death penalty
Extremely serious rape (Article 9)	Unlimited-term correctional labor punishment or death penalty
Extremely serious theft of private property (Article 10)	Unlimited-term correctional labor punishment or death penalty with confiscation of property
Other exceptional crimes subject to unlimited-term correctional labor punishment or death penalty (Article 11)	Unlimited-term correctional labor punishment or death penalty

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

What is noteworthy here is that the number of executions due to narcotics transactions or watching/distributing South Korean video recordings has risen over the last few years. In the 2017 survey, relevant testimonies were collected. A North Korean defector from Pyoksong County, South Hwanghae Province, who entered

South Korea in 2017, testified to having witnessed about twenty people being shot to death for transporting narcotics and watching/distributing South Korean video recordings.<sup>12</sup> Another North Korean defector testified to having witnessed five men in their 30s and 40s being executed by shooting in Pyeongseong, South Pyeongan Province in March 2015, after an open trial for charges of watching unseemly recordings and consuming narcotics.<sup>13</sup> This *White Paper* assesses that the North Korean authorities are reinforcing their crackdowns and punishments on such cases because narcotics are spreading across North Korea and an increasing number of North Koreans are watching/distributing South Korean video recordings.

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

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

12\_NKHR2017000073 2017-08-28.

13\_NKHR2017000083 2017-09-25.

Testimonies	Testifier ID
In January 2013, two men were executed in Sunam District, Cheongjin, North Hamgyeong Province for a crime related to South Korean video recordings and drugs ( <i>bingdu</i> ).	NKHR2014000056 2014-05-20
In October 2013, three people (including one man and one woman) were shot to death in Pyeongseong, South Pyeongan Province for trading drugs ( <i>bingdu</i> ).	NKHR2014000158 2014-09-23
In October 2013, two men were shot to death in Sinuiju, North Pyeongan Province, for trading drugs ( <i>bingdu</i> ).	NKHR2015000034 2015-02-10
In October 2013, a man in his 40s or 50s was shot to death in Cheongjin, North Hamgyeong Province after open trial for transporting narcotics and Korean CDs.	NKHR2016000091 2016-06-14
In the winter of 2013, two men were shot to death in Yeonbong-dong, Hyesan, Yanggang Province, for watching/distributing South Korean recordings.	NKHR2017000112 2017-11-20
In 2014, two men were shot to death for watching Korean drama and crimes related to narcotics at an airfield in Hyesan, Yanggang Province.	NKHR2015000027 2015-02-10
In May 2014, two men were shot to death for trading drugs ( <i>bingdu</i> ) in hop farm, Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2015000039 2015-02-24

Meanwhile, in the 2017 survey, some defectors testified that they have witnessed the death penalty being carried out for committing human trafficking. According to a North Korean defector, three men and four women were shot to death at an airfield in Hyesan, Yanggang Province, in October 2016, after an open trial on charges of human trafficking and facilitation of prostitution.<sup>14</sup> A woman from Pyongyang testified to the execution of the death penalty for the crime of stealing national confidential documents. According to the woman, a gang of pickpockets was

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14\_ NKHR2017000113 2017-11-20.

caught stealing financial documents from public welfare workers of the Supreme Guard, and six of them were executed as a result.<sup>15</sup>

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

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

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

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15\_NKHR2017000033 2017-06-05.



## D. Other infringements on the Right to Life

Article 6, paragraph 1, of the ICCPR states that the “inherent right to life (...) shall be protected by law.” The UN Human Rights Committee pointed out in its General Comments the tendency in North Korea to interpret the right to life extremely narrowly, and stressed that the expression “inherent right to life” cannot be fully understood in such a restrictive manner and that the protection of this right requires the State to actively take measures.<sup>16</sup> From this perspective, there are many violations related to the right to life in North Korea. As will be examined in later chapters, cases of death continue to occur in detention facilities due to violence and mistreatment, poor nutrition, and sanitation and health care conditions. This issue will be examined in more detail in Part II, Chapter 5, “Right to Humane Treatment in Detention.”

## E. Evaluation

The *White Paper on Human Rights in North Korea 2018* assesses that the right to life of the North Korean people is still not properly protected. In the 2017 survey, several cases of execution in prison camps and the military were identified; such cases are against Article 6, paragraph 1, of the ICCPR, which stipulates

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

protection of the right to life and prohibition of the arbitrary deprivation of life. Moreover, the unique form of law in the Addendum to the Criminal Law (General Crimes) allows an extensive range of crimes to be punishable by death in North Korea. Frequent execution of the death penalty violates Article 6, paragraph 2 of the ICCPR, which stipulates that in a country with a death penalty system, the death sentence shall only be imposed in cases of “the most serious crimes.” However, according to the 2010 revision of the Addendum, which was obtained in 2017, North Korea has decreased the number of crimes that are subject to the death penalty and has added lifetime correctional labor punishment to crimes that were previously only punishable by death or the death penalty with confiscation of property. The fact that fewer crimes are subject to the death penalty and some crimes are punishable by either the death penalty or physical restriction shows that there has been a slight improvement in laws and regulations.

# 2

## Right Not to be Tortured or Receive Inhumane Treatment

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

Table II-6 Article 7 of the ICCPR

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

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

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

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

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

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

Despite these regulations in North Korea’s Criminal Law and Criminal Procedure Law, torture and inhumane treatment frequently occur in the actual process of handling criminal cases. Furthermore, torture is prevalent as it is established as one of the investigation methods for obtaining confessions from suspects during interrogation.<sup>17</sup> A man in his 20s who escaped North Korea in 2017 testified that he was caught attempting to escape North Korea in November 2016 and was detained for 30 days in the Ministry of State Security (hereinafter MSS) city detention center in Hoeryeong, North Hamgyeong Province. During the

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

investigation process, he claimed that he was severely beaten with clubs, a right-angle ruler, etc.<sup>18</sup> Another North Korean defector who was repatriated to the North from China on November 7, 2016, and was detained in the MSS county detention center in Onsung, North Hamgyeong Province, for 20 days testified that he was frequently beaten during the investigation process and that there were some people who had their ears torn.<sup>19</sup> According to him, many MSS officials were on drugs (*bingdu*) when conducting the acts of violence. A male North Korean defector who was investigated in an MPS branch detention center (*guryujang*) in South Pyeongan Province from September 2016 to February 2017 said that “preliminary examination actually means beating up the detainees while asking questions.”<sup>20</sup> Moreover, the issue of forced abortion for repatriated female defectors during the investigation process is still serious. The 2017 survey included several testimonies related to the issue. For more details, refer to Part II, Chapter 5, “Right to Humane Treatment in Detention” and Part IV, Chapter 1, “Women.”

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18\_NKHR2017000054 2017-07-31.

19\_NKHR2017000099 2017-10-23.

20\_NKHR2017000096 2017-10-23.

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

Testimonies	Testifier ID
A North Korean defector who was investigated for three months in an MSS detention facility in Yanggang, in 2013, testified to being forced into writing a statement that his family defected to South Korea. When he refused, the MSS agents kept on verbally and physically abusing him. In the end, he passed out and was transferred to hospital, waking up three days later. He was treated in hospital but was only able to walk in 2015 and is still suffering from the effects of the violence.	NKHR2017000032 2017-06-05
A North Korean defector who was arrested for illegal border-crossing and detained in an MSS detention facility in Musan County, North Hamgyeong Province, for 20 days in 2014 was severely abused during the investigation process. The testifier still has scars on his/her head, which were developed because an agent in charge hit his or her head against the steel bars several times.	NKHR2017000020 2017-05-08
A North Korean defector who was investigated at an MSS detention facility in Yanggang in 2014 testified to having been forced to admit making a call to South Korea, not China. After refusing to admit it, the testifier was beaten with a wooden stick, and four of his/her front teeth were broken.	NKHR2017000058 2017-07-31
A North Korean defector who was investigated for distributing Korean recordings when living in Onsung County, North Hamgyeong Province, in 2015 said that the preliminary examination officer did not let him/her sleep or move. The testifier's legs were beaten with a right-angle ruler.	NKHR2017000042 2017-07-03
A North Korean defector who was investigated in an MSS detention facility in Pyeongseong, South Pyongan Province, in January 2016, for his/her daughter having escaped from North Korea, said that the investigator in charge grabbed the his/her head and hit it against a wall, and kicked his/her legs.	NKHR2017000059 2017-07-31
A North Korean defector who was investigated for five days in August 2016 at an MSS detention facility in Samjiyeon County, Yanggang, testified to having been beaten severely for three days for not admitting to charges of illegal border-crossing.	NKHR2017000057 2017-07-31

## B. Public Execution of the Death Penalty

Even countries that allow the death penalty can violate Article 7 of the ICCPR depending on the method of execution. The UN Human Rights Committee has stated in its General Comments on the prohibition of torture and inhumane treatment that States must execute the death penalty in such a way as to cause the least possible physical and mental suffering.<sup>21</sup> Against this backdrop, it must be considered that being executed publicly can be cruel, inhumane, or degrading punishment for the person subject to the execution, which thereby violates Article 7.<sup>22</sup> In this case, “execution of the death penalty in public” refers to cases where the death penalty is conducted in public, with the committed crimes stipulated in the Criminal Law to be punishable by death and the execution to be carried out according to certain procedures. If it is an extrajudicial, summary, or arbitrary execution and is carried out in public, it would violate both Article 6 and Article 7 of the ICCPR. Meanwhile, regardless of whether an execution is due to the death penalty or is an extrajudicial, summary, or arbitrary

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

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



execution, it is bound to be seen by the general population if it is carried out in public. Furthermore, from the perspective of those who witness the execution, the act may constitute cruel, inhumane, or degrading treatment, which violates Article 7.<sup>23</sup>

Although North Korea has provisions for procedures and methods of carrying out the death penalty in its Criminal Procedure Law and Sentencing and Decisions Enforcement Law,<sup>24</sup> it does not have explicit stipulations for making the execution of the death penalty public. According to the testimonies of North Korean defectors, public execution of the death penalty is still conducted in North Korea, and in the 2017 survey, cases of public execution have been collected. Testimonies indicated that notifications were issued to gather more spectators for a public execution,<sup>25</sup> and a group of workers was mobilized to watch the public execution.<sup>26</sup> One North Korean defector testified to having witnessed the

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23\_ 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.

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

25\_ NKHR2017000009 2017-04-10.

26\_ NKHR2017000113 2017-11-20.

public execution of five men in February 2015 in Pyeongseong, South Pyeongan Province, and that approximately 2,000 to 3,000 spectators were present.<sup>27</sup> However, this *White Paper* assesses that the number of residents watching public executions is decreasing despite the issuance of notifications by the authorities.

Table II-8 Cases of Public Execution by Shooting

Testimonies	Testifier ID
In June 2013, six men were publicly executed by shooting in Pyongyang.	NKHR2017000033 2017-06-05
In October 2013, two men were publicly executed by shooting at Hyesan Airfield in Yeonbong 2-dong, Hyesan, Yanggang Province.	NKHR2015000014 2015-01-27
In October 2013, two men were publicly executed by shooting in Sinuiju, North Pyeongan Province.	NKHR2015000034 2015-02-10
In October 2013, a man was publicly executed by shooting in Cheongjin, North Hamgyeong Province.	NKHR2016000091 2016-06-14
In the winter of 2013, two men were publicly executed by shooting in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2017000112 2017-11-20
In May 2014, two men were publicly executed by shooting at a hop farm, Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2015000039 2015-02-24
In May 2014, two men were publicly executed by shooting in Hyesan, Yanggang Province.	NKHR2015000040 2015-02-24
In August 2014, three men in their 20s were publicly executed in a highschool yard in Daeheungri, Kimhyongjik County, Yanggang Province.	NKHR2016000123 2016-08-09
In the fall of 2014, two men were publicly shot dead at Hyesan Airfield, Yanggang Province.	NKHR2015000027 2015-02-10
In the summer of 2014, a city party official was publicly executed by shooting in Hyesan, Yanggang Province.	NKHR2016000158 2016-09-20
In October 2016, three men and four women were publicly executed by shooting at an airfield in Yeonbong-dong, Hyesan, Yanggang Province.	NKHR2017000073 2017-08-28
In February 2017, approximately twenty people were publicly executed by shooting in Pyoksong County, South Hwanghae Province.	NKHR2017000073 2018-08-28

27\_NKHR2017000083 2017-09-25.

Due to limited information, it is not easy to clearly divide the collected cases into those where public execution of the death penalty were conducted and those where extrajudicial, summary or arbitrary executions were conducted in public. However, aside from protecting the minimum legal rights of defendants, such as trial procedures, carrying out an execution by shooting in “public” itself is inhumane under Article 7 of the ICCPR. In this context, the above cases at least constitute violations of Article 7 of the ICCPR. However, in the 2017 survey, as with 2016, there were testimonies that public executions have decreased recently.<sup>28</sup> A man in his 40s who escaped from North Korea in 2017 testified that public execution itself decreased; however, people are now “executed inside.” He stated that executions conducted behind closed doors are more cruel, and assumed that many people had have been executed this way.<sup>29</sup> Regarding the decrease in the number of public executions, more detailed observation is required to determine if it means that there are more private executions or more summary executions taking place in secret.

By region, executions are most witnessed in Hyesan, Yanggang Province. There have also been some cases in Cheongjin, North Hamgyeong Province, and Sinuiju, North Pyeongan Province. In the 2017 survey, some executions were witnessed in Pyongyang

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28\_ NKHR2017000006 2017-04-10; NKHR2017000111 2017-11-20.

29\_ NKHR2017000127 2017-12-18.

and Pyoksung County, South Hwanghae Province. In general, public executions of the death penalty are more concentrated in border areas than in inland areas, and in city areas than in rural areas. This may be because there are relatively more illegal activities in border regions and cities, and the North Korean authorities are trying to warn and incite fear among residents in those regions through public executions. Moreover, this is also related to the fact that many of our interviewees are from North Hamgyeong Province and Yanggang Province.

## C. Enforced Disappearances

The UN Human Rights Committee has found that enforced disappearances may constitute torture and/or inhumane treatment of the person who is made to disappear and his or her family.<sup>30</sup> People in enforced disappearances would be detained and separated from their families for a long time, and their families would live in worry and concern without knowing the person's whereabouts or whether he/she is alive or dead. Therefore, both the people who are subject to enforced disappearance and their family are victims of torture and/or inhumane treatment. This topic will be examined in more detail in Part II, Chapter 4, "Right to Liberty and Security

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<sup>30</sup>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.

of Person”; Part II, Chapter 7, “Right to a Fair Trial”; Part V, Chapter 1, “Political Prison Camps”; Part V, Chapter 5, “Separated Families, Abductees, and Korean War POWs.”

## D. Evaluation

Unlike what has been stipulated in North Korea’s Criminal Law and Criminal Procedure Law, torture and inhumane treatment seem to be prevalent in the process of handling cases. In particular, the 2017 survey collected several testimonies that severe physical and mental pain were inflicted on detainees at the MSS in the border region as they were being investigated for their attempt to escape from North Korea. Public executions and forced witnessing of public executions are still in place. This constitutes cruel, inhumane, or degrading punishment from the perspective of the executed and also cruel, inhumane, and degrading treatment of those who are forced to witness the execution. However, it seems that public executions have decreased despite continued notifications being issued by the North Korean authorities. Meanwhile, in the 2017 survey, as in 2016, there were testimonies that public executions have decreased recently, but it is unclear whether this is related to the increase of non-public executions and secret summary executions.

# 3

## Right Not to be Forced into Labor

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

Table II-9 Article 8 of the ICCPR	
Paragraph 1	No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
Paragraph 2	No one shall be held in servitude.
Paragraph 3	<p>(a) No one shall be required to perform forced or compulsory labour.</p> <p>(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.</p> <p>(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:</p> <p>(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during</p>

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

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

## A. Labor Training Punishment for Minor Offenses

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

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



## B. Re-Educational Labor Discipline

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

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

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

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

Re-educational labor discipline does not fall into the aforementioned exceptions regarding the prohibition against forced labor, and therefore, is a more serious issue. In the 2017 survey, similar cases have been collected; a man in his 20s from Yanggang Province said that he was arrested by MPS officer in November 2016 for not showing up at work without reporting, and MPS officer and political officer decided to impose 6 months of re-educational

discipline.<sup>31</sup> The testifier was imprisoned in a labor training camp (*rodongdanryundae*) in Hyesan, Yanggang Province, and mobilized to do construction work at a secondary school for orphans (*joongdeung hakwon*), where he was forced to work from 7 am to 9 pm. With the exception of national holidays, he had no days off.

Table II-11 Cases of Re-Educational Discipline

Testimonies	Testifier ID
In 2013, the testifier was detained in a labor training camp in Geomdoek mine in Dancheon, South Hamgyeong Province and was mobilized for mining work for five months.	NKHR2015000079 2015-04-21
In 2013, the testifier was imprisoned in a labor training camp in Pohang Area, Chungjin, North Hamgyeong Province, and was forced to do ground digging, disposing excreta from toilet, building railroad, etc.	NKHR2017000066 2017-08-38
From November 2013 to January 2014, the testifier worked from 5 am to 8 pm in a labor training camp in Bocheon County, Yanggang Province, and 70~80 percent of work was logging.	NKHR2016000044 2016-04-19
In July 2015, the testifier was detained in a labor training camp in Samjiyeon County, Yanggang Province, and did farm work for 12 hours per day.	NKHR2016000015 2016-01-26
In August 2016, the testifier was imprisoned in a labor training camp in Hoeryeong, North Hamgyeong Province, and was forced to do construction work, work at restaurants, hang new wallpaper at the manager's house, etc.	NKHR2017000086 2017-09-25

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

A holding center is a place of investigation and detention for

31\_ NKHR2017000095 2017-10-23.

travelers who have left their designated region or stayed beyond their authorized duration, homeless children, those whose cases are pending, and defectors who have been repatriated. When a holding center notifies the MPS/MSS branch in charge of the residence area of the detainees, relevant MPS/MSS officers of that area comes to the holding center and transfers the detainees to their residence area. A number of North Korean defectors testified that some holding centers force their detainees into labor. Depending on the time of notification from the holding center to the MPS branch in charge of the detainees' residence area, detainees stay in holding centers for three to six months and some holding centers intentionally send notifications belatedly to use the detainees' labor. A North Korean defector testified to being forced into labor while being detained in a holding center in Cheongjin, North Hamgyeong Province, for four months in 2014. The holding center had a great deal of farming work to be done in its corn and bean fields, but did not have enough workers, so it intentionally delayed sending notification to the MSS branch in Daehongdan County, Yanggang Province.<sup>32</sup> Another North Korean defector who was detained in a holding center in Chungpyung, Ranam district, North Hamgyeong Province, for four months from April to August 2013 testified to being forced to wake up at four 4 a.m. to carry out a tremendous work load,

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32\_NKHR2017000093 2017-10-23.

consisting of cement works, farming work, etc.<sup>33</sup> A third North Korean defector who was detained in a holding center in Hyesan, Yanggang Province, for two months after being deported back to North Korea from China in May 2011 testified to being mobilized for sand-and-brick carrying and weeding work, and sometimes being sent to a train station to unload cement or to institutions/corporate associations to assist with their work where the workforce was insufficient.<sup>34</sup> The testifier also said that a man and his 12-year-old son who were detained in the holding center during the same period were forced to work. While working outdoors, the boy ran away with the help of others, and the father was beaten to death the next day because of his son's escape.

Table II-12 Cases of Forced Labor in Holding Centers

Testimonies	Testifier ID
In March 2013, the testifier was mobilized for apartment construction work when he/she was detained in the holding center in Hyesan, Yanggang Province.	NKHR2015000159 2015-12-01
From June to August of 2013, the testifier engaged in construction work from 5 am to 7 pm when he/she was detained in the holding center in Hyesan, Yanggang Province.	NKHR2015000153 2015-11-17
In July and August 2014, the testifier was mobilized for cement construction work when detained in the holding center in Hyesan, Yanggang Province.	NKHR2016000025 2016-03-08
In December 2016, the testifier was forced to participate in making fertilizer with human manure when he/she was detained in a holding center for travelers in Cheongjin, North Hamgyeong Province.	NKHR2017000054 2017-07-31

33\_ NKHR2017000047 2017-07-03.

34\_ NKHR2017000130 2017-12-18.

Testimonies	Testifier ID
From December 2016 to March 2017, the testifier was mobilized in making soccer balls and gathering firewood when he/she was detained in Songpyeong <i>Jipkyulso</i> in Cheongjin, North Hamgyeong Province.	NKHR2017000099 2017-10-23

## D. Evaluation

Article 8, paragraph 3 of the ICCPR prohibits forced labor. However, imprisonment with hard labor as punishment for crimes (excluding minor offenses) is considered to be an exception and imposing work that is normally required by those who are lawfully detained is not considered to be forced labor. According to this regulation, imposing labor training punishment (which falls into the category of 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 constitute forced labor prohibited by Article 8, paragraph 3 of the ICCPR.

# 4

## Right to Liberty and Security of Person

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

**Table II-13 Article 9 of the ICCPR**

Paragraph 1	Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
Paragraph 2	Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
Paragraph 3	Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
Paragraph 4	Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
Paragraph 5	Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

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

## A. Arbitrary or Unlawful Arrest/Detention

Article 9, paragraph 1 of the ICCPR prohibits arbitrary or unlawful arrest or detention, which refers to the arrest or detention imposed without legal grounds or lawful procedures.<sup>35</sup> The term ‘arbitrary’ is broader in scope compared to ‘unlawful.’ It encompasses

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<sup>35</sup> UN Human Rights Committee, General Comment, No. 35 (2014), para. 11.



elements of inappropriateness, injustice and lack of predictability, legal procedures, reasonableness, necessity, and proportionality.<sup>36</sup> Therefore, prohibition against arbitrary arrest/detention can overlap with the prohibition against unlawful arrest or detention. According to the General Comments of the UN Human Rights Committee, even though the issue of detainee treatment is dealt with in Articles 7 and 10 of the ICCPR, the question of arbitrary detention can be raised if those who are detained are treated in a manner that is not related to the purpose of their detention.<sup>37</sup> 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.<sup>38</sup>

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

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36\_ *Ibid.*, para. 12.

37\_ *Ibid.*, para. 14.

38\_ *Ibid.*, para. 17.

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

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

examined in detail later, detaining people in political prison camps without following lawful procedures for criticizing the regime or insulting the “head of state (*Suryong*),” attempting to enter South Korea, or engaging in religious activities is both arbitrary and unlawful. Moreover, arresting and detaining people who “unlawfully enter/exit borders” while not recognizing the freedom to leave the country and requiring people to hold travel permits when leaving the city or county in which they reside and arresting and detaining them in holding centers (*jipkyulso*) when they leave the authorized travel district or travel beyond the permitted duration of travel are also considered to be arbitrary arrest and detention (see Part II, Chapter 6, “Right to Freedom of Movement and Residence”). Arresting and detaining people for watching/distributing South Korean recordings constitutes arbitrary arrest and detention as well (see Part II, Chapter 10, “Freedom of Expression”). This is due to the fact that although there are provisions for control and punishment in North Korean laws, those arrests and detentions were to punish the legitimate exercise of rights that are protected by the ICCPR. If the above provisions on arrest and detention in the North Korean Criminal Procedure Law are not properly complied with, arrest and detention may be considered to be unlawful. According to an investigation conducted by the Korean Bar Association, most criminal suspects in North Korea are investigated under arrest or detention, and in many cases, the detention period exceeds the prescribed duration.<sup>39</sup>

According to the 2017 survey, even when lifting the detention status, it was emphasized that Kim Jong Un was being merciful rather than presenting relevant legal grounds. A female North Korean defector from Hyesan, Yanggang Province, who escaped the North in August 2016 testified that she was investigated for five months at the MSS provincial bureau after getting caught by the border defense unit attempting to escape. According to her testimony, she was released because of Kim Jong Un's policy to "spare one's life if the person has 1 percent conscience despite the 99 percent guilt," and her detention was not recorded anywhere.<sup>40</sup>

## 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 arrest and the facts of the alleged crimes. The North Korean Criminal Procedure Law stipulates that notification of arrest and detention shall be provided in the preliminary examination stage (Article 182), although not in the investigation stage. Therefore, this *White Paper* assesses that the rights of arrested persons to be informed, based on Article 9, paragraph 2 of the ICCPR, are not properly

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

40\_ NKHR2017000001 2017-04-10.

protected.

Meanwhile, Article 9, paragraph 3 of the ICCPR states that criminal suspects arrested or detained on a criminal charge shall be brought promptly before a judge or an authority who can exercise judicial power, and shall have the right to receive a trial or be released within a reasonable time frame. The Article also states that detention before trial is, at all times, an exceptional case. North Korea does not hold an investigation to determine a warrant's validity. Regardless, according to the North Korean Criminal Procedure Law, when suspects are arrested during the investigation stage, they should be immediately released if there is no approval by a prosecutor within 48 hours or if there is no validation within ten days that the suspects are guilty (Article 143). Moreover, if they are arrested in the process of the preliminary examination, approval by prosecutor is required to determine whether to detain them or not (Article 185). According to the ICCPR, in order to be recognized as an authority with the power to exercise judicial power, independence, objectivity and fairness must be satisfied. However, it is noteworthy that prosecutors do not fall under this category.<sup>41</sup> In addition, the North Korean Criminal Procedure Law stipulates the length of time suspects may be imprisoned in each stage of investigation, preliminary examination and prosecution. Still, the period of detention for a

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41\_ UN Human Rights Committee, General Comment, No. 35 (2014), para. 32.

preliminary examination may last up to five months, which is excessively long for a detention duration before trial. Moreover, according to the surveys so far, many cases have been identified in which even the period regulated in law was not complied with. Relevant testimonies were collected in the 2017 survey about this issue. A male North Korean defector in his 30s who escaped in 2017 testified that he was held in the MPS detention center in South Pyeongan Province and interrogated for six months, from September 2016 to February 2017. The testifier also mentioned that his brother was detained in the detention center for nine months.<sup>42</sup> The testifier was aware that the preliminary examination needs to be finished within a certain period of time before he could either be sent to a prison camp (*kyohwaso*) or be released. In addition, a woman in her 40s who was repatriated from China on 19 April 2015, testified that she was detained and interrogated in the MPS detention center in Samjiyeon County, Yanggang Province, until October 30.<sup>43</sup>

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42\_ NKHR2017000096 2017-10-23.

43\_ NKHR2017000005 2017-04-10.

**Table II-14** Period of Investigation, Preliminary Examination and Prosecution, and Imprisonment Period of Suspects

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

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

Article 9, paragraph 4 of the ICCPR stipulates the rights to claim that the legality of an arrest or detention be reviewed, and paragraph 5 states the right to compensation for unlawful arrest or detention. However, the right to claim a review of the legality of an arrest or detention does not seem to be recognized in North Korea. As for claiming criminal compensation, it is hard to find



relevant regulation. However, North Korea mentioned the “Regulation on Criminal Compensation” in its implementation report for the ICCPR, submitted to the UNHRC in 2000.<sup>44</sup> North Korea stated that Article 2 of the same regulation stipulates that “the state shall compensate for the mental and physical suffering and the property loss of the person who has been arrested and detained or punished innocently by investigation, preliminary examination or judiciary institutions.” In the Common Core Documents submitted to the UN in 2016, North Korea also mentioned a compensation system for those whose rights are infringed upon.<sup>45</sup>

## C. Evaluation

It appears that arbitrary or unlawful arrest, which is prohibited by Article 9, paragraph 1 of the ICCPR, continues to occur in North Korea. Detention of political criminals is a representative case of both arbitrary and unlawful arrests and detention. As will be examined specifically in the sections on individual rights, arrest and detention are frequently used in North Korea as punishment for the legitimate exercise of the rights guaranteed in the ICCPR.

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44\_ 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).

45\_ 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.

It is also assessed that the procedural guarantee of liberty and security person is insufficient. The North Korean Criminal Procedure Laws does not have a provision for informing the suspect of the reasons for his or her arrest and the facts of the charges. It also does not include a system to review the validity of a warrant by a judge. Moreover, the detention period before trial is excessively long. For example, the detention for preliminary examination may last up to five months, but even this is not properly complied with. It seems that North Korea also does not recognize the right to claim a review of the legality of arrest and detention.

# 5

## Rights to Humane Treatment of Persons in Detention

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

Table II-15 Article 10 of the ICCPR

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

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

## A. Inhumane Treatment of Persons Deprived of Liberty

Article 10, paragraph 1 of the ICCPR stipulates that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” This provision applies to those who are deprived of liberty by the laws and authority of the State Party when they are kept in prisons, hospitals (particularly psychiatric hospitals), detention centers, correctional institutions, and other facilities.<sup>46</sup> Article 10, paragraph 1 of the ICCPR supplements the ban on torture or other cruel, inhumane, or degrading treatment or punishment specified in Article 7 of the ICCPR, by imposing on State Parties an active obligation toward persons who are vulnerable when their liberty is deprived.<sup>47</sup> 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.<sup>48</sup>

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

47\_ *Ibid.*, para. 3.

48\_ *Ibid.*

## (1) Situation in Detention Facilities

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

### (a) Prison Camps

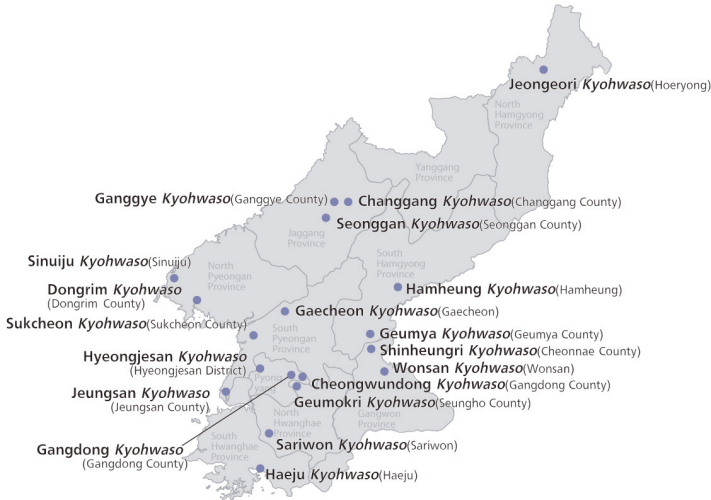
Prison camps are correctional facilities of the MPS Correctional Education Bureau, which is directly under the State Affairs Commission (hereinafter SAC), and facilities for detaining those who are sentenced to correctional labor by a court.<sup>49</sup> Based on the testimonies of North Korean defectors and satellite images, the 2018 *White Paper* has identified total of nineteen prison camps that are operated in North Korea, as can be seen in <Figure II-1>.<sup>50</sup>

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

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

Figure II-1 Location of Prison Camps



Defectors who were forcibly repatriated to North Korea are detained mostly in Jeongeori *Kyohwaso* and Gaecheon *Kyohwaso* after being sentenced to correctional labor punishment for illegal border-crossing<sup>51</sup> under the provision of the North Korean Criminal Law. Therefore, many of the testimonies collected relate to the two prison camps.

- Jeongeori *Kyohwaso*

Jeongeori *Kyohwaso* is a prison camp under the MPS provincial

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

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

Figure II -2 Satellite View of Jeongeori *Kyohwaso*



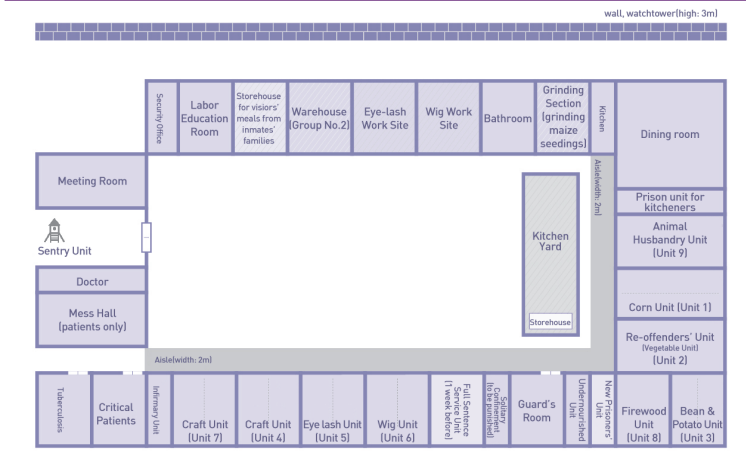
Jeongeori *Kyohwaso* manages convicted prisoners by dividing them into sections numbered 1 to 5. Convicted male prisoners are placed in Section No. 1, 2, 4, and 5, while convicted female prisoners are assigned to Section No. 3.<sup>52</sup> Each section is classified again into units. Testimonies indicate Section No. 1 has around twelve units, Section No. 2 and 3 around 10 units, and Section No. 4 around 4 units.<sup>53</sup> Many North Korean defectors

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

53\_ NKHR2012000185 2012-09-11.

who were detained in Jeongeori *Kyohwaso* are female, and based on their testimonies, it was possible to examine Section No. 3 in more detail, since that is the female detention facility. According to the testimonies, there are three prison staff for Section No. 3, including the head of the section, secretary, and doctor, and three female guards.<sup>54</sup> 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.<sup>55</sup> <Figure II-3> shows the inside of the physical structure of Section No. 3 at Jeongeori *Kyohwaso*, which has been reconstructed based on testimonies.<sup>56</sup>

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



54\_ NKHR2014000048 2014-05-13.

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

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



- Gaecheon *Kyohwaso*

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

Figure II-4 Satellite View of Gaecheon *Kyohwaso*



Gaecheon *Kyohwaso* is divided into male and female zones. The female zone is again divided into unlimited-term and limited-term zones in which prisoners sentenced to unlimited-term correctional labor punishment and limited-term correctional labor punishment reside respectively.<sup>57</sup> Testimonies indicate that female unlimited-term and limited-term areas are in separate buildings.<sup>58</sup>

57\_ NKHR2014000175 2013-10-21; NKHR2015000186 2015-12-15.

58\_ Above testimonies.

Given that convicted 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 a farming unit, a livestock unit, a knitting unit, a vegetable unit, a fruit unit, and a plowing unit.<sup>59</sup> A North Korean defector testified that the farming, livestock and fruit units lived in single-story houses, while the knitting unit lived in a two-story building near the guards' buildings. According to the testifier, the knitting unit comprised those who were sentenced to unlimited-term correctional labor punishment and those with a higher risk of escape, including those convicted of illegal border-crossing and human trafficking.<sup>60</sup> According to a North Korean defector who was imprisoned in Gaecheon *Kyohwaso* from 2011 to 2013, repeat offenders were placed in the vegetable unit for high-intensity work.<sup>61</sup> Testifiers said that convicted male prisoners at Gaecheon *Kyohwaso* worked in brick units and leather units (making shoes, belts, holsters, military boots and loafers) or mined coal at nearby mines.<sup>62</sup> The 2017 survey collected testimonies stating that the Gaecheon *Kyohwaso* housed between 1,200 to 1,300 prisoners as of 2016.<sup>63</sup>

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59\_ NKHR2013000156 2013-08-20.

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

61\_ NKHR2017000130 2017-12-18.

62\_ NKHR2013000115 2013-06-11; NKHR2013000195 2013-10-29.

63\_ NKHR2017000122 2017-11-20.

## (B) Labor Training Camps

Labor training camps are where those sentenced to labor training punishment (from six months or more to one year or less) by the court or those sentenced with re-educational labor discipline (from five days or more to six months or more) as an administrative punishment by the People's Security Agency, etc. It appears that those sentenced to labor training punishment are detained in labor training camps under the jurisdiction of the MPS and those sentenced to re-educational labor discipline are detained in labor training camps at the city, county and district levels under the Labor Mobilization Division of the People's Committee. There are testimonies about labor training camps in Wonsan, Gangwon Province and in Jeungsan County, South Pyeongan Province, being under the jurisdiction of the MPS.<sup>64</sup> Again in the 2017 survey, as was in 2016, there were testimonies that one was sentenced to labor training punishment for illegal border-crossing and imprisoned in labor training camps in Gaecheon *Kyohwaso*.<sup>65</sup> It has also been reported that the military operates its own internal labor training camps.<sup>66</sup>

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

65\_ NKHR2017000005 2017-04-10

66\_ NKHR2015000119 2015-09-08.

### (C) Holding Centers

A holding center investigates and detains travelers who go beyond authorized regions and stay beyond their authorized duration, homeless children, those whose cases are pending and repatriated defectors. When holding centers send notifications to the MPS city/county branch in charge of the residence area of a prisoner, the MPS officers in charge come to the holding centers and transport the detainees to his or her residence areas. It has been ascertained that holding centers under the jurisdiction of the MSS are located across North Korea, and that there are holding centers operated by the MSS in the border region. It has also been found that the holding centers operated by the MSS in the border region are for detaining those who attempt to cross the border illegally to defect to China or South Korea. According to a North Korean defector, in Hyesan, Yanggang Province, the holding center for those who are arrested for illegal border-crossing is in Hyetan-dong, and there is one for travelers in Seonghu-dong.<sup>67</sup> In the case of Cheongjin, North Hamgyeong Province, the holding center for those who are arrested for illegal border-crossing is in Ranam district, and there is one for travelers in Cheongam district.<sup>68</sup>

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67\_ NKHR2015000093 2015-05-12.

68\_ NKHR2017000047 2017-07-03; NKHR2017000054 2017-07-31.

#### (D) Detention Centers

Detention centers are where suspects are detained for investigation before their trials. According to the North Korean Criminal Procedure Law, MSS investigators and preliminary examination officers are in charge of conducting the investigation and preliminary examination of cases related to crimes against the State or the people. In the case of general crimes, the MPS investigators and preliminary examination officers are in charge (Articles 46 and 48). Hence, detention centers are divided into MSS detention centers and MPS detention centers. The MSS organization is divided into central, provincial and city/county levels, and there are detention centers at each level. The MPS is divided into central, provincial, city/county and dong/li levels, and there are detention centers for each level.

#### (E) Political Prison Camps

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

## (2) Treatment in Detention Facilities

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

### (A) Prison Camps

Cases of violence and mistreatment were collected in the 2017 survey. A man who was imprisoned in Gaecheon *Kyohwaso* in 2016 testified that he was routinely kicked by officers who had their shoes on, or beaten with hands or fists, and was starved or not allowed to sleep when he made a mistake.<sup>69</sup> A woman in her 40s who was imprisoned in Gaecheon *Kyohwaso* from 2011 to 2013 said that the officers frequently beat the prisoners with their hands or with clubs, guns, etc., saying that something was wrong with their walking, voice, etc.<sup>70</sup>

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69\_NKHR2017000122 2017-11-20.

70\_NKHR2017000025 2017-05-08.

Table II-16 Violence and Mistreatment in Prison Camps

Testimonies	Testifier ID
The testifier was imprisoned in Jeongeori <i>Kyohwaso</i> from February 2013 to January 2015, and frequently witnessed violence and mistreatment. According to the testifier, a woman in her 60s was so hungry that she picked up something from a field and ate it. For this reason, she was beaten so hard that she could not move her back.	NKHR2015000123 2015-09-08
The testifier who was imprisoned in Jeongeori <i>Kyohwaso</i> , in 2014, witnessed frequent beatings. Prisoners were kicked with shoed feet, and soup bowls were thrown into the face of prisoners.	NKHR2017000044 2017-07-03
The testifier who was imprisoned in Jeongeori <i>Kyohwaso</i> from April 2014 to March 2015 experienced frequent violence whenever he/she could not work well or comply with the rules. The testifier is still suffering from the effects of violence.	NKHR2016000184 2016-12-13
The testifier who was imprisoned in Gaecheon <i>Kyohwaso</i> from August 2014 to July 2015 witnessed other inmates beating another inmate after the instructor ordered them to “educate that one” because he/she did not satisfy the labor quota.	NKHR2016000114 2016-07-12

Testimonies on the poor nutrition, sanitation, and health care in prison camps have been continuously collected. A North Korean defector, who was imprisoned in Gaecheon *Kyohwaso* from 2013 to 2014 said that prisoners were not fed well and became weak (malnourished), and that many ended up dying in the camp. According to the testifier, what they call “*mikyulbab* (an extremely small portion of food)” was provided when the daily task was unfinished.<sup>71</sup> Sometimes, rotten corn was boiled and given to prisoners, causing them to become sick. Hungry prisoners sometimes caught rats or insects to eat; the man testified that he had eaten

71\_ NKHR2017000130 2017-12-18.

them when he was malnourished. Furthermore, he mentioned that if a prisoner died due to weakness, the camp simply burned the body and never notified the family. Another North Korean defector who was imprisoned at Jeongeori *Kyohwaso* from 2015 to August 2016 said that many prisoners died because their bodies grew weak, and dead prisoners were cremated in *Bulmangsan*.<sup>72</sup> According to that testifier, cremation is conducted once a week, and in order to fit in as many bodies as possible inside the crematory facility, bodies are bent and bones are broken.

**Table II-17** Poor Nutrition, Sanitation, and Health Care in prison camps

Testimonies	Testifier ID
The testifier, who was imprisoned in Gaecheon <i>Kyohwaso</i> from 2011 to 2013, said that prisoners who were weak or had TB were allowed not to work and lie down, but they were not treated as well.	NKHR2017000104 2017-10-23
From May 2012 to December 2013, the testifier was detained in a hospital in Gaecheon <i>Kyohwaso</i> . At the hospital there was shortage of medicine and no anesthesia was given during operations. When a person in the same room died, the body was folded in three parts and put in a plastic sack to be taken out.	NKHR2016000160 2016-05-31
From September 2012 to December 2013, when the testifier was detained at Gaecheon <i>Kyohwaso</i> , whole corn flour, salted soup and soup boiled with rotten cabbage (“crow wing soup”) were provided as meals.	NKHR2016000189 2016-12-27

72\_ NKHR2017000047 2017-07-03.



Testimonies	Testifier ID
From February 2013 to January 2015, when the testifier was detained at Jeongeori <i>Kyohwaso</i> , soup boiled with rotten cabbage and steamed rice mixed with sand were provided and the testifier picked grass and ate it to relieve his/her hunger.	NKHR2015000123 2015-09-08
The testifier, who was imprisoned in Gaecheon <i>Kyohwaso</i> from August 2014 to July 2015, said that he/she was given just 450 grams of corn and 30 grams of rice and beans per day to eat. 80 percent of the prisoners were weak. Only those who suffer TB, weakness and hepatitis, and were close to death were allowed to be hospitalized.	NKHR2016000114 2016-07-12

## (B) Labor Training Camps

In the 2017 survey, very few cases of violence and mistreatment in labor training camps were collected. A man in his 20s who was imprisoned in a labor training camp in Hyesan, Yanggang Province, from November 2016 to May 2017 said that officers swore at him when he made a mistake when working, but did not beat him.<sup>73</sup> A woman who was imprisoned in a labor training camp in Hoeryeong, North Hamgyeong Province, for a month in August 2016 also said that there was no violence or mistreatment during her imprisonment.<sup>74</sup> Another woman who was imprisoned in a labor training camp in Hoeryeong, North Hamgyeong Province, in 2014 testified that prisoners were ordered to run around the yard when they did something wrong, but were not beaten.<sup>75</sup> The testifier said that “there was less human rights violation” during her time in the

73\_ NKHR2017000095 2017-10-23.

74\_ NKHR2017000086 2019-09-25.

75\_ NKHR2017000093 2017-10-23.

camp. When she asked others why, the answer was that it was because of the North Korean defectors who entered South Korea and exposed the violence and mistreatment that occurred in detention facilities. She had been told that the guards were warned by their superiors to exercise restraint.

**Table II-18** Violence and Mistreatment in Labor Training Camps

Testimonies	Testifier ID
In 2013 while the testifier was detained at a labor training camp in Daehongdan County, Yanggang Province, he/she was beaten with a one meter-long, three to four centimeter-thick club by a quota officer for failing to meet the labor quota.	NKHR2014000041 2014-04-29
In February 2013, the testifier was beaten for speaking in Chinese when detained at the labor training camp in Geomdeok Mine, Dancheon, South Hamgyeong Province.	NKHR2015000079 2015-04-21
The testifier, who was imprisoned in a labor training camp in Hyesan, Yanggang Province, in March 2014, said that he/she was slapped in the face for not doing a good job in monitoring work and his/her eardrum was damaged.	NKHR2016000108 2016-07-12
In March 2014, the testifier was detained at the labor training camp in Samjiyeon County, Yanggang Province, with the purpose of training people with labor, those who did not work well were punished and beaten every day. Seniors were not exempt from such treatment.	NKHR2016000114 2016-07-12

There were also testimonies about the poor nutrition, sanitation, and health care situations in labor training camps. A North Korean defector who was imprisoned in a labor training camp in Hoeryeong, North Hamgyeong Province, in 2014 said that about 50 women stayed in one room, and they were given just corn rice and salt soup for their meals.<sup>76</sup> Another North Korean defector who was

.....  
76\_ Above testimony.

imprisoned in a labor training camp in Hoeryeong, North Hamgyeong Province, in August 2016 also testified that 50 to 60 people stayed in a room, and that their meals consisted of just 130 grams of corn rice and salt soup.<sup>77</sup> The testifier said that some people ran away because they were too hungry. The situation was slightly better for those who brought (or whose family brought) processed corn powder (*sokdojeon*).

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

Testimonies	Testifier ID
In 2013, when the testifier was detained for six months at a labor training camp in Pohang district, Cheongjin, North Hamgyeong Province, the testifier had to provide corn or rice to get the meal.	NKHR2017000066 2017-08-38
In March 2013, when the testifier was detained at a labor training camp in Samjiyeon County, Yanggang Province, more than half of the prisoners were infirm as the provided meals were less than the regular amount (150 g of corn). It was hard to sleep due to too many bed bugs.	NKHR2016000114 2016-07-12
From November 2013 to March 2014, when the testifier was detained at a labor training camp in Hyesan, Yanggang Province, as only a small amount of potatoes and corn were provided, the meals were always insufficient. Because it was impossible to wash clothes, people had to wear the same clothes for months.	NKHR2016000108 2016-07-12
From December 2013 to June 2014, when the testifier was detained at a labor training camp in Hoeryeong, North Hamgyeong Province, meals were very poor. Another prisoner who was suffering from fever did not get proper treatment and eventually died.	NKHR2016000042 2016-04-05
From November 2016 to May 2017, when the testifier was detained at a labor training camp in Hyesan, Yanggang Province, corn was provided as meals. If a family brought food to the camp, meals were better. Not much heating was provided, but as there were many people gathered in a small place, it was not too cold. When a military doctor gave diagnosis, family members brought medicine.	NKHR2017000095 2017-10-23

77\_NKHR2017000086 2017-09-25.

### (C) Holding Centers

The 2017 survey collected numerous cases of violence and harsh treatment in holding centers. A woman who said she was forcibly repatriated from China in May 2011 testified that she was detained in a holding center in Hyesan, Yanggang Province, for two months. She said that she was often beaten up for not being good at the work and witnessed some detainees being beaten to death.<sup>78</sup> The testifier said that “she was born as a human being; however, being treated like an animal made her feel like a slave.” Cases of forced abortion were also collected in the 2017 survey. A woman who was detained in a holding center in Hyesan, Yanggang Province, for a month in December 2016 said that another woman who was four months pregnant was forced to have an abortion.<sup>79</sup> According to this testifier, the woman came back to the holding center right after an abortion surgery and was mobilized to gather firewood. Another woman who was detained in the Cheongpyeong *Jipkyulso* in Ranam district, Cheongjin, North Hamgyeong Province, from April to August 2013 said that she saw a woman being forced into abortion when she was three months pregnant, and when bleeding continued after the surgery, she eventually died as a complication developed in her uterus.<sup>80</sup>

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78\_ NKHR2017000130 2017-12-18.

79\_ NKHR2017000128 2017-12-18.

80\_ NKHR2017000047 2017-07-03.

Table II -20

## Violence and Mistreatment in Holding Centers

Testimonies	Testifier ID
In 2014 at a holding center in Hyesan, Yanggang Province, the testifier was kicked and punched. The testifier was also in a labor training camp in Hyesan and the mistreatment was more serious there.	NKHR2016000025 2016-03-08
From March to June 2014, the testifier was detained in a holding center in Cheongjin, North Hamgyeong Province. The testifier was kicked in the rib and beaten on the back of the hand with a metal wire for guns. Sound of another prisoner getting beaten up with a wooden stick was heard from the room next door. The testifier was threatened, "do you also want to be beaten up like that?"	NKHR2017000093 2017-10-23
In November 2014, a testifier was at the holding center in Hyesan, Yanggang Province, for 40 days and was forced to remain in a fixed position, and when one of the prisoners did something wrong, all of those in the room got punished. One of the women who was in the same room could not walk well when she was discharged due to serious injuries to her head and legs caused by continuous beating.	NKHR2016000094 2016-06-14
In December 2014, when the testifier was repatriated from China to a holding center in Sinuiju, North Pyeongan Province, there was a woman three months into pregnancy who was forced to abort a baby because the father was Chinese. The testifier was also detained in a holding center in Hyesan, Yanggang Province, in February 2015. He/she was forced to maintain a fixed position for long time and was beaten, for example, by a club.	NKHR2016000051 2016-04-19
From February 28 to March 20, 2015, the testifier was detained in a holding center in Hyesan, Yanggang Province. The testifier was severely beaten by officers during a simple investigation.	NKHR2017000001 2017-04-10

The nutrition, sanitation, and health care situations in holding centers were also found to be poor. A woman who was detained in the Cheongpyeong *Jipkyulso* in Ranam district, Cheongjin, North Hamgyeong Province, for four months from April to August of 2013 said that corn rice of less than 100 grams and salt soup were provided as a meal. Hungry detainees stole seed potatoes one day

and became sick because the potatoes were chemically treated, resulting in a detainee dying because he/she was already very weak.<sup>81</sup> The testifier also said that she was beaten so much that she was wounded, and that the wound festered because she was unable to receive treatment. She asked kitchen staff for some salt and sprinkled it onto her wounds to prevent further infection.

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

Testimonies	Testifier ID
In September 2012, while the testifier was detained at a holding center in Cheongjin, North Hamgyeong Province, many were infirm due to poor nutrition.	NKHR2015000123 2015-09-08
From September to November 2012, the testifier was detained at the holding center in Sinuiju, North Pyeongan Province, and corn, cabbage soup, and sweet potatoes were provided as meals.	NKHR2016000177 2016-11-29
In 2013, while the testifier was detained at the holding center in Hyesan, Yanggang Province, 100 kernels of corn and salted water were provided as meals.	NKHR2015000153 2015-11-17
From October 2014 to March 2015, the testifier was detained at a holding center in Hyesan, Yanggang Province. Corn kernels and cabbage soup were provided, and heating was provided only when detainees' family sent firewood.	NKHR2015000170 2015-12-01
From February 28 to March 20, 2015, the testifier was detained in the MSS holding center in Hyesan, Yanggang Province. Corn kernels and cabbage soup were provided as meal, and family visit with food (food at visit) was allowed.	NKHR2017000001 2017-04-10
From December 2016 to March 2017, the testifier was detained in the Songpyeong <i>Jipkyulso</i> , Cheongjin, North Hamgyeong Province. 200g of corn rice, soup made with dried radish greens, and kimchi were provided as a meal. Sometimes, pureed soybean was served. When the testifier was mobilized to gather firewood, he/she was injured because the feet bumped into a tree, but no treatment was provided.	NKHR2017000099 2017-10-23

81\_ NKHR2017000047 2017-07-03.

#### (D) Detention Centers

Also in the 2017 survey, there were some cases of violence and mistreatment at the MPS/MSS detention centers. In particular, many testimonies of violence and mistreatment were collected at the MSS detention centers in border areas. A North Korean defector who was detained and investigated at an MSS detention centers in Hoeryeong, North Hamgyeong Province from November 23 to December 28, 2016, said he/she was forced to maintain a fixed position for long time and was beaten up and forced to do “pumps” a thousand times when he budged a little.<sup>82</sup> Cases of violence and mistreatment at detention centers in South Pyeongan Province were also collected.<sup>83</sup> A man who was detained at a detention center in South Pyeongan Province from September 2016 to February 2017 said that he had to get up at five o’clock in the morning and stay in a fixed position until seven o’clock in the morning. After breakfast, he was given a ten-minute break and then was forced to stay in one position again until five o’clock in the afternoon. After dinner, the same punishment was repeated until 10:00 p.m. According to the testifier, an officer was monitoring him with a camera, and if he budged a little, he was beaten with a belt or stick. He was not allowed to go to the washroom, so there were times where he had to relieve himself in the fixed position.

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82\_ NKHR2017000054 2017-07-31.

83\_ NKHR2017000059 2017-07-31; NKHR2017000096 2017-10-23.

In the 2017 survey, there were also the cases of forced abortion in MSS detention centers. A North Korean defector who was detained and investigated in the MSS detention center in Onsung, North Hamgyeong Province, in November 2016 testified that a woman who was staying in the same room was forced to have an abortion when she was eight months pregnant, after she had to go to a political prison camp for her attempt to defect to South Korea.<sup>84</sup> According to the testifier, the woman came back to the detention center on the day she had the abortion, but was forced to sit in a fixed position, to stand on one leg, or to do pumps all day. She frequently fainted and bled excessively. This *White Paper* will examine the issue of forced abortion on women who are forcibly repatriated from China in Part IV, Chapter 1, Women.

**Table II-22** Violence and Mistreatment at Detention Centers

Testimonies	Testifier ID
In March 2013, the testifier was beaten for an hour to an hour and a half every day in a solitary confinement room at the MSS detention center in Hyesan, Yanggang Province.	NKHR2015000159 2015-12-01
In June 2013, the testifier was mistreated and beaten at the MSS detention center in Hyesan, Yanggang Province; he/she was forced to remain in a fixed position, etc.	NKHR2015000153 2015-11-17
In July 2013, the testifier was mistreated at the MSS detention center in Hyesan, Yanggang Province; he/she was forced to remain in a fixed position, etc. When the testifier did not maintain the fixed position, he/she was punished by being forced to remain in a position at a "95 degree angle."	NKHR2015000136 2015-09-22

84\_ NKHR2017000099 2017-10-23.



Testimonies	Testifier ID
From August to October 2013, the testifier was mistreated by being forced to remain in a fixed position, being suspended in the air and disturbed from sleep, and suffering beatings. There were frequent cases of people committing suicide because of mistreatment.	NKHR2014000121 2014-08-12
In November 2013, the testifier was forced to remain in a fixed position from 5am to 10pm at the MPS county detention center in Bocheon County, Yanggang Province.	NKHR2016000044 2016-04-19
In April 2014, the testifier was beaten severely to the extent where his/her teeth were broken at the MSS detention center in Hyesan, Yanggang Province.	NKHR2016000103 2016-06-28
From March to June of 2015, the testifier was detained and investigated in an MSS detention center in Hyesan, Yanggang Province, and was forced to maintain fixed position. If the testifier moved just a little, he/she was punished with 5,000 "pumps." Many weak people passed out during such physical punishment. Moreover, beating was frequent, and it was so severe that pus came out of the ear.	NKHR2016000051 2016-04-19
In December 2015, the testifier was forced to remain in a fixed position at an MSS detention center in Hyesan, Yanggang Province. Guards installed cameras for surveillance and when the testifier moved even very slightly, the guards had the testifier hold out his/her head or hands and frequently beat him or her with oak clubs. The testifier sometimes fainted when beaten severely.	NKHR2016000078 2016-05-31
In 2016, the testifier was forced to maintain fixed position in an MSS detention center in Hyesan, Yanggang Province. There was a monitoring camera that ran 24 hours, and if the testifier moved just a little, correctional officers imposed physical punishment such as handstand. Sometimes they hit the palm 100 to 200 times with a stick. Due to such hardship in the detention center, the testifier lost 10kg of body weight, and suffered for 6 months.	NKHR2007000001 2017-04-10
In June 2016, the testifier had her womb examined by a female military officer at a detention center in Manpo, Jagang. It hurt a lot and was humiliating.	NKHR2017000045 2017-07-03

Testimonies about the poor nutrition, sanitation, and health care situations in detention centers have been continuously collected. A man who was detained and interrogated from November to

December 2016 said that he was given just a spoonful of rice with musty corn on an aluminum plate used in the military and a bowl of salt water or soybean paste water.<sup>85</sup> He described the meal as something that “even an animal would refuse to eat.”

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

Testimonies	Testifier ID
In October 2012, the defector received rotten corn as meals at the MSS detention center in Hyesan, Yanggang Province.	NKHR2014000121 2014-08-12
In 2014, the testifier was given half a bowl of corn rice at the detention center in Manpo, Jagang Province, however, it had husk and stone mixed with it.	NKHR2017000025 2017-05-08
From January 9 to 21, 2014, the testifier was at the MSS detention center in Hyesan, Yanggang Province and from January 21 to March 8, 2014, at the MSS detention center in Kimjongsuk County, Yanggang Province. The meals at the detention center in Hyesan were very poor as only 120 kernels of corn were provided. The meals at the detention center in Kimjongsuk County were relatively better.	NKHR2014000203 2014-12-02
From March to June 2015, the testifier was subjected to investigation under detention at an MSS detention center in Hyesan, Yanggang Province, and boiled whole corns kernels, salted soup and cabbage were provided as meals.	NKHR2016000051 2016-04-19
From May 8 to October 30, 2015, the testifier was held in a detention center in Samjiyeon County, Yanggang Province, was given about 100g of slightly salted corn. People got sick because the detention center provided corn without washing it, even though corn had sprouts and was eaten by insects. A meal on Sunday could be substituted with the powder meal delivered by family members, however, one had to bribe the officer with a pack of cigarette in order to be allowed to get the food from family.	NKHR2017000005 2017-04-10

85\_ NKHR2017000054 2017-07-31.

Testimonies	Testifier ID
In December 2015, the testifier was held in an MSS detention center in Hyesan, Yanggang Province and was provided with rotten corn with fungus and cabbage soup as a meal. It was very cold during winter because heating was not provided, and it was uncomfortable sleeping as 10 to 15 people slept together in a small room.	NKHR2016000078 2016-05-31
In 2016, the testifier was held in an MSS detention center in Hyesan, Yanggang Province, and was provided with corn and cabbage soup as a meal. People had difficult time because the food was not sufficient.	NKHR2017000125 2017-11-20
In June, 2016, the testifier was held in an MSS detention center in Hyesan, Yanggang Province, and was provided with just a handful of boiled corn and watery soup. There was a toilet inside the detention center, but no water supply. Everyday, people had to carry water in a 30 liter bucket, and used the water to flush the toilet and to wash dishes. They consistently suffered from lack of water, and if they used too much water, they were criticized and punished.	NKHR2017000108 2017-11-20

## B. Issues Related to Treatment of Unconvicted Prisoners

Article 10, paragraph 2 (a) of the ICCPR stipulates that defendants shall, save in exceptional circumstances, be segregated from convicted prisoners and shall be subject to separate treatment appropriate to their status as unconvicted prisoners. This aims to stress the status of unconvicted prisoners who have the right to be presumed innocent as stipulated in Article 14, paragraph 2 of the ICCPR.<sup>86</sup>

The North Korean Constitution and Criminal Procedure Law do

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

not specify that criminal defendants shall be presumed innocent until proven guilty. Neither are separate provisions on separate confinement of unconvicted prisoners and convicted prisoners, and treatment of unconvicted prisoners.<sup>87</sup> As discussed above, the basic separation of unconvicted and convicted prisoners seems to be in place; the facilities for those sentenced to correctional labor punishment, labor training punishment, or labor training discipline are different from the facilities for criminal suspects or defendants. A more detailed survey seems to be required to better identify whether unconvicted detainees are receiving appropriate treatment distinguished from those of convicted prisoners. However, it appears unlikely, given that some holding centers force prisoners into labor (see Part II, Chapter 3 “Right Not to Be Forced into Labor”) and that access to a defense counsel is not effectively guaranteed (see Part II, Chapter 7, “Right to a Fair Trial”), etc.

## C. Issues Related to Treatment of Convicted Prisoners

According to Article 10, paragraph 3 of the ICCPR, correctional systems should include activities for the correction and rehabilitation

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<sup>87</sup>In South Korea, for example, the Administration and Treatment of Correctional Institution Inmates Act stipulates separate confinement of unconvicted prisoners and convicted prisoners and exceptions, and includes detailed provisions on the principles of treating unconvicted prisoners, the prohibition against visits, the wearing of plain clothes, haircuts, interviews with defence counsel, the receiving of correspondence, special rules in investigation, work, edification, etc.

of prisoners. Therefore, convicted prisoners should be provided with correction/rehabilitation programs, work activities, vocational training, etc., in order to promote their ability to re-adapt to life in general society.

First of all, it appears that there are no separate provisions on the treatment of convicted prisoners in the North Korean laws.<sup>88</sup> Provisions related to punishment in the North Korean Criminal Law seem to be pursuing the education of convicted prisoners through labor in prison camps, etc. However, the inhumane labor environment and imposition of excessive labor, as has been testified by many North Korean defectors, do not seem to be promoting the correction and rehabilitation of convicted prisoners. In the 2017 survey, testimonies about the inhumane working environment and excessive labor in prison camps were once again collected. A woman who was imprisoned in Jeongeori *Kyohwaso* from 2015 to August 2016 testified that she worked for the firewood unit; even when her body grew extremely weak, she had to drag a three-meter-long pieces of wood.<sup>89</sup> It took her two hours to climb the mountain and six hours to come down, and she was beaten with an oak stick if she failed to meet her quota. She also testified that she witnessed another inmate who was killed

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

89\_ NKHR2017000047 2017-07-03.

instantly after collapsing under the tree when he/she was too weak to drag it properly.

**Table II-24** Labor Situation in Prison Camps

Testimonies	Testifier ID
From September 2012 to December 2013, the testifier was held in Gaecheon <i>Kyowhaso</i> and was forced to work from 9am to 11pm. Prisoners who were slow were kicked with feet or beaten with guns.	NKHR2016000189 2016-12-27
In September 2014, the testifier was held in Gaecheon <i>Kyowhaso</i> and was forced to carry 2,000 anthracite coal briquettes a day, tie up cabbages, and make ropes. All the male prisoners were forced to work for the construction unit. There were some who bribed officers in order to avoid working by being sent to infirmity unit.	NKHR2017000058 2017-07-31
From August 2014 to July 2015, prisoners in Gaecheon <i>Kyowhaso</i> were forced to work 14 hours a day because too much work was assigned. If people could not finish their job, they were beaten severely and were not allowed to sleep.	NKHR2016000114 2016-07-12
In 2016, the testifier was held in Gaecheon <i>Kyowhaso</i> and was mobilized for various works including mining coal, farming, carrying stones, painting limestone, putting up steel bar, etc.	NKHR2017000122 2017-11-20

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

Article 10, paragraph 2 (b) of the ICCPR stipulates that accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. Moreover, the latter part of Article 10, paragraph 3 of the ICCPR states that juvenile offenders shall be segregated from adults and treated appropriately to their age and legal status. While Article 10 does not specify the age of juveniles, the UN Human Rights Committee has stated that all

persons under the age of 18 should be treated as juveniles at least in matters relating to criminal justice, as stipulated in Article 6, paragraph 5 of the ICCPR in General Comments.<sup>90</sup>

In the current North Korean laws, provisions for unconvicted/convicted juvenile prisoners are hard to find. A woman who was detained in a holding center in Hyesan, Yanggang Province, for two months after being repatriated from China in May 2011 testified that she saw a man and his 12-year-old son being detained for illegal border-crossing. Both of them were mobilized for work and the boy was beaten because he was too young to work properly.<sup>91</sup> The testifier said in the interview that “juveniles are not supposed to work in the prison, but in reality kids also work as long as they have enough strength to hold their own spoons. Everyone except kindergarteners work there.” It appears there is a need for a more detailed survey on juvenile convicted and unconvicted prisoners.

## E. Evaluation

According to the 2017 survey, the human rights violations at various detention facilities, including prison camps, labor training camps, holding centers and detention centers, are still serious. While violence and mistreatment are prevalent at all the detention facilities, the level of violence and mistreatment at the MSS

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

91\_ NKHR2017000130 2017-12-18.

detention centers and holding centers near border regions seem to be particularly serious. Nutrition, sanitation, and health care in detention centers is very poor, resulting in continued loss of life among prisoners. In the 2017 survey, several cases of forced abortion in detention centers and holding centers near border regions were also collected. This constitutes a violation of Article 10, paragraph 1 of the ICCPR, which stipulates humane treatment of people deprived of their freedom. Violence and mistreatment at detention facilities may also constitute violations of Article 7 of the ICCPR (which prohibits torture and inhumane treatment), and the deaths at detention facilities may constitute violation of Article 6 of the ICCPR (which stipulates protection of the right to life). The treatment of unconvicted prisoners seems to be poorly protected except for the fact that unconvicted and convicted prisoners are confined separately. The treatment of convicted prisoners do not seem to be in accordance with the purpose of the correctional system. The imposition of excessive labor is a case in point.



# 6

## Right to Freedom of Movement and Residence

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

**Table II-25** Article 12 of the ICCPR

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

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

## A. Using Travel Permits to Control People and Restrict Movement

Article 12, paragraph 1 of the ICCPR stipulates the following: “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.” “Everyone” includes not only nationals but also foreigners who are temporarily staying in a country. With regard to the freedom of movement and residence, North Korea added a provision to Article 75 when it amended the Constitution in September 1998, specifying that “citizens shall have the right to freedom of residence and travel.” However, regardless of such changes in the legal system, the North Korean authorities have continued to limit people’s movement, the travel permit system as

a case in point.

Article 30 of the People’s Security Enforcement Law, which is the representative law that regulates the daily lives of the North Korean people, stipulates that “the People’s Security Agency shall exercise control over violations of travel regulations and disorderly wandering on the streets.” According to Article 194 of the Administrative Penalty Law, people who violate travel regulations or unlawfully enter controlled districts are subject to punishment by the authorities, including warnings, fines, unpaid labor, etc. Under-aged persons without a People’s Registration Card cannot receive travel permits for themselves, and must be accompanied by an adult who has a permit. Those traveling for public business can obtain a business travel permit and travel within North Korea. Soldiers and government/enterprise workers can travel for business trips or be dispatched across North Korea if they have a business travel permit issued by the organization they are affiliated with. Patients who have a doctor’s certificate can obtain a permit to travel to the provincial capital for treatment or to a place where immediate family members can take care of them.

When people are moving within a province, travel permits are issued by the MPS city/county branch. However, for moving outside a province, permits are issued by Section 2 Office of the People’s Committee.<sup>92</sup> While legal issuance of travel permits is

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92\_ NKHR2017000069 2017-08-28; NKHR2017000092 2017-09-25.

free and takes around five to seven days, many North Koreans pay 10,000 or 20,000 North Korean won per permit as a bribe to obtain them immediately.<sup>93</sup> Moreover, surveys indicate that the color of the lines on the permit differs by region, and the authorities change these colors frequently to prevent counterfeit permits. According to testimonies, it is relatively easier to obtain travel permits except for special districts, including Pyongyang, the border regions, etc.<sup>94</sup> Travelers who obtain a travel permit must report to the people's unit (*inminban*) chief of the region after arriving at the travel destination and register on the travel roster, and then obtain a travel pass stamped by the MPS. If a traveler is caught without a permit, the people's unit chief is required to report it to the local MPS officer.

Meanwhile, because authorities impose strict control over the freedom of movement, North Korean residents resort to other means, such as bribery, to exercise their rights. An increasing number of people simply carry their People's Registration Card without a travel permit, when they are traveling within a province. If they are caught, they are able to get away by paying a bribe.<sup>95</sup>

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93\_ NKHR2017000127 2017-12-18 and other testimonies.

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

95\_ NKHR2016000017 2016-01-26; NKHR2016000033 2016-03-22; NKHR2016000049 2016-04-19; NKHR2016000137 2016-08-23.; NKHR2016000098 2016-06-14; NKHR2017000052 2017-07-03.

People’s mobility appears to have improved as social corruption based on bribery became widespread. However, senior officials of the Korean Workers’ Party (hereinafter KWP), unlike the general public, can travel preferentially if they possess party-stamped credentials.<sup>96</sup> Moreover, given that North Korean authorities only turn a blind eye to those who have the financial capacity to offer bribes demonstrates that freedom is still granted on a discriminatory basis. Bribery will be examined further in Part V, Chapter 2, “Corruption.”

Table II-26 Testimonies Related to Travel Permits

Testimonies	Testifier ID
Travel permits for Jagang Province have red lines, while those for Pyongyang and border areas have blue lines. Other areas had no lines.	NKHR2013000077 2013-04-16
Army discharge cards have the same effect as travel permits. Travel was allowed anywhere except Pyongyang. They are valid for six months after discharge.	NKHR2013000154 2013-08-20
Travel permits for border areas had two blue lines and an MSS code number.	NKHR2014000056 2014-05-20
Those living in border areas could move with a People’s Registration Card without travel permits, except when traveling to Najin. When people residing in other provinces, including Cheongjin, wished to enter border areas, including Hoeryeong, a travel permit was required.	NKHR2015000101 2015-05-19
In the fall of 2012, the testifier obtained a travel permit to go for vending and peddling to Pyeongseong from Hyesan, Yanggang Province. As one of the acquaintances of his mother’s friend was working for MPS city/county branch No. 2, the defector obtained the travel permit the next morning by bribing with one pack of cigarettes.	NKHR2015000134 2015-9-22

96\_ NKHR2016000013 2016-01-26.

Testimonies	Testifier ID
In March 2013, the testifier obtained a travel permit to go to Hamheung, South Hamgyeong Province, from Hyesan, Yanggang Province. The testifier was able to obtain the permit on the very day by bribing an officer with 5 packs of cigarettes.	NKHR2017000127 2017-12-18
In 2015, travel permits were issued in Kimjongsuk County, Yanggang Province. Although travel permits for the border areas of Pyongyang/Naseon were restricted, one could obtain a permit immediately by giving 1-5 packs of cigarettes to MPS city/county branch No. 2. It was usually possible to secure 15-30 days of travel by giving them 2 packs of cigarettes. It was also possible to extend the travel time through bribes.	NKHR2015000142 2015-10-06
In 2015, the testifier travelled from Hyesan, Yanggang Province, to South Hamgyeong Province, without a travel permit. As the testifier knew the train crew, the testifier moved without a ticket and certificate documents but was eventually caught and paid a fine of 10,000 won (North Korean currency).	NKHR2016000081 2016-05-30
In 2015, the testifier obtained a travel permit by bribing to go to border region so that she can receive money sent by her older sister in South Korea.	NKHR2017000063 2017-07-31
In January 2015, the testifier obtained a travel permit by bribing an officer with a pack of cigarettes, in order to go to Cheongjin from Onsung, North Hamgyeong Province.	NKHR2017000092 2017-09-25
In March 2015, the testifier obtained a travel permit to Cheongjin, North Hamgyeong Province, after stating the purpose as visiting his/her brother in Hyesan, Yanggang Province. The testifier applied for it at the MPS city/county No. 2, and there was no commission fee as it was obtained through legal procedures, and it took a month.	NKHR2016000171 2016-11-01
In June 2017, the testifier obtained a travel permit by bribing an officer with a pack of cigarettes to go to relative's house in Gimchaek, North Hamgyeong Province from Hyesan Yanggang Province. After arrival, the testifier registered the location of the stay with people's unit chief.	NKHR2017000126 2017-12-18
In October 2015, the testifier obtained certification documents (unit, business travel order, verification letters) through his/her company to visit relatives in Onsung, North Hamgyeong Province, from Cheongjin, North Hamgyeong Province.	NKHR2016000155 2016-09-20

## B. Restriction of Access to Certain Areas and Forced Deportation

Regarding the right to freedom of movement and residence, Article 12, paragraph 3 of the ICCPR stipulates that “The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.” The UN Human Rights Committee stated in General Comments that domestic law has to clearly indicate the conditions under which the right to freedom of movement and residence may be limited, and that these conditions would not be met, for example, if an individual were prevented from leaving a country merely on the grounds that he/she is the holder of state secrets, or from traveling within the country because he/she does not have a specific permit.<sup>97</sup> In effect, Article 12, paragraph 3 of the ICCPR indicates that the right to freedom of movement and residence can be restricted only when there are legitimate and reasonable reasons in terms of national policies.

In North Korea, however, the problem is that such provisions are interpreted arbitrarily by the authorities. North Korea has designated certain areas as approval number areas, including the

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

capital Pyongyang, border areas, war-front zones (areas surrounding the Military Demarcation Line) and free trade zones, including Najin and Sonbong, to prohibit the access of the general public. Moreover, the travel permit for approval number areas is clearly differentiated with other certificates since it has many lines with different colors and the MSS password.<sup>98</sup> Such broad restrictions on public access to many special districts violate the right to freedom of movement and residence stipulated in Article 12, paragraph 1 of the ICCPR. Although North Korean authorities argue that access to certain districts are controlled for national security reasons, this is an unreasonable claim. For example, there is no other country that controls and regulates its own citizens' visits to the capital city.

Those without Pyongyang residence cards<sup>99</sup> and permits for temporary stays in Pyongyang<sup>100</sup> can enter the city only if they have travel permits with Pyongyang approval numbers. For the general population to travel to cities and counties in the administrative district, including Duman River, Amrok River, and the Demilitarized Zone, etc., they need to carry travel permits issued by their province

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

99\_North Korea differentiates the People's Registration Cards for the general population and Pyongyang residence cards issued only for Pyongyang citizens. (Article 7, Citizen Registration Law).

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



of residence and with an approval number from the Section 2 Office of the provincial People's Committee in North Pyeongan Province, Jagang Province, Yanggang Province, and North Hamgyeong Province. As such, the North Korean authorities operate a system that restricts travel to special areas, as well as to general areas based on its permit system. Those who wish to travel to Pyongyang, military regions, or border regions must obtain an approval number from an MSS agent.<sup>101</sup> It appears to be more difficult to obtain permits for traveling from inland areas to border regions than from border regions to inland areas.<sup>102</sup>

If the restriction of access to certain areas through regulation and imposing approval numbers via the travel permit system constitutes a passive infringement of the right to freedom of movement and residence, forced deportation conducted by the North Korean authorities is a form of active infringement. The UN Human Rights Committee interprets in its General Comments that the right to freedom of residence includes protection from “all forms of forced internal displacement” and “precludes preventing the entry or stay of persons in a defined part of the territory.”<sup>103</sup> The forced deportation by the North Korean authorities constitutes a representative example of forced displacement by the State.

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101\_NKHR2014000119 2014-08-12 and many other testimonies.

102\_NKHR2014000127 2014-08-26.

103\_UN Human Rights Committee, General Comment, No. 27 (1999), para. 7.

North Korean authorities have been using forced deportation as a policy to control political reactionaries, anti-government individuals, and their families. In particular, people with disreputable backgrounds (*songbun*) have been expelled from Pyongyang to remote provinces. To begin, the Kim Jong Un regime has reduced Pyongyang's population and expanded benefits such as food rations to its residents. It has been claimed that ex-convicts and the unemployed have been forcibly deported from the capital in order to strengthen control by effectively expelling people with disreputable backgrounds.<sup>104</sup> Moreover, forced deportation for similar reasons were also witnessed in Samjiyeon County, Yanggang Province. Samjiyeon County is the birthplace of Kim Jong Un and is also referred to as the 'Holy Land of Revolution' and the 'Second Pyongyang.' As such, former prisoners (ex-convicts) are deported on principle. One testimony claims that because Samjiyeon County is in the border region, many of the residents already have experience crossing the border. Therefore, those residents are deported in order to prevent future border crossing attempts.<sup>105</sup>

Since Kim Jong Un came to power, there have been reports on the forced deportation of border town residents to reinforce control on defection. Among the border regions, it is relatively easier to cross the river in Samjiyeon County, Yanggang Province, due to

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

105\_NKHR2017000122 2017-11-20.

the thick woods growing behind the houses compared to Hyesan or Bocheon County. However, in 2015, around 200 households in Samjiyeon County's border areas were forced to move, and in order to ensure effective control over defectors, the existing houses were demolished.<sup>106</sup> While this forced movement policy was used as political retaliation, it was a traditional form of forced deportation. In other words, forced movement to control border regions can be seen as a new form of forced deportation.

On the other hand, some testimonies stated that there were less cases of forced deportation among those who were caught defecting North Korea or forcibly repatriated from China.<sup>107</sup> This does not necessarily mean punishment for defection has weakened, but rather it means there is a difficulty in deporting all the defectors and their families. A North Korean defector from Hoeryeong, North Hamgyeong Province, testified to having witnessed a whole family in the neighborhood being deported because one of its members had defected from North Korea. However, the family was returned in less than a month, because there were already too many people in the place where they were deported to.<sup>108</sup> In particular, Yanggang Province is near the border and, thus has many North Korean defectors. This means non-border regions

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106\_NKHR2016000025 2016-03-08.

107\_NKHR2017000011 2017-04-10; NKHR2017000060 2017-07-31.

108\_NKHR2015000035 2015-02-10.

within the province need to be designated as the destination for deportation. Therefore, a limited area ends up having to house too many of those who have been banished from their homes.<sup>109</sup>

**Table II -27** Cases Related to Forced Deportation

Testimonies	Testifier ID
It has been found that 30 percent of the residents in Sinmyong-ri, Poongseo County, Yanggang Province, are families of those who have been detained due to misspeaking. Many others are those deported from Pyongyang and Hyesan.	NKHR2014000055 2014-05-20
In Gyowon-ri, Chongam District, Cheongjin, North Hamgyeong Province, more than 40 percent of the residents are deported families.	NKHR2014000078 2014-07-01
Most banished people return home but lead a life as drifters or “ <i>kotjebi</i> ” (homeless child beggars). In February and March 2013, many people were banished.	NKHR2013000147 2013-08-06
From late 2013 to early 2014, around seven households related to Jang Sung-taek were deported and assigned to the Kowon mine.	NKHR2015000051 2015-03-10
In 2014, a neighbor in Pyongyang was forcibly deported to Yonsa County, North Hamgyeong Province, due to reasons related to Jang Sung-taek.	NKHR2016000188 2016-12-27
In April 2014, the nephew of Jang Sung-taek and his family were deported from Seoheung-dong, Cheongjin, North Hamgyeong Province, to Hwadae County, North Hamgyeong Province.	NKHR2014000077 2014-07-01
In spring 2015, around ten households were deported as they were caught smuggling items from China in Rimyongsugu, Samjiyeon County, Yanggang Province. They were mostly deported to the Poongseo and Baekam regions.	NKHR2016000063 2016-05-03
In September 2015, the testifier was deported from Bocheon County, Yanggang Province, to Sinchangri, Poongseo County, Yanggang Province, due to the crime committed by his wife. The enforcement agency was the MPS county branch of MPS, and MPS officers came suddenly in the early morning and packed up all the furniture and moved them.	NKHR2016000194 2016-12-27

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

Testimonies	Testifier ID
A Communist Party personnel, who was ordered to be deported in 2015 for divorcing his wife, defected North Korea.	NKHR2017000033 2017-06-05
A testifier witnessed two members from Unhasu Orchestra who were deported to Kwibong-ri, Pungso County, Yanggang Province, from Pyongyang, in 2015.	NKHR2017000097 2017-10-23
In October 2016, a senior official of Yanggang Province was deported to Unhung County, Yanggang Province, for commenting that the performance by an artist group, whom Kim Jong Un complimented, was not good.	NKHR2017000126 2017-12-18

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

Article 12, paragraph 2 of the ICCPR stipulates “everyone shall be free to leave any country, including his own.” Here, “his own” (country) can be interpreted broadly than just one’s own country, and “free to leave” means that procedural legitimacy and freedom to leave the country should be guaranteed. The UN Human Rights Committee interprets Article 12, paragraph 2 of the ICCPR that a country has a duty to properly provide required documents for its citizens to leave the country, including a passport.<sup>110</sup>

However, North Korean authorities strictly control the issuance of documents required to leave the country to limit the freedom to movement. According to the Immigration Law, North Korean residents can get their passport and other required documents for public or private business (Article 11). There are three types of

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

passports: diplomatic passport, government official passport, and traveler passport. Diplomats are issued diplomatic passports, government officials working at party organizations or espionage are issued government official passports, and residents traveling abroad, for example, to visit relatives are issued traveler passports. Traveler passports are limited to those who are visiting their relatives in China. Their personal documentation should provide basic information, such as the name and address of the relatives in China. North Koreans at the age of 70 and below can visit their relatives once every three years.<sup>111</sup> There were testimonies that there is an internal regulation within the foreign affairs section of the MSS limiting the minimum age for passport issuance to 50.<sup>112</sup> However, it appears that this regulation is ill-enforced because there are numerous cases where officials are bribed to bypass such rule.<sup>113</sup> To get a passport issued, an invitation from China is required, and this invitation needs to be validated by a manager of a company/organization, MPS officer, MSS agent, etc. This is followed by final validation by an MSS foreign affairs officer and final approval by the vice leader of the MSS, which requires a statement from the applicant promising not to damage the reputation of the DPRK and to come back within the authorized period. In

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111\_NKHR2014000023 2014-04-01.

112\_NKHR2014000044 2014-04-29; NKHR2014000080 2014-07-01; NKHR2015000043 2015-02-24.

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

reality, however, passports are only issued to people of special ranks, including diplomats, public officials, people working overseas, and students studying overseas, while the general public would rarely get a chance to come across an actual passport. In fact, the interviewed North Korean defectors who had the experience of getting a passport issued were those who were assigned to government work, and it was very rare that they got their passport for traveling or private business.<sup>114</sup>

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

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114\_ NKHR2015000001 2015-01-13; NKHR2015000070 2015-04-07; NKHR2015000158 2015-11-17.

central MSS. In this respect, it appears that this document is easier to obtain than passports.

Those who cross the border illegally without legitimate documents will be imposed a fine and will be forbidden to leave the country (Article 55 of the Immigration Law), and punished according to the Criminal Law. Article 221 of the North Korean Criminal Law (Charges of Illegal Border-Crossing) states that those who commit the crime of illegal border-crossing are subject to “labor training punishment up to a year.” If the crime is serious, they will be subject to “correctional labor punishment of five years or less.” Despite the prohibition and punishment, defection continues because there is no legal method to cross the border. Ultimately, North Koreans must resort to bribery to receive the necessary documents needed to cross borders. One North Korean defector testified to having bribed an official 3,000 Chinese yuan in 2012, to get a passport required to visit a relative who was an ethnic Korean living in China.<sup>115</sup> As the price for border-crossing increases, North Koreans who went to China end up staying longer in order to earn more money to make up for the payment and, because of this, many of them are left in China as illegal aliens. A state has the responsibility to provide citizen necessary documents needed to enter and exit one’s country. North Korea has failed to carry out such responsibility. Furthermore, North Korean authorities’

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115\_NKHR2012000103 2012-06-05.



control of over one's border-crossing is a serious violation of the freedom of movement.

## D. Evaluation

The 2017 survey assesses that the right to freedom of movement and residence of the North Korean people is seriously infringed upon by the policies of the North Korean authorities. A case in point is the restrictions on the right to freedom of movement through maintenance of the travel permit system and crackdowns by zone. Forced deportation and restrictions of access by groups of people designated by the State as being disreputable continue to occur. Even though less defectors and their families are being forcibly deported as a punishment for their defection, this does not mean human rights situations are improving, rather it seems the capacity of North Korean authorities to accommodate deported residents is not sufficient. In fact, a decrease in forced deportation has led to an increase in border control. In this respect, the freedom to movement for North Korean people still appears to be seriously infringed upon. The international community should make efforts to improve freedom of movement and residence in North Korea not only because it is a basic human right, but also because it would provide opportunities for North Koreans to change their way of thinking through contact with the outside world.

# 7

## Right to a Fair Trial

Article 10 of the UDHR stipulates that “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them.” Article 14 of the ICCPR also stipulates that State Parties shall guarantee the right to a fair trial through each state’s judicial system. The right to a fair trial is a key element in protecting human rights and plays a role as a procedural tool to advocate the rule of law.<sup>116</sup> Article 14, paragraph 1 guarantees the right to equality in trials, the right to a fair trial in all kinds of lawsuits, and the right to public trials. Articles 14, paragraphs 2 to 7 stipulates the minimum rights that should be granted to suspects and defendants in the procedure of criminal trials.

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

Table II-28 Article 14 of the ICCPR

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

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

## A. Lack of Judicial Independence

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

organization in North Korea. Thus, judicial agencies have a limited function, and are supervised and controlled by their higher authorities, the SPA and the KWP.<sup>117</sup> Although there is a provision stating that “in the process of trials, the courts are independent, and conduct trials in accordance with law” (Article 166 of the Constitution; Article 271 of the Criminal Procedure Law), individual courts are only independent an organizational system, and not in terms of individual judges. Therefore, it cannot be regarded as independence of the judiciary in its true sense.<sup>118</sup>

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

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

118\_ *Ibid.*, pp. 49-53.

Constitution of Courts). In practice, only those who are loyal to the KWP are elected as People's jurors, and the elected People's jurors are naturally directed by the KWP. Against this backdrop, the People's Jury System is a means for the KWP to systematically control the courts.<sup>119</sup>

## B. Unfair Trials

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

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

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119\_ *Ibid.*, p. 54.

without the participation of a judge and the people's jurors. A North Korean defector who underwent the preliminary examination and trial process in Onsung County, North Hamgyeong Province, from March to July 2010, testified that the MPS county branch's preliminary examination officers normally decides what the sentence will be. When the preliminary examination is almost over, a prosecutor comes in and asks whether he/she experienced any violence; if a sanitary environment was provided; or if there was anything he/she felt was unfair; or if there was any issue that he/she wanted to raise, etc. However, the defector stated that he/she was unable to raise objections because the guards had already intimidated him/her prior to the prosecutor's arrival.<sup>120</sup>

The first instance trial proceeds in five phases: court trial, factual inquiry, prosecution and defense, the defendant's final testimony, and pronouncement of judgement (Article 300 of the Criminal Procedure Law). Generally, criminal trials are proceeded as a mere formality. One is determined guilty even if he/she does not answer the question, "do you admit to your crime of [...]?", and the defendant is not allowed to speak or ask any questions.<sup>121</sup> The abovementioned North Korean defector, who went through the preliminary examination and trial process in Onsung County, North Hamgyeong Province, from March to July 2010, testified

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120\_NKHR2016000102 2016-06-28.

121\_NKHR2012000036 2012-03-13.

that the trial only took 15 minutes and the testifier was sentenced to five years of fixed-term correctional labor punishment. Although the testifier tried to protest, the guards interrupted.<sup>122</sup> Another North Korean defector who went through a trial process in Hyesan, Yanggang Province, in 2010, reported that he/she had requested, and was promised, a witness for the trial. However, the trial went on without the witness, and the testifier was sentenced to three years and six months of correctional labor punishment for a crime the testifier did not even commit.<sup>123</sup> In the interviews, most North Korean defectors who went through trials said that judges, prosecutors, defense counsels and People's jurors attended the trials, but they had passive roles in the actual trials.<sup>124</sup> However, some testimonies collected provided a different story. A North Korean defector, who was tried for economic offense in Kimjongsuk County, Yanggang Province, in December 2011, commented that the judge was the most active and that the defense counsel and People's jurors were somewhat active, and that the prosecutors were average in their participation of the trial. In the end, the testifier was sentenced to five years of correctional labor punishment in the preliminary examination, but was sentenced to one year of labor training punishment through the trial.<sup>125</sup> A North Korean

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122\_NKHR2016000102 2016-06-28.

123\_NKHR2017000104 2017-10-23.

124\_NKHR2017000005 2017-04-10; NKHR2017000103 2017-10-23.

125\_NKHR2016000113 2016-07-12.



defector, who was tried for illegal border-crossing in Hyesan, Yanggang Province, in August 2012, replied that the role of judge was average, but those of the prosecutor, defense counsel, and People’s jurors were very active. The testifier said that there was a witness testimony, and in the end, the testifier was sentenced to one-and-a-half years of correctional labor punishment.<sup>126</sup> Given that most are sentenced to five years for illegal border-crossing, one can presume that the discussion during the trial process may have affected the trial results.

### C. Operation of Quasi-Judicial Systems

Article 14, paragraph 1 of the ICCPR stipulates that all persons have the right to be tried by “tribunal established by law.” However, North Korea operates a quasi-trial system, which is not an official trial system based on the court. Comrade Trials and MSS political criminal trials fall into this category, and many other organizations than trial institutions impose administrative penalties. Such operation of an alternative trial system constitutes a violation of the ICCPR.

#### (1) Comrade Trial System

North Korea has an independent and unique form of trial system called the Comrade Trial System, a social institution

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126\_NKHR2016000189 2016-12-27.

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

Subjects of a Comrade Trial are people who commit economic crimes, cause losses through negligence, or are involved in minor incidents hindering Kim Il Sung's Unitary Ideology, and other relevant offenders. At a Comrade Trial, these people may be subject to unpaid labor of six months or less, while perpetrators of economic improprieties may be subject to an administrative fine equal to ten to twenty times the undue gain in the form of deduction from their salaries; suspension of exercise of administrative rights; demotion; self-criticism; stern warnings; admonitions; and so forth. However, there seems to be no appellate procedures in place.<sup>127</sup> A North Korean defector testified that Comrade Trials

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127\_Court Administration Agency, *An Overview of North Korea's Juridical System*

were held on every regular market day (once every ten days) in Yonsa County, North Hamgyeong Province, and as a result, most (90 percent) went to labor training camps (*rodongdanryundae*) and some (10 percent) went to prison camps (*kyohwaso*).<sup>128</sup>

The Comrade Trial System is primarily carried out in the military.<sup>129</sup> A North Korean defector replied regarding Comrade Trials that their purpose is “criticizing those who did not do military service well.” Most ended up with education, but those who caused social criticism were discharged and sent to prison camps.<sup>130</sup> Comrade Trials in the military are conducted from the battalion level and always in the presence of an immediate superior. The results are predetermined by a higher department, and a Comrade Trial is enforced to set an example. The worst possible penalty is a dishonorable discharge.<sup>131</sup> Those who are dishonorably discharged are relocated to mines of farming villages with his/her family members.<sup>132</sup> Punishment is not imposed on-site for Comrade Trials. Preliminary examination procedures take place after Comrade Trials, and afterwards punishment based on the Criminal Law is imposed.<sup>133</sup>

(Seoul: Court Administration Agency, 1996), pp. 630-637. (In Korean)

128\_NKHR2016000188 2016-12-27.

129\_NKHR2016000029 2016-03-08; NKHR2017000073 2017-08-28.

130\_NKHR2016000001 2016-01-12.

131\_NKHR2013000154 2013-08-20.

132\_NKHR2015000069 2015-04-07.

133\_NKHR2015000119 2015-09-08; NKHR2015000131 2015-09-22; NKHR2015000172

## (2) Political Criminal Trials by MSS

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

However, according to one testimony, trials are conducted by the MSS, which is contrary to the applicable provisions of the Criminal Procedure Law. A former MSS agent testified that if a preliminary examination process at an MSS provincial bureau reveals that the criminal fact is true, such as through interrogation, it is reported to the MSS prosecutor's office. If the prosecutor's office determines that the suspect has in fact committed the criminal act, he/she is tried at the place where the preliminary examination was held. A prosecutor at the MSS prosecutor's office renders a decision in the name of the Central Court, the trial is held behind closed doors, and a sentence is decided pursuant to the Criminal Law. The MSS also determines whether it would be

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2015-12-01.

appropriate to imprison all the family members, and whether the criminal will be imprisoned for life. However, there exists no literature that provides a basis for such determination. Senior officers hold a Case Council meeting to decide how to handle a case, including the scope and duration of imprisonment.<sup>134</sup> Another North Korean defector, who previously conducted relevant work at the MSS, said that at the end of a preliminary examination, a prosecutor from the MSS prosecutor's office renders the final decision. The testifier said that in Nampo, South Pyeongan Province, a prosecutor from the MSS prosecutor's office came to the MSS city branch in Nampo to adjudicate. Other cities and counties also transfer the control of these affairs to the MSS, and a prosecutor from the MSS prosecutor's office makes a decision at the MSS provincial bureau. In sum, political prisoners allegedly do not undergo formal legal proceedings.<sup>135</sup> A North Korean defector, who was forcibly repatriated from China to North Korea in 2010, explained that in the Sinuiju MSS, political offenders are distinguished from general offenders through investigation, after repatriation. Those who attempted to go to South Korea, the US and Japan, and those who received education from a church were categorized as political offenders and sent to political prison camps (*kwanliso*) without any trial process, unlike general

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

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

offenders who went through trials.<sup>136</sup>

### (3) Imposition of Administrative Penalties by Diverse Institutions

In North Korea, administrative penalties are imposed for violations of law that are not serious enough to be punished by the Criminal Law (Article 13 of the Administrative Penalty Law). Administrative penalties include warnings/stern warnings, unpaid labor, re-educational labor punishment, demotion/dismissal/loss of employment, fines, suspension penalty, compensation penalty, confiscation penalty, suspension of qualification/degradation/deprivation of qualification, etc. (Article 14 of the Administrative Penalty Law). However, in addition to judicial organizations, other institutions, including the Socialist Law-Abiding Life Guidance Committee, the Cabinet, institutions of the prosecutor's office, arbitration institutions, institutions of the MPS, censorship supervision institutions, and qualification-granting institutions, can impose administrative penalties. Enterprises and organizations can also impose administrative penalties (Article 229 of the Administrative Penalty Law). Administrative penalties are also stipulated in the People's Security Enforcement Law and the Prosecution and Surveillance Law. MPS institutions and the Responsible Workers' Association can impose re-educational

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136\_NKHR2016000102 2016-06-28.

labor, suspension, degradation and deprivation of qualifications, suspensions, and confiscations for violation of legal orders (Article 57 of the People's Security Enforcement Law).

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

## D. Infringement on the Right to Defense

Article 14, paragraph 3 of the ICCPR stipulates that everyone shall be entitled to contact a legal defense counsel of their own choosing and to rightful legal assistance during the process of determining criminal charge against them. However, North Korean people cannot personally choose their defense counsel. Those subject to preliminary examination, accused persons, their families, relatives or representatives of the organization to which they belongs can apply for a defense counsel, and the preliminary examination officer or judge who receives the application chooses a defense counsel for them (Article 65 of the Criminal Procedure Law). This is a violation of the ICCPR, and the relevant system

needs to be improved. Moreover, the right to contact and receive legal assistance from the defense counsel is only exercised perfunctorily. This section will examine the relevant regulations and the reality.

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

Article 164 of the North Korean Constitution stipulates, “a trial shall be open and an accused person’s right to defense be guaranteed.” Moreover, the Criminal Procedure Law stipulates, “in handling criminal cases, the right to defense of the defendant or person accused of a crime shall be guaranteed” (Article 58). The Criminal Procedure Law also stipulates, “a person undergoing preliminary examination or person accused of a crime shall be entitled to legal assistance from a defense counsel of his choice” (Article 60). If a person undergoing preliminary examination who has not chosen a defense counsel is prosecuted, the judge shall request the Lawyers’ Association to appoint a lawyer (Article 63). The Law for the Protection of Children’s Rights also stipulates that children aged 14 or older shall be entitled to assistance from a defense counsel (Article 50).

North Korean defectors testified that defense counsels were mostly present during trials. Some of them also said that defense counsels made statements in their favor. In particular, when the accused came from a good social background (*songbun*) or bribes



counsels, they tended to play a more active role in defense. In the 2017 survey, a North Korean defector, who was caught crossing the border illegally in July 2016, said that he/she was able to avoid correctional labor punishment because he/she came from a good family background and had a “business.” The testifier said that the counsel made an argument stating that the testifier was devoted to the society and community, and provided the judge with a certificate supporting the State as evidence. All these efforts worked in favor of the testifier.<sup>137</sup> However, testimonies indicate that, in general, even when defense counsels attended the trial process, they neither offered assistance nor provided actual defense. A North Korean defector who went through a trial in Samjiyeon County, Yanggang Province in 2015 said that the counsel and prosecutor found a false witness who would lie for them.<sup>138</sup> The testifier said that defense counsels work in favor of the State, not the defendants. Another North Korean defector who had a trial in Samjiyeon County, Yanggang Province in May 2012, also testified that the defense counsel was only perfunctory and did not play any role for the defendant.<sup>139</sup> According to the North Korean Criminal Procedure Law, the duties of defense counsel include “ensuring accurate handling of a criminal case and guaranteeing the rights of a person undergoing preliminary examination or person accused

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137\_NKHR2017000125 2017-11-20.

138\_NKHR2017000005 2017-04-10.

139\_NKHR2016000014 2016-01-26.

of a crime according to law” (Article 59 of the Criminal Procedure Law). The Lawyer’s Law also stipulates the rights and duties of defense counsels as “when a lawyer serves as counsel in a criminal case at the request of a person undergoing preliminary examination or a person accused of a crime or as commissioned by a court, he/she shall disclose the facts of the case accurately, help judges conduct an accurate analysis and render a fair decision, and guarantee the rights and interests of the person undergoing preliminary examination or the person accused of a crime” (Article 12). However, North Korean lawyers are mandated to uphold and carry through the policy of the State or the KWP, rather than protect the rights and interests of individuals. In other words, the role of a lawyer has more to do with persuading or inducing the accused to admit their crimes, rather than defending them.

## (2) Perfunctory Access to a Defense Counsel

To receive assistance from a defense counsel, the right of access to a defense counsel must be guaranteed. The North Korean Criminal Procedure Law stipulates, “a selected defense counsel may contact and converse with a person undergoing preliminary examination or a person accused of a crime. A preliminary examination officer, judge and court shall allow the defense counsel and the person undergoing preliminary examination or the person accused of a crime to meet each other if either request” (Article 69). Moreover, the North Korean Lawyer’s Law states

that a defense counsel is entitled to converse or correspond with a person undergoing preliminary examination or accused person of a crime (Article 9, paragraph 1). As such, there appears to be access to defense counsel in some cases, but only in a perfunctory manner. In the 2017 survey, a North Korean defector said that, while waiting for a trial in a detention center (*guryujang*) in Onsung, North Hamgyeong Province, a defense counsel came and asked the defector, “Do you have anything to say?” and “Did you experience any human rights violation?” However, fearing retribution, the testifier did not dare to say anything.<sup>140</sup> The testifier said access to defense counsel was “extremely perfunctory.” Another North Korean defector, who was detained in a MPS detention center in South Pyeongan Province from September 2016 to February 2017, said an MPS officer asked the testifier to meet a defense counsel during the preliminary examination, but threatened “I will kill you if you do anything foolish.”<sup>141</sup> The testifier met with a defense counsel ten days before the trial, and the counsel asked the testifier if he/she had been beaten or deprived of food in the MPS. When the testifier said these incidents did occur, the defense counsel said that he would reduce the punishment by explaining about the incidents, but asked for a bribe through his/her family. When the testifier said that his/her

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140\_NKHR2017000044 2017-07-03.

141\_NKHR2017000096 2017-10-23.

family did not have money for the bribe, the defense counsel acted in favor of the prosecutor during the actual trial.

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

Article 14, paragraph 5 of the ICCPR stipulates that everyone convicted of a crime shall have the right to have the conviction and sentence reviewed by a higher tribunal, according to the law. In North Korea, appealing criminal judgments is possible. The North Korean Criminal Procedure Law stipulates that any accused person, lawyer, or claimant for compensation who objects to a judgment or decision by a court of first instance may file an appeal with a higher tribunal (Article 356). However, appeals are carried out in a perfunctory manner, and it is extremely rare for appeals to be accepted. A North Korea defector who underwent trials in Samjiyeon County, Yanggang Province, in May 2012, testified that he/she knew there was an appeal procedure, but gave up because there were many cases in which appeals had resulted in disadvantages.<sup>142</sup> Another North Korean defector, who also went through trials in Samjiyeon County, Yanggang Province, in 2014, had heard that appeal is not possible even if the judgement does not seem right.<sup>143</sup>

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142\_NKHR2016000014 2016-01-26.

143\_NKHR2017000058 2017-07-31.

Some individuals have also testified that they did not appeal, thinking that they would not be able to stand staying in the detention center throughout the appeal process. A North Korean defector, who underwent trials in Samjiyeon County, Yanggang Province, in August 2014, testified that he/she did not appeal the court decision because the process may take another one or two years. The testifier also commented that the situation would become more difficult; he/she may end up malnourished because meals are not properly provided.<sup>144</sup> A North Korean defector, who underwent trials in Kimjongsuk 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 the testifier was not sure if he/she would be able to stand it.<sup>145</sup> As a result, the survey assesses that appeals are rarely conducted because North Koreans perceive that appeals are meaningless.<sup>146</sup>

The surveys indicate that no appeals are generally lodged regarding defection from North Korea. However, it is unclear whether this is because an appeal itself is impossible or because the appeal would lead to no practical benefit. Some have testified that those who illegally cross the border are not allowed to file appeals,<sup>147</sup> while others have testified that they do not ask for an appeal, in order

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144\_NKHR2016000114 2016-07-12.

145\_NKHR2016000104 2016-06-28.

146\_NKHR2015000031 2015-02-10; NKHR2016000055 2016-05-03.

147\_NKHR2012000184 2012-09-11.

to serve their prison term as quickly as possible, as illegal border-crossing is not an ambiguous matter and therefore is not disputable.<sup>148</sup>

## F. Infringement on Foreigners' Right to Trial

As of December 2017, 11 foreigners were involved in nine cases and went through criminal trial proceedings in North Korea: U.S. citizens including Euna Lee, Laura Ling, Aijalon Mali Gomes, Kenneth Bae (Korean name: Jun-ho Bae), Matthew Todd Miller, Otto Frederick Warmbier and Dong-chul Kim; South Korean citizens including Jeong-uk Kim, Guk-gi Kim and Chun-gil Choi and a Canadian citizen, Hyun-soo Lim. On April 22, 2017, a Korean-American Kim Sang-duk (English name: Tony Kim), a professor of Pyongyang University of Science and Technology, was arrested on charges of committing “criminal acts of hostility aimed to overturn the State.”<sup>149</sup> Another Korean-American Kim Hak-song, an operations manager at Pyongyang University of Science and Technology, was arrested on charges of committing “hostile acts against North Korea.”<sup>150</sup> However, it is still unknown whether trials have been held.

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148\_NKHR2014000151 2014-09-23.

149\_ *Korean Central News Agency*, 3 May 2017.

150\_ *Korean Central News Agency*, 7 May 2017.

**Table II-29** Trials and Judgement Execution on Foreigners in North Korea

(As of December 31, 2017)

Name	Nationality	Time of Arrest	Time of Trial	Charges	Punishment	Execution
Euna Lee, Laura Ling	USA	17 March 2009	4 June 2009	Hostile acts against the North Korean people, Illegal border-crossing	12 years of correctional labor	Specially pardoned and released after a trial (August 2009)
Aijalon Mahli Gomes	USA	25 January 2010	6 April 2010	Hostile acts against the North Korean people, Illegal border-crossing	8 years of correctional labor, 70 million won fine	Specially pardoned and released after a trial (August 2010)
Kenneth Bae	USA	3 November 2012	30 April 2013	Conspiracy to overturn the State	15 years of correctional labor	Specially pardoned and released while serving in prison (November 2014)
Jeong-uk Kim	S. Korea	7 November 2013	30 May 2014	Conspiracy to overturn the State, Crime of espionage, Instigation of anti-state propaganda, Illegal border-crossing	Unlimited-term correctional labor	Serving in prison
Matthew Todd Miller	USA	April 2014	14 September 2014	Hostile act against North Korea	6 years of correctional labor	Specially pardoned and released while serving in prison (November 2014)
Guk-gi Kim, Chun-gil Choi	S. Korea	March 2015	23 June 2015	Conspiracy to overturn the State, Crime of espionage, Crime of clandestine destruction, Illegal border-crossing	Unlimited-term correctional labor	Serving in prison

Name	Nationality	Time of Arrest	Time of Trial	Charges	Punishment	Execution
Hyun-soo Lim	Canada	2 February 2015	16 December 2015	Conspiracy to overturn the State	Unlimited-term correctional labor	Specially pardoned and released while serving in prison (August 2017)
Otto Frederick Warmbier	USA	22 January 2016	16 March 2016	Conspiracy to overturn the State	15 years of correctional labor	Specially pardoned and released while serving in prison, died after 6 days (June 2017)
Dong-chul Kim	USA	2 October 2015	29 April 2016	Conspiracy to overturn the State, Crime of espionage	10 years of correctional labor	Serving in prison

Source: Kyu-chang Lee, "Criminal Trial against Foreigners in North Korea and Right to Consultation with Consul," *Human Rights and Justice Issue*, Vol. 450 (2015), pp. 41~42 (In Korean) and supplementation of documents afterward.

**Trials of foreigners in North Korea have the following characteristics:**

First, as a formality, the defendants are informed of their right to receive legal assistance from a defense counsel. However, most foreigners do not seek such legal assistance because they suspect that North Korean defense counsels will not provide any substantive aid. In the case of Euna Lee, North Korean officials did advise her of her right to legal assistance, but she declined the offer because she was convinced that no North Korean defense counsel would properly defend her.<sup>151</sup> Kenneth Bae also declined

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



legal assistance.<sup>152</sup> As for the others, their choices remain unknown as related information has not been announced. As such, North Korea only provides foreigners with a North Korean defense counsel who acts in a perfunctory manner, who would clearly not assist the defendant. Surveys indicate that North Korea does not allow the individual appointment of defense counsels by foreigners or their assistance in court. This violates the right to freely appoint a defense counsel, as stated in Article 14, paragraph 3 (b) of the ICCPR and ultimately also violates the overall right to a fair trial.

The second characteristic is the arbitrary limitation of the right of foreigners to consultation with the consul during their detention period. Article 36, paragraph 1 of the Vienna Convention on Consular Relations stipulates that when a national of the sending State is arrested in prison, custody or detention within a consular district, upon the request of the national, the authorities of the receiving country shall inform the consular post without delay of such a fact and any communication addressed to the consular post shall be forwarded by the appropriate authorities. The right to consultation with a consul by a person in the process of being investigated and tried is very important for protecting individual human rights. This right is a right of individuals and also of a State, recognized by customary international law.<sup>153</sup> The International

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152\_ *Korean Central News Agency*, 9 May 2013.

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

Court of Justice (hereinafter ICJ) has ruled that the Consular Convention has codified existing customary international laws on consular relations.<sup>154</sup>

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

<p>Article 36, paragraph 1</p>	<p>With a view to facilitating the exercise of consular functions relating to nationals of the sending State:</p> <p>(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;</p> <p>(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph.</p>
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During the investigation process of U.S. tourists Matthew Todd Miller and Jeffrey Edward Fowle, who were detained in North Korea in 2014, North Korea has announced that it was complying with the laws of relevant countries regarding the access to the consul and treatment.<sup>155</sup> With no consular relations between the U.S. and North Korea, Sweden provided consular responsibilities as a protecting power for the U.S. North Korea granted meetings

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

155\_ *Korean Central News Agency*, 30 June 2014.

between the Swedish ambassador and the two female American reporters on March 30, May 15, June 1, and June 23, 2009. Representatives of the Swedish embassy were present at the trial for Aijalon Mahli Gomes.<sup>156</sup> In the case of Kenneth Bae, it was said that the Swedish embassy was notified of his detention, and that he could meet with the consul.<sup>157</sup> However, he testified that while negotiations for his repatriation were carried out during his time in a foreigner prison camp near Pyongyang, there were periods where exchange of letters with the embassy was restricted. Furthermore, meetings would at times be restricted without notification.<sup>158</sup> Otto Frederick Warmbier, who died in June 2017, met with the staff of the Swedish embassy once on March 2, 2016; however, after that, meetings were restricted. Canadian pastor Hyun-soo Lim had his first consultation with a Canadian diplomat on December 18, 2015, two days after being sentenced to unlimited-term correctional labor punishment. Testimonies indicate that Korean-Americans Dong-chul Kim, Sang Duk Kim, and Hak Song Kim, currently detained in North Korea, are restricted from consultation with consuls.<sup>159</sup> Such limitation on the right to consultation with a consul may violate the right to a fair trial stated in Article 14 of the ICCPR, which should be guaranteed not

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156\_ *Korean Central News Agency*, 7 April 2010.

157\_ *Voice of America*, 1 June 2013.

158\_ Kenneth Bae, 7 November 2016, interviewed in Seoul.

159\_ *Voice of America*, 17 October 2017.

only to a nation's own nationals but to foreign nationals as well.

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

Meanwhile, for South Koreans detained in North Korea, there seems to be an infringement upon the overall right to a fair trial, including the right to receive assistance from defense counsel. On May 12, 2015, the National Human Rights Commission of Korea announced in a statement that North Korea should allow the communication of South Korean citizens detained in North Korea with the outside, including through phone calls and exchanges of letters, and should guarantee the right to receive assistance from defense counsel appointed by the South Korean government.<sup>160</sup> To date, the North Korean authorities have not taken any measures on this issue. On October 9, 2015, the international human rights organization Amnesty International pointed out in a statement that the contents of the trials of South Koreans detained in North Korea were not disclosed, and that showing only the scenes of

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<sup>160</sup> National Human Rights Commission of Korea, "Statement by the Chairman of National Human Rights Commission of Korea to protect the human rights of citizens of the Republic of Korea detained in North Korea," 12 May 2015.

them confessing anti-state crimes, including spy activities and conspiracy to overturn the State, constitute the infringement of the right to a fair trial.<sup>161</sup>

## G. Evaluation

While North Korea stipulates the independence of trials, they are denied in practice. Judicial agencies in North Korea have a limited function and are managed and supervised by their higher authorities, the SPA and the KWP. This may violate the right to be tried by an independent tribunal. Considering that trials are held in a perfunctory manner, and that the roles of judge, prosecutor, lawyer, and People’s juror are merely passive, it is hard to say that trials are conducted fairly. Corruption in the trial process is also a major factor undermining fairness. Moreover, the operation of quasi-judicial systems, including the Comrade Trial System, MSS political criminal trials, the Socialist Law-Abiding Life Guidance Committee, etc., raise the question of a violation of the right to be tried by a tribunal established by law. In addition, the lack of choice of defense counsel for North Koreans violates Article 14, paragraph 3 of the ICCPR, which stipulates the right to choose one’s own defense counsel. The right to have access to and to receive the legal assistance of a defense counsel does not seem to

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161\_ *Voice of America*, 9 October 2015.

be protected in North Korea. Perfunctory operation of the appeals system continues as well. Meanwhile, in observance of the right of foreigners to have fair trials, North Korea appoints defense counsels for them in a perfunctory manner, and infringes upon the individuals' right to receive legal assistance from a defense counsel chosen on one's own, as stipulated in Article 14, paragraph 3 of the ICCPR. By arbitrarily limiting the right to consultation with consuls, the State also violates the right to a fair trial as stipulated in Article 14 of the ICCPR. Moreover, by concluding foreigners' cases after a first-instance trial, the State also infringes upon the right to appeal as stated in Article 14, paragraph 5. With regard to South Koreans, there is an overall infringement of the right to a fair trial and the right to receive assistance from defense counsel.

# 8

## Right to Privacy

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

Table II-31 Article 17 of the ICCPR

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

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

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

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

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

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

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



shall be guaranteed. Without being based on law, one cannot imprison or arrest citizens, nor search residential houses.” However, contrary to such provisions, there has been extensive surveillance and control by the State over the daily lives of people in an organized and systematic manner. In effect, there is no protection or guarantee of secrecy over one’s private life.

A case in point is the “five household surveillance system.” In this system, five households are grouped into one unit. Among them, the head of a household most loyal to the Party is designated as the propagandist in charge of the five households. The head has the authority to intervene and control the overall family lives of the rest of the households, including couples’ affection issues and problems between parents and their children. This system originated from a statement by Kim Il Sung in July 1958, during his visit to the Democratic Propaganda Office in Yaksu-li, Changseong County, North Pyeongan Province. He said, “Things will go well if one paid official takes charge of five households and gives all the instructions on educational programs, economic tasks, etc. A local Party committee can assign the designated officials the tasks and manage their performance.” In the 1960s, this system was implemented throughout North Korea, under the name “Red Family Creation Campaign.” Since early 1974, it has been implemented as the “people’s unit (*inminban*) sub-work group system,” which expanded the number of households under a unit of joint responsibility from five to ten. The five household

surveillance system serves as a path for the State not only exploit labor but also to interfere with the people's private lives.

The second example is the people's unit system, which first started as a nationwide social cooperation unit of People's Committees in the early stages of land reform in 1946. In North Korea, everyone with a residential registration is automatically registered to the people's unit. The people's unit groups 20 to 40 households into one unit and places that unit under the control of a regional People's Committee, which provide guidance for their daily lives, monitor ideologies, and monitor visitors to the community, etc. Each people's unit has a chief, a chief of heads of households, a chief of sanitation, instigation agents, a confidential informant (security agent), etc.<sup>162</sup> The people's unit handles diverse issues in the residential area under his/her purview, including child care, labor mobilization, cleaning, maintenance of public order, spreading news on events and accidents, and delivers instructions through a Life Review Session (*saenghwalchonghwa*).<sup>163</sup>

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162\_ The people's unit chief is nominated by city/county (district) People's Committees upon recommendation of the residents. In most cases, housewives who are loyal to the Party and do not work serve this position. The people's unit chief is responsible for the surveillance of movement of all the residents of the people's unit. Chiefs of heads of households are appointed directly by the Party and they monitor husbands separately. They sometimes hold meetings and lectures for husbands and mobilize them for events, as well as control the people's unit during election events and monitor the husbands' movements after work. The sanitation chief is in charge of the people's unit environment, while instigation agents are responsible for ideology education and take the responsibility of managing the Party sub-work group, composed of Party members of *inminban*. The separately-assigned secret informants (safety agents) are surveillance agents dispatched by the MSS or the MPS.

163\_ NKHR2014000014 2015-01-27.

Article 30 of the Law on City Administration, adopted in 2010, stipulates that “People should voluntarily participate in the people’s unit to make family life sound and persons humble, and suitable for the socialist lifestyle.” Although this law uses the expression “voluntarily,” it de facto legitimizes interference in people’s family lives through the people’s unit system. The people’s unit chief usually visits each household without warning to carry out sanitary inspections, portrait inspections, and inspection of books related to Kim Il Sung’s family. This technically constitutes an unlawful house search. Moreover, the people’s unit system forces people to publicly criticize misdeeds of each household during numerous meetings, and monitors and controls the ideology and intimate privacy of families. In addition, this system imposes tasks on the people, such as road cleaning, mobilization of labor in farming villages, and military support. The people’s unit is a representative system of surveillance and control of people’s privacy.

The third example is the Life Review Session system. The Life Review Session is held weekly, monthly, quarterly and annually within organizations one is involved with, such as the Party or labor organization. During the meeting, people reflect on their works and their public and private lives, and criticize each other.<sup>164</sup>

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

The system of “new Party Life Review Session” re-established by Kim Jong Il in 1967, was devised as a means of strictly dominating and controlling people’s privacy. In the “Ten Principles for the Establishment of the Unitary Ideology System,” declared in 1974, North Korea strengthened its control over the people by stipulating that they should participate actively in these sessions. These sessions were compulsory for students in the second grade or higher, regardless of age and gender.<sup>165</sup> Life Review Sessions are carried out by criticizing and reflecting on one’s own mistakes through self-criticism and the criticism of others. It is a system in which people are encouraged to self-inspect and self-criticize how they have pursued their lives during the past week as part of an organization or the people’s unit, as well as to point out others’ mistakes. It is a system that forces people to open up and criticize their own lives. Right after these Life Review Sessions, people are instructed to write what was criticized on that day based on the “message of Kim Il Sung and Kim Jong Il” in a “Life Review Session notebook.”<sup>166</sup> If someone is absent, sometimes he/she has to have a one-on-one “individual session (*gaebyulchonghwa*)” with the Party cell secretary.<sup>167</sup> Although Life Review Sessions have become somewhat of a formality after the 1990s food crisis, they still work as a strong mechanism to control people’s lives.

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165\_ *Ibid.*, p. 387.

166\_ NKHR2015000102 2015-05-19.

167\_ NKHR2015000053 2015-03-10.

The right to privacy of the North Korean people is seriously infringed upon as each Life Review Session forces them to self-inspect, open up, and receive criticism on their private lives, for the rest of their lives.

Lastly, infringement of privacy occurs through the mobilization of “safety agents.” These clandestine “safety agents” operate in all organizations, and monitor colleagues and people of the organization to which they belong. People mostly call them “spies” or “informers.”<sup>168</sup> A North Korean defector called these safety agents “MSS agents,” and testified that after Kim Jong Un came to power in 2014, the level of social control greatly increased.<sup>169</sup> Safety agents are secretly selected from state institutions, factories and enterprises, farms and the people’s unit, etc. In every organization, one out of every 20 to 30 people is a safety agent. People who are secretly selected as safety agents make written or verbal oaths that they will report each and every irregularity in the organization to which they belong. Approximately every fifteen days, they submit policy and trend reports of around half a page of A4 paper to their superiors through a secret contact. For example, they secretly report the trends found in the speech and behaviors of people, such as who said what during the labor mobilization period in farming villages, who gained excessive profits through

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

169\_NKHR2016000006 2015-05-17.

business, whether the head of section or committee chairman embezzled a subsidy, etc. Through these safety agents, every move, and the overall private lives of the people, are controlled and placed under scrutiny.

## B. Violation of Privacy through Unlawful House Investigations

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

However, there is a wide gap between legal provisions and reality, as has been confirmed through the testimony of multiple individuals. Unlawful house investigations by judicial and civil police agents of the MPS, the MSS, prosecutor's office, and permanent/non-permanent investigation organizations (*geuruppa*), etc., have long been common practice.

Many North Korean defectors have testified that unlawful house searches are common. In North Korea, house searches are supposedly only possible when a search warrant is issued by the Director of Prosecutors of the prosecutor's office, and approved by the regional Safety Committee. However, in most cases, the people's unit chief and MPS officers enter into and search a house without a warrant, stating that it is for the purpose of censoring "impure" recordings, etc.<sup>170</sup> In particular, in the border region known as the Yeonseo area, testimony from various individuals seems to indicate that personnel from police boxes (*bunjuso*) and MPS city branches conduct random house searches on the pretext of cracking down on smuggling.<sup>171</sup> There was a case in which a defector was imprisoned for one month at a labor training camp (*rodongdanryundae*) because the testifier was caught receiving a phone call from China, from the mother of a friend, during a random house search without warrant.<sup>172</sup> Another North Korean defector testified that she was, in effect, put under house arrest after her husband escaped North Korea on January 2014, because she was subjected to severe surveillance, phone tapping and house searches.<sup>173</sup> As such, testimonies indicate that house searches, especially related to defection, occur frequently along the border

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170\_NKHR2017000081 2017-09-25.

171\_NKHR2015000018 2015-01-27; NKHR2015000082 2015-04-21.

172\_NKHR2015000085 2015-04-21.

173\_NKHR2017000055 2017-07-31.

regions.

Moreover, many people have testified that social control increased after Kim Jong Un came to power. In particular, many individuals have testified that there were frequent house searches to prevent defections along the border regions. For example, according to testimony regarding the situation in Yanggang Province, in August 2015, there were house searches by the people's unit chief and MPS officers every five to seven days to search for fugitives in Rimyongsugu Workers' District, Samjiyeon County, Yanggang Province.<sup>174</sup> According to another testifier, those residing in border regions are more directly affected by the reinforced surveillance system and are questioned randomly almost every month.<sup>175</sup> According to a different testimony, the border surveillance system has been reinforced and intensified since 2014. In addition, in August 2015, more barbed wires were put up and surveillance cameras were installed in Hyesan, Yanggang Province, blocking the channel for smuggling, which is one of the major sources of income for the residents in this area.<sup>176</sup>

On the other hand, in the 2017 survey, there were reports of an increase in awareness among some North Koreans. A North Korean defector from Onsung, North Hamgyeong Province, who

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174\_NKHR2016000063 2016-05-03.

175\_NKHR2016000052 2016-04-19.

176\_NKHR2016000051 2016-04-19; NKHR2016000048 2016-04-19.



escaped in 2015, testified that he/she requested that the person conducting the search show a warrant, and protested that house search without a warrant is a violation of human rights.<sup>177</sup> Another testifier said that he/she also requested a warrant when faced with a house search, and many have their houses searched because they do not know that they can do this.<sup>178</sup>

### C. Evaluation

Although the right to privacy is stated in the Constitution, North Korean people's private lives are rarely respected. In particular, it seems that surveillance along the border regions and social control have been reinforced since Kim Jong Un came to power. In relation to this, house searches to reduce smuggling and to crack down fugitives are being conducted, and punishment after forced repatriation has increased. Moreover, the extensive and organized surveillance and control over the people's private lives by the State has been in place for a long time, demonstrating the seriousness of the situation. Numerous testimonies confirm that privacy surveillance systems exist at an institutional level, and that the "five household surveillance system," the "people's unit system," and the system of holding a "Life Review Session," still persists. In addition, testimonies from numerous individuals regarding

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177\_NKHR2017000042 2017-07-03.

178\_NKHR2017000099 2017-10-23.

unlawful house searches of residential space show that the inviolability of residential space is seriously infringed upon in the everyday lives of the people. What is noteworthy is that North Korea is carrying out such surveillance and unlawful house searches randomly to prevent people from communicating and contacting with family members who have defected from North Korea, and to crack down on smuggling and theft. This means that the North Korean authorities are, in fact, conducting random and unlawful surveillance and searches, presuming that all the North Korean people are potential criminals.

# 9

## Right to Freedom of Ideology, Conscience, and Religion

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

**Table II-32 Article 18 of the ICCPR**

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

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

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

Article 18, paragraph 2 of the ICCPR stipulates that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” The UN Human Rights Committee has stated that if a set of beliefs is treated as official ideology in a state, this shall not result in any disadvantage or any discrimination against persons who do not accept the official ideology.<sup>179</sup> This guarantees individuals’ inherent right to

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

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

Such situation is related to maintaining the Unitary Ruling System based on the *Juche* ideology that North Korea advocates.<sup>180</sup> The North Korean Constitution does not include freedom of ideology and conscience, and the basic concept of this freedom has not been established in its laws or institutions. The key reason North Korea does not guarantee freedom of ideology and conscience is that its cult of personality originated from the Unitary *Suryong* Ruling System. Any ideology other than that centered around *Suryong* is regarded as a serious threat to the Unitary *Suryong* Ruling System. The North Korean Constitution declares that *Juche* ideology is the one and only “basic guarantee” for the operation of the State (Preamble), and that *Juche* ideology is a leading principle for all State activities (Article 3).

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

The reinforcement and idolization of the Unitary *Suryong* Ruling System is embodied through the Ten Principles for the Establishment of the Unitary Ideology System (hereinafter, the Ten Principles of Unitary Ideology). Spelled out in this document are the principles that mandate that everyone owes unconditional loyalty to Kim Il Sung and shall follow Kim Il Sung's instructions as absolutes. Since they were first announced in 1974, the Ten Principles of Unitary Ideology have sought to deify "the Great Leader" Kim Il Sung, and have in effect commanded the behaviors of North Koreans more than any other laws or regulations. In June 2013, North Korea revised the Ten Principles of Unitary Ideology for the first time in the thirty-nine years since it was enacted on April 14, 1974. The name was changed to "the Ten Principles to Firmly Establish the Party's Unitary Leadership System" (hereinafter, "the Ten Principles"). In North Korea, the Ten Principles have a higher authority than the Constitution or the statutes of the KWP, and governs the standards that systematically safeguard Kim Jong Un's unitary dictatorship. In practical terms, they are the guidelines for governance, which support the legitimacy of the North Korean regime in terms of ideology.<sup>181</sup>

The revised Ten Principles focuses on the unitary leadership of Kim Jong Un, and demands that the entire Party strengthen its

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

“unified ideological resolve and revolutionary unity around the leader” (Principle No. 6) in order to safeguard the unitary leadership system. Kim Jong Un himself gave a speech on safeguarding the unitary leadership system on June 19, 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 entitled *On Absolutely Safeguarding the Unitary Leadership System Befitting the Needs for Revolutionary Development*.<sup>182</sup> The revised Ten Principles are particularly noteworthy because they seek to tighten ideological control over the population.

Table II-33 The Ten Principles

Principle No. 1	All must struggle whole-heartedly to remake the entire society into “Kim Il Sung/Kim Jong Il-ism.”
Principle No. 2	All must greatly revere Great Leader Kim Il Sung and Dear Leader Kim Jong Il as eternal Suryong (leaders) of our Party and people, and as the suns of.
Principle No. 3	All must safeguard with their lives and accept as absolute the authority of Great Leader Kim Il Sung and Dear Leader Kim Jong Il, and the authority of the Party.
Principle No. 4	All must absolutely arm themselves with revolutionary ideology of Great Leader Kim Il Sung and Dear Leader Kim Jong Il, and the Party’s lines and policies, which are the specifics of that ideology.
Principle No. 5	All must absolutely observe the principles unconditionally in pursuing the teachings of Great Leader Kim Il Sung and Dear Leader Kim Jong Il and the Party’s lines and policies.

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

Principle No. 6	All must strengthen in every possible way the Party's ideological unity and revolutionary cohesion around the Leader.
Principle No. 7	All must learn after Great Leader Kim Il Sung and Dear Leader Kim Jong Il and maintain refined mental and moral postures and revolutionary working methods, and people's working styles.
Principle No. 8	All must cherish the political life handed down by the Party and Suryong, and must repay the Party's trust and consideration with enhanced political self-respect and productive output.
Principle No. 9	All must build strong organizational rules so that the entire Party, the nation, and the military can move together as one under the unitary leadership of the Party.
Principle No. 10	To the end, all must succeed in and complete the great task of the revolution and the great task of Military-first revolution that Great Leader Kim Il Sung launched and Dear Leader Kim Jong Il implemented.

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

However, in spite of North Korean authorities' emphasis on the Ten Principles, it seems rare that ordinary people, who are not Party members, are actually taught the Ten Principles. It is said that only Party members are taught the Ten Principles, and



accordingly, it seems that to most North Korean defectors, who were not Party members, the Ten Principles do not hold much significance.<sup>183</sup> Even those defectors who had learned about the Ten Principles as Party members testified that the dedication of individual members to Life Review Sessions (*saenghwalchonghwa*) and the Ten Principles were gradually weakening as their lives became more difficult in the face of economic hardship. However, it seems that portraits are still viewed as something of great importance among some North Koreans.<sup>184</sup>

Table II-34 Cases Related to the Ten Principles

Testimonies	Testifier ID
From 2014 on, education on the Ten Principles was reinforced. When caught in a crackdown, the testifier had to write a document of criticism during a <i>kyuchaldae</i> of the Democratic Women's Union.	NKHR2015000129 2015-09-22
In a training session for organization workers in North Hamgyeong Province, around 1,000~1,500 people gathered, and in a training session for central organization workers, 3,000~4,000 people from across the country including party secretaries, organization secretaries, vice leaders of organization divisions and secretaries of the low-level party secretaries gathered to learn the Ten Principles. At every Life Review Session, it was demanded that people review all matters based on the Ten Principles	NKHR2016000013 2016-01-26
The testifier learned the Ten Principles in the military and labor training camps ( <i>rodongdanryundae</i> ) instead of in schools.	NKHR2016000167 2016-11-01
The testifier recited the Ten Principles in the military before joining the Party.	NKHR2016000178 2016-11-29
The testifier did not remember the Ten Principles well. The testifier studied the principles twice a year by organizing a study review session that included asking questions and answering.	NKHR2017000053 2017-07-31

183\_NKHR2014000136 2014-09-02 and many other testimonies.

184\_NKHR2014000121 2014-08-13 and many other testimonies.

Testimonies	Testifier ID
The testifier did learn the Ten Principles at the Democratic Women’s Union after the revision, but does not remember them. The testifier was not aware of the Ten Principles being applied in real life.	NKHR2017000060 2017-07-31
The testifier referred to the Ten Principles during Life Review Sessions, and studied them with related materials. People tend to work hard to learn the principles in the military.	NKHR2017000087 2017-09-25

## B. De Facto Restriction of Religious Freedom

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

“The North Korean authorities call religion, as a whole, superstition. And all superstitious behaviors are prohibited.”<sup>185</sup> “North Korea oppresses religion, particularly Christianity, because of the sense that the one-person dictatorship can be undermined

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185\_ NKHR2015000018 2015-01-27.

by religious faith.”<sup>186</sup> These testimonies demonstrate that although North Korean authorities have taken positive legal and institutional steps, for example, through Constitutional guarantee of religious freedom, the establishment of religious facilities and religious ceremonies, the operation of religious educational facilities, and the establishment of religious organizations, actual freedom of religion has still not been granted in practical terms.

First, no religious facilities, including Protestant or Catholic churches, exist in North Korea except in Pyongyang. This reflects the reality of North Korea, where freedom of religion is de facto restricted. As for the family churches that North Korea says exist, it is questionable how freely they are allowed to be operated in the provincial towns. Not one North Korean defector among those testified was aware of a family church. While few testifiers said that they were taught about religion through their grandparents or parents,<sup>187</sup> those cases do not indicate a change in policy, and it is difficult to regard them as a general phenomenon.

Such restrictions on religious activities comes from the State’s persistent persecution of religion, based on Kim Il Sung’s teaching that “religion is the opiate of the people.”<sup>188</sup> North Korea views

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186\_NKHR2015000034 2015-02-10.

187\_Above testimony.

188\_“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)

religion as an “imperialistic tool for invasion,” which helps the ruling class to exploit the masses. The North Korean Dictionary on Philosophy states, “Religion was historically seized by the ruling class to deceive the masses and was used as a means to exploit and oppress, and it has recently been used by the imperialists as an ideological tool to invade underdeveloped countries.”<sup>189</sup>

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

Second, while North Korea continues its de facto religious persecution, it uses Protestant churches, Catholic churches, and temples for political purposes and external propaganda for religious people from abroad and other occasional visitors to these religious facilities. According to testimonies, entry or access to the newly

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189\_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)

established facilities by local citizens is strictly prohibited, and ordinary citizens generally perceive these religious places as “sightseeing spots for foreigners.” In the case of Bongsu Protestant Church in Pyongyang, which was built in September 1988, it is said that only the building guard and his/her family lives there, but when foreign guests come to visit, several hundred citizens aged 40 to 50 years old are carefully selected and gathered to participate in fake church services. Foreign Christians who visited North Korea testified that they witnessed the door of the church being closed on Easter Sunday when they visited without prior consultation. Many foreign visitors said that church activities seemed to be staged.

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

The fact that freedom of religion is restricted is also shown by the cases of punishments for people involved in religion and defectors who are forcibly repatriated to North Korea. The reason behind the reinforced control over defection, since Kim Jong Un

came to power, is the concern that the regime will grow unstable due to the inflow of external influence. It is also said that the punishment for those who had been in contact with Christianity in China or South Koreans is heavier. In the 2017 survey, testifiers said that they did not get a chance to experience religion in North Korea, however, by the time they escaped North Korea, they came to realize that punishment is severe when caught getting involved in religious activities.<sup>190</sup>

**Table II-35** Cases of Infringement on Freedom of Religion

Testimonies	Testifier ID
In 2013, the testifier’s colleague’s father, who learned about Buddhism from South Korea and believed in it for around ten years, introduced it to the people around him. Seventy percent of the 1,200 workers visited the colleague’s place to practice Buddhism, bowing and praying every night. Sometimes he read people’s fortunes by physiognomy. The testifier also saw him in possession of books on Buddhism. The colleague’s father was sentenced to one year of correctional labor punishment and sent to Wonsan <i>Kyohwaso</i> , but he continued to believe in Buddhism after returning from the prison camp.	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, Samjiyeon County, Yanggang Province, the testifier witnessed a neighbor getting arrested by Provincial MSS after a Bible was found during the house search. The testifier assumed the neighbor was sent to a political prison camp ( <i>kwan/iso</i> ) as the testifier did not get any news about the neighbor.	NKHR2017000012 2017-04-10
Among the smuggled items, there were also Bibles. If Bibles are found, most people in possession of them were given correctional labor punishment.	NKHR2015000067 2015-04-07

190\_NKHR2017000106 2017-11-11; NKHR2017000109 2017-11-20.

Testimonies	Testifier ID
The testifier first learned about religion through the MSS interrogation process. When repatriated to North Korea and undergoing MSS interrogation, there were many cases of arrest related to “Christianity.”	NKHR2015000122 2015-09-08

## C. Heavier Punishment for Superstitious Behavior

While freedom of religion is de facto restricted in North Korea, superstitions are prevalent among the public. As a result, it seems that the North Korean authorities are also increasing control and punishment on superstitious behaviors. A new provision added to the North Korean Criminal Law in 2013 stipulates that “those who taught superstitious behaviors to several others or caused serious results due to superstitious behaviors shall be subject to up to three years of correctional labor punishment.” Moreover, when the case is serious, the Law stipulates that correctional labor punishment of up to seven years can be imposed. As can be seen from the strengthened punishment in the provisions related to superstitions in Criminal Law, superstitious behaviors have spread broadly in North Korean society, and at the same time, it can be surmised that control by the North Korean authorities on the matter is also being reinforced.

**Table II-36** Changes in North Korean Criminal Law Related to Superstition

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

Despite legal changes, it does not appear that North Korean authorities consider punishment of superstitious activities to be at the same level as that of religious ones. In general, while punishment is very strict when North Koreans or North Korean defectors are involved with the Bible or Christian missionaries, when they are involved in superstitions, they are mostly punished by labor training punishment.<sup>191</sup> Even this punishment seems to be avoidable by bribery.<sup>192</sup>

## D. Evaluation

The right to freedom of ideology, conscience and religion of the

191\_NKHR2017000040 2017-06-05 etc.

192\_NKHR2017000046 2017-07-03; NKHR2017000133 2017-12-18.



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

# 10

## Right to Freedom of Expression

Freedom of expression is an essential right to the full development of a democratic and free society and the person, and one of the most basic rights.<sup>193</sup> 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.

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

Table II-37 Article 19 of the ICCPR

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

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

## A. Restrictions on Forming and Expressing Political Opinions

Article 19, paragraph 1 of the ICCPR stipulates the right to have opinions without interference. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature, and any form of effort to coerce the holding or not holding of any opinion is prohibited.<sup>194</sup> Usually, when a person is put under influence in forming opinions against his/her will or at least without implied consent, and if such influence is through coercion, threat or other similar means, it can be said

194\_UN Human Rights Committee, General Comment, No. 34 (2011), paras. 9~10.

that the right to hold an opinion is infringed upon.<sup>195</sup>

Article 67 of the North Korean Constitution guarantees the freedom of expression. In addition, the DPRK Association for Human Rights Studies Report strongly emphasizes that as freedom of the press and of publication is an indispensable element of democracy and an important aspect of political rights, all citizens exercise the right to freely express their opinions and intentions in various manners through diverse media.<sup>196</sup> However, Article 10<sup>197</sup> and Articles 63,<sup>198</sup> 81,<sup>199</sup> 85,<sup>200</sup> which stipulate the basic rights and obligations of citizens, emphasize the ‘whole,’ ‘unification of political ideology,’ ‘revolutionary awakening,’ and ‘security of the State,’ leaves open the possibility for institutional infringement of the rights in Article 19, paragraph 1 of the ICCPR. The system of mutual surveillance and informing among people<sup>201</sup> is also deeply rooted in daily life, making it difficult, and even fearful, to

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

196\_ 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)

197\_ “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.”

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

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

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

201\_ NKHR2014000011 2014–03–04.

express political opinions even to family members.<sup>202</sup>

In reality, expression of political opinions that differ from those of the North Korean authorities, negative reference to the family of Kim Il Sung, Kim Jong Il, and Kim Jong Un, and positive reference to South Korea are all prohibited. These comments constitute “misspeaking” and those reported for misspeaking are accused of political crimes and dragged to political prison camps (*kwanliso*) or, according to testimonies, “somewhere one cannot return alive from.”<sup>203</sup> In general, many North Korean people have the perception that criticizing the regime will result in them being sent to political prison camps. Given the power of control that political prison camps have in North Korean society, it has been found that the freedom of North Korean people to express political opinions is seriously restricted. In contrast, some testimonies indicated that the control over expression of political opinions had relaxed. There were testimonies that criticism against Party policy has increased since the currency reforms<sup>204</sup> and the testifier realized that North Korean society was changing as he/she heard a friend criticizing and cursing Ri Sol-ju right before defecting from North Korea in 2015.<sup>205</sup> Moreover, there

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202\_ NKHR2015000123 2015-09-08.

203\_ NKHR2014000047 2014-05-13; NKHR2015000007 2015-01-13 and many other testimonies.

204\_ NKHR2014000062 2014-05-23.

205\_ NKHR2015000123 2015-09-08.

are testimonies that since Kim Jong Un came to power, the reasons for detention at political prison camps are shifting from critical comments and misspeaking to attempts to defect from North Korea and enter South Korea, and having connections with South Korea.<sup>206</sup> However, political remarks such as criticism of the North Korean regime remain as sensitive issues that should not be fundamentally tolerated.

## B. Arbitrary Censorship and Control of the Press and Publication

According to Article 19, paragraph 2 of the ICCPR, press publication and other media that are means of expression should not be subject to interference and disturbance.<sup>207</sup> However, the press in North Korea is utilized to strengthen the ideology and mobilize the population to idolizing Kim Il Sung, Kim Jong Il and Kim Jong Un.

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

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206\_NKHR2014000216 2014-12-30.

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

Department of the Propaganda and Agitation Division of the KWP.<sup>208</sup> Articles on Kim Il Sung, Kim Jong Il and Kim Jong Un are published on the front page and the names of Kim Il Sung, Kim Jong Il and Kim Jong Un are printed in bold type. The contents of all articles aim to remind people of the superiority of the North Korean regime, and criticism of the KWP or discussion on basic issues are non-existent. Indeed, any information that enhances people's right to information or nurture critical thinking is strictly prohibited.

Broadcasting in North Korea is also operated under the direction of the Korean Central Broadcasting Committee which is under the Cabinet. Similar to newspapers, broadcasting is used for propaganda and reporting of Party policies and domestic and international situations. The Korean Central Broadcasting Committee is in charge of both broadcasting and regulating as the institution that plans and manages all broadcasting tasks, with the broadcasting content controlled by the Propaganda and Agitation Division of the KWP and the United Front Department.<sup>209</sup>

North Korea enacted its Publication Law in 1975 and revised it in 1995 and 1999. This law stipulates that "citizens shall have the right to freely engage in writing and creative activities" (Article 6). However, it limits the purpose of such activities to "safeguarding

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

209\_ *Ibid.*, p. 226.

and promoting great Socialist projects based on a revolutionary tradition of publication” (Article 2). In order to operate a publishing business, the publisher must register with the Cabinet or the Publication Guidance Agency (Article 12), and all unregistered printing facilities shall be shut down (Article 49). The Publication Law stipulates that “the Publishing Guidance Agency and related agencies must ensure state secrets are not leaked, that any reactionary ideas, culture and lifestyles are not circulated, and that all publishing facilities should be registered and their use supervised,” thereby restricting publication (Article 47). Moreover, by stipulating that “all printed matter that can disclose state secrets or spread reactionary ideas, culture and lifestyles shall be confiscated and its production, publication, supply and transportation shall be suspended” (Article 48), it allows arbitrary censorship and control of publications by the North Korean authorities.

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



214). Consequently, all writings are ultimately subject to the censorship of the KWP's Propaganda and Agitation Division. If a North Korean citizen were to publish material in violation of censorship standards, authorities can charge him or her with anti-state propaganda and the crime of agitation based on Article 62 of the Criminal Law and impose up to five years of correctional labor punishment or in serious cases, five to ten years of correctional labor punishment. Consequently, it is impossible to publish any criticism of Kim Il Sung, Kim Jong Il or the KWP through press or publication materials.

Only those with good family backgrounds can engage in any creative activity, which is, in any case, under the control of the KWP. In most cases, it is only children of high ranking officials that are allowed such activity.<sup>210</sup> They also need to have qualifications such as graduating from a literature college or extolled as a heroic figure.<sup>211</sup> As such, the opportunities to engage in publishing are applied in a discriminatory manner, and are restricted and under the control of the Party. However, there are also testimonies that even those who are qualified are reluctant to write due to the severe censorship.<sup>212</sup>

Publications accessible by people have certification stamps as

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210\_NKHR2012000007 2012-01-10.

211\_NKHR2015000018 2015-01-27; NKHR2015000052 2015-03-10.

212\_Above testimony.

books approved by the State, and all other publications are subject to confiscation and punishment of all involved in crackdowns.<sup>213</sup> Many people, however, borrow and secretly read foreign books from the U.S., China and Russia from book rental shops run by individuals,<sup>214</sup> 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.<sup>215</sup> It seems that the experience of having contact with external publications is mostly through acquaintances.<sup>216</sup> Numerous testimonies indicated that North Koreans have been deprived of freedom of the press as well as the opportunity to freely choose and read books they want to, due to the strict controls of the political authorities. However, it has also been confirmed that many of them gain access to books from foreign nations, including South Korea, in a wide variety of ways.

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213\_NKHR2015000141 2015-10-06.

214\_NKHR2014000219 2014-12-30 and many other testimonies.

215\_NKHR2014000098 2014-07-15; NKHR2014000148 2014-09-23.

216\_NKHR2016000023 2016-01-26; NKHR2016000064 2016-05-03; NKHR2016000186 2016-12-13.

**Table II-38** Testimonies of Crackdowns on South Korean/Foreign Publications

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

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

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

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

Under such circumstances, there is only very limited access to external information. TV channels and radio frequencies are fixed to Korea Central Television, which is the public TV and radio broadcaster, and there are regular inspections of the seals on the dials to ensure they have not been broken.<sup>217</sup> As information that North Korean people can access through TV broadcasts and radio are mostly programs that idolize Kim Il Sung, Kim Jong Il and Kim Jong Un; field guidance; documentary films and negative propaganda on South Korea, it is difficult to obtain outside information. North Korean people communicate with the external world in a limited way through illegal recordings and mobile phones, and even this is not free from authorities' control and surveillance.

### **(1) Crackdowns and Punishments Related to Recordings**

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

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217\_NKHR2015000123 2015-09-08; NKHR2015000133 2015-09-22; NKHR2015000137 2015-09-22; NKHR2015000145 2015-10-06.

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

**Table II-39** Change in the Provision Related to the Introduction/  
Distribution of External Culture in the North Korean  
Criminal Law

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

North Korean authorities operate a separate organization to crack down on illegal recordings. Initially there were joint inspections by five groups composed of the MPS, MSS, the prosecutor’s office, the KWP and each affiliated administrative organization, but with an increase in the number of people watching illegal recordings, a separate organization, “Group 109” was formed and conducted inspections while in the area.<sup>218</sup>

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218\_NKHR2017000054 2017-07-31.

Table II-40 Punishment Related to Watching Videos

Testimonies	Testifier ID
In April 2013, Kim Jong Un's instructions were issued that those selling or watching videos would be sent off to labor training camps ( <i>rodongdanryundae</i> ) or correctional labor punishment in Hyesan, Yanggang Province.	NKHR2013000145 2013-08-06
A proclamation was announced in Samjiyeon County, Yanggang Province in September 2013, that those caught watching South Korean movies or listening to South Korean music would be sentenced to death. A shooting execution was conducted as an example.	NKHR2014000081 2014-07-01
In the spring of 2014, the testifier watched open trials on recordings and the accused persons were sentenced to correctional labor training punishment. Those who were punished were mostly children with politically weak family backgrounds. Those who distributed the recordings were sentenced to correctional labor training punishment, while those who first introduced the recordings were sentenced to imprisonment at political prison camps ( <i>kwanliso</i> ).	NKHR2015000031 2015-02-10
In the spring of 2014, a friend who lived in Hoeryeong, North Hamgyeong Province, was caught watching Korean movies, but avoided punishment by paying 3,000 Chinese yuan to Group 109.	NKHR2015000167 2015-12-02
At the end of 2014, the testifier was caught by Group 109 and sentenced to six months of labor training punishment but reduced the sentence through bribery.	NKHR2016000052 2016-04-19
The number of people caught watching impure recordings (South Korean dramas) increased in 2015. As those who are caught are unconditionally subject to correctional labor punishment, the testifier prepared ways to respond (with bribery) in case he/she was caught.	NKHR2015000122 2015-09-08
In 2015, a friend was singing a South Korean song on birthday, reported by a neighbor and arrested to be sentenced with 6 months of correctional labor punishment.	NKHR2017000076 2017-08-28
In May, 2016, there was a man who listened to South Korean songs and watched impure recordings in Onseong County, North Hamgyeong Province and later was arrested to be sentenced with 6 years of correctional labor punishment and imprisoned in the Jeongeori <i>kyohwaso</i> .	NKHR2017000006 2017-04-10
The testifier had contact with South Korean broadcasts for the first time at the place of an MSS agent. Through this, the testifier gained new information about Kim Jong Il and Kim Jong Un.	NKHR2016000037 2016-03-22
The testifier lent a recording of a Korean film to a friend's mother, and the mother reported this. The testifier avoided punishment by hiding for 4 months, but the mother was sent to labor training camps ( <i>rodongdanryundae</i> ) for three months.	NKHR2016000064 2016-05-03

Moreover, there were testimonies that, besides this Group 109, there existed a Group 1018 and a Group 1019 that cracked down on several irregularities,<sup>219</sup> and there were some testimonies that Group 109 was renamed to Group 627 in 2013.<sup>220</sup> However, there was one testimony that, in general, the crackdown organization is known to be Group 109 (*geuruppa*) and those cases related to South Korean recordings (so-called “red”) are sent to MSS and usually sentenced to eight to ten years of correctional labor punishment.<sup>221</sup>

Many defectors consistently testified that discreet viewing of South Korean CDs and videos is becoming widespread. North Koreans purchase inexpensive Chinese video recorders and secretly sell and share recordings with their neighbors. The most common reaction after having watched South Korean recordings was a longing for South Korea and a more negative perception towards North Korea.<sup>222</sup> Furthermore, the envy of the economic affluence and freedom in the daily lives of South Koreans sometimes leads to defection from North Korea.<sup>223</sup> However, having much contact with South Korean recordings does not necessarily increase the probability of defecting from North Korea.

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219\_NKHR2013000057 2013-03-19.

220\_NKHR2014000124 2014-08-26; NKHR2014000193 2014-11-18.

221\_NKHR2016000069 2016-05-17.

222\_NKHR2015000009 2015-01-13 and many other testimonies.

223\_NKHR2015000090 2015-05-12.



Many North Korean defectors testified that those who watch or circulate South Korean recordings are subject to labor training punishment or correctional labor punishment.<sup>224</sup> The duration of punishment, according to the testimonies, varies from three years to fifteen years of correctional labor.<sup>225</sup> It was previously known that punishment for watching the videos was deportation or labor training punishment. However, after Kim Jong Un's December 2013 instructions on 'impure' videos, merely watching them would be treated the same as attempting to defect to South Korea and subsequently, punishment would be closer to correctional labor.<sup>226</sup> One testifier commented that in September 2013, a declaration was issued whereby those watching South Korean movies or listening to South Korea music would be sentenced to death.<sup>227</sup> In addition to this, testimonies claimed that such declarations were posted in many places.<sup>228</sup> However, regardless of the increase in authorities' control, it has been found that there is still widespread avoidance of punishment through bribery.<sup>229</sup> This will be further discussed in the Part V, Chapter 2.

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224\_NKHR2015000153 2015-11-17 and many other testimonies.

225\_NKHR2014000009 2014-03-04; NKHR2014000132 2014-08-26; NKHR2014000158 2014-09-23; NKHR2014000175 2014-10-21.

226\_NKHR2014000019 2014-03-18; NKHR2014000043 2014-04-29.

227\_NKHR2014000081 2014-07-01.

228\_NKHR2015000099 2015-05-19.

229\_NKHR2017000095 2017-10-23.

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

Mobile phones are important tools among North Korean people in introducing and delivering external information. After the “Yongchon Railway Station Explosion”<sup>230</sup> in April 2004, North Korean authorities suspended mobile communication services. However, through a joint investment by Orascom, an Egyptian communication firm, and North Korea’s Ministry of Post and Telecommunications, Korea Link was established and 3G mobile communication service was resumed. The number of service subscribers was 1,694 immediately after the service started, and by the end of 2015, the number of subscribers is estimated to be around 3.8 million.<sup>231</sup> While the number of mobile phones supplied in North Korea increased, most of the calls are limited to domestic calls while international calls and the inflow and circulation of external information through mobile phones are strictly controlled.

In North Korean society, mobile phones are regarded as a major medium that is directly/indirectly linked with smuggling or defecting from North Korea while also a medium for the distribution of external information. In response, North Korean authorities

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

231\_ *The Chosun Ilbo*, 4 January 2016.

have strengthened crackdowns on mobile phones by adding Article 222 (Unlawful international communication crime) when it revised the Criminal Law in 2015, which stipulates “those who engaged in unlawful international communications shall be subject to up to one year of labor training punishment and those in serious cases shall be subject to up to five years of correctional labor punishment.”

Since the beginning of the Kim Jong Un regime, North Korean authorities have been reinforcing the prohibition against illegal use of mobile phones by introducing a jamming wall and jamming detector in the border areas of North Korea and China. They have also introduced advanced radio detection equipment, further preventing illegal use of mobile phones by North Koreans.<sup>232</sup> For example, a defector from Hyesan, Yanggang Province, testified that in around November 2014, North Korean authorities introduced German equipment to crackdown on mobile phones. Using this equipment, chiefs and agents crack down on mobile phone usage via location tracking and wiretapping.<sup>233</sup> In addition to “Group 1118” or “Group 109” that crack down on illegal mobile phones using Chinese base stations, the authorities established a new, dedicated organization under the MSS for this crackdown.<sup>234</sup>

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232\_ NKHR2017000067 2017-08-28; NKHR2017000103 2017-10-23; NKHR2017000132 2017-12-18.

233\_ NKHR2015000070 2015-04-07.

234\_ *Radio Free Asia*, 17 February 2015.

Moreover, the functions of storing and transmitting video, photos, books and music were blocked by changing the mobile phone operating systems.<sup>235</sup>

From the end of 2013, the roles and authorities of the MSS have been expanded and reinforced, and its control over mobile phones has been tightened under the pretext that they “dismantle socialism.”<sup>236</sup> When authorities inspect illegal mobile phones, they first check to see if South Korean phone numbers are on record. Even for mobile phones authorized for use inside North Korea, inspectors check the internal data and change of the mobile phone operating systems.<sup>237</sup>

In contrast, there are many testimonies stating that when records of international calls and videos, books and songs from foreign countries are found in internal data, one can avoid punishment through bribery and only lose the mobile phone. There are even testimonies that the goal of crackdown is not “punishment,” but “money,” because when someone is caught with an illegal mobile phone or doing something illegal with a mobile phone, one needs to pay as much as is required, without exception.<sup>238</sup> This will be further discussed in the Part V, Chapter 2.

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235\_NKHR2015000009 2015-01-13; NKHR2015000010 2015-01-13.

236\_NKHR2014000154 2014-09-23.

237\_NKHR2015000052 2015-03-10 and many other testimonies.

238\_NKHR2015000143 2015-10-06; NKHR2014000160 2014-10-07.

Regarding the use of illegal mobile phones in the border areas, most phones are smuggled in to make calls to China, and there are many people who make a living as brokers with such mobile phones.<sup>239</sup> Although North Korean authorities impose strict control over the influx of information made possible by mobile phones, its usage is expected to expand in order to maintain people's livelihood, satisfy their curiosity about the outside world and therefore fulfill their right to know.

Table II-41 Mobile Phone Usage and Related Punishments

Testimonies	Testifier ID
While using an illegal cell-phone for smuggling since 2006, he/she was sentenced to 7 years of correctional labor punishment due to human trafficking and contacting South Korea. Later one year was reduced and he/she was released in 2014.	NKHR2017000128 2017-12-18
In 2014, a crackdown on illegal mobile phones was reinforced, making it possible to detect calls within 1~2 minutes in Cheongjin, North Hamgyeong Province.	NKHR2014000198 2014-12-02
In January-February 2014, a proclamation prohibiting use of mobile phones was released in Hyesan, Yanggang Province.	NKHR2014000138 2014-09-02
In April 2014, there was an announcement that those with illegal mobile phones can avoid punishment if they turn themselves in, and many people did so in Hyesan, Yanggang Province.	NKHR2014000166 2014-10-07
From June 2014, there were instructions to change the mobile phone systems in Hyesan, Yanggang Province. Only videos or music approved by the State could be played.	NKHR2015000009 2015-01-13
In August 2014, there was a crackdown on illegal use of mobile phones through import of a radio wave detector made in Germany based on the direction of Kim Jong Un. 150 MSS agents came from Pyongyang to Hyesan, Yanggang Province.	NKHR2015000027 2015-02-10

239\_NKHR2014000071 2014-06-17.

Testimonies	Testifier ID
<p>In September 2014, a friend was caught through a body search and was sent to a labor training camp (<i>rodongdanryundae</i>) next to Jeongeori <i>Kyohwaso</i> for six months. Those caught in the crackdown were handled in Hoeryeong MSS, and if there was not any political issue, were sent to the MPS city/county branch and received punishment.</p>	<p>NKHR2016000126 2016-08-09</p>
<p>As for the crackdown on the illegal use of mobile phones, punishment varied with the purpose of the calls. Those who called to find family members overseas including in South Korea were sent to prison camps (<i>kyohwaso</i>) and those who called for smuggling were sent to labor training camps.</p>	<p>NKHR2016000074 2016-05-17</p>
<p>It was mostly resolved through paying 10,000 yuan for calls to South Korea and 3,000 yuan for calls to China. Those who cannot pay the bribes must go to labor training camps.</p>	<p>NKHR2016000081 2016-05-31</p>

## D. Evaluation

North Korea, in its Constitution, stipulates the freedom of expression and argues that it guarantees the right to expression. However, in reality, such rights are extremely restricted. Most of the defectors testified how dangerous showing political opinion in daily lives would be. In addition, the press and publications, which are supposed to be the means of expressing diverse opinions, mostly serve to establish the ideology under the directions and control of the KWP and mobilize the people to idolize Kim Il Sung, Kim Jong Il, and Kim Jong Un, while arbitrary censorship and control by the authorities of publications continues. Meanwhile, research in 2017 confirmed that there were crackdowns on and punishment for recordings and mobile phones, which play an important role in introducing and circulating external information. Despite the strong control of the authorities, however, the tendency

of the North Korean residents to access information through such channels is expected to continue.

Part I

Part II  
The Reality of Civil and Political Rights

Part III

Part IV

Part V

# 11

## Right to Freedom of Assembly and Association

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



Table II-42 Article 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.
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	No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
Paragraph 3	Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

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

## A. Absence of the Right to Peaceful Assembly

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

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

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

As such, North Korean defectors consistently testify that no

assembly is allowed by the North Korean authorities other than government-led meetings, and crowd mobilization is not allowed, and even unthinkable.<sup>240</sup> This is because the recognition itself of the freedom of assembly can be regarded as denying the North Korean regime and its adherence to the Unitary *Suryong* Ruling System. Under these circumstances, it seems that the very perception of the right to peaceful assembly and freedom of assembly is lacking.

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

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

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

population are not allowed. In the 2017 survey, North Korean defectors consistently testified that any association gathered on behalf of the opinion or interest of the North Korean residents are not permitted.<sup>241</sup>

While any assembly or association based on the free will of the individuals or groups are not allowed, all the residents are forced to participate in organizational life. All North Korean residents, from the age of six until retirement, are required to join organizations including those in kindergarten, the Children's Union, those in various educational institutions, the Youth League, the General Federation of Trade Unions, the Agricultural Workers' Union, the Democratic Women's Union, and the KWP. With regard to such organizational life, North Korean defectors consistently testified that the activities and duties in these extra-Party organizations restricted and controlled by North Korean authorities are far from the autonomy one can experience in associations voluntarily organized by individuals with common interest.<sup>242</sup> It is hard to interpret the organizational life that North Korean authorities forcibly impose on the people as freedom of association based on the free will of individuals and groups.

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241\_KHR2017000018 2017-05-08; NKHR2017000033 2017-06-05; NKHR2017000043 2017-07-31; NKHR2017000083 2017-09-25; NKHR2017000101 2017-10-23; NKHR2017000123 2017-11-20.

242\_NKHR2015000133 2015-09-22 and many other testimonies.

**Table II-43** Cases of Infringement on the Freedom of Assembly and Association

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

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

meetings and Life Review Sessions are also reportedly gradually weakening. It was testified that those failing to attend such gatherings must pay a certain amount of money, and that even for inspections, the amount of money offered influences the severity of punishment.<sup>243</sup> There were reported cases where a testifier was criticized at a Life Review Session for not attending government-led meetings,<sup>244</sup> and where a testifier received disciplinary action in his/her daily life.<sup>245</sup> Moreover, government-led meetings required a certain number of participants, and those who did not attend were forced to pay a fine.<sup>246</sup> As for the compulsory nature of government-led meetings, there were both testimonies that the meetings were seriously compulsory<sup>247</sup> and that they were only slightly compulsory.<sup>248</sup>

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

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243\_ NKHR2014000037 2014-04-15.

244\_ NKHR2016000081 2016-05-31.

245\_ NKHR2016000084 2016-05-31.

246\_ NKHR2016000059 2016-05-03.

247\_ NKHR2016000053 2016-04-19.

248\_ NKHR2016000113 2016-07-12.

## C. Evaluation

According to the 2017 survey, the right to freedom of assembly and association for the North Korean people is still not guaranteed. Based on Article 21 and 22 of the ICCPR, North Korean people have the right to peaceful assembly and the right to form and join voluntary associations for the improvement of their interests. However, the reality in North Korea is that there exists little such freedom, and people are also forced to participate in assemblies and organizations that are authorized or institutionalized by the authorities. Social control by the Party is reinforced at the State level, while social disintegration is occurring among the people in diverse ways. However, due to the long sustained control conducted at the State level, residents' perception on the right to assembly and association is too low and there is slim chance of enhancing the existing level of perception in the short-term.

# 12

## Right to Political Participation

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

### Table II-44 Article 25 of the ICCPR

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

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

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



Korean Constitution stipulates that “the working people exercise power through their representative organs, the SPA and the local People’s Assembly,” while Article 6 stipulates that “organs of state power at all levels, from the military People’s Assemblies to the SPA, are elected on the principle of universal, equal and direct suffrage by secret ballot.” North Korea’s Delegates Election Law for All Levels of People’s Assembly reaffirms that all elections in principle should be conducted in general, equal, direct and secret vote (Article 2~5). As such, North Korea’s Election Law and Constitution stipulate that deputies for the SPA and the People’s Assemblies of provinces, cities and counties, which are its legislative institutions, be elected.<sup>249</sup>

However, the North Korean Constitution stipulates that the SPA and local People’s Assemblies, which are legislative institutions, should be under the control of the KWP. Article 5 of the North Korean Constitution stipulates that “national organs in North Korea are formed and function on the principle of democratic centralism.”<sup>250</sup> In addition, Article 11 stipulates that

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

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

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

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

## A. Distortion of the Nature of Democratic Elections

Article 25 (a) of the ICCPR stipulates that all citizens should be guaranteed the ability “to take part in the conduct of public affairs, directly or through freely chosen representatives.” This Article, which constitutes the fundamental nature of elections as a democratic procedure, assumes that voters can freely acquire and distribute information about the representatives they elect. However, most North Korean people vote without knowledge of the representatives they are electing.<sup>251</sup> This is attributable to the situation in which freedom of expression and freedom of assembly

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

251\_ NKHR2015000092 2015-05-12 and many other testimonies.

and association are not guaranteed. Subsequently, free access to and dissemination of information about candidates and elections are limited. In other words, there is a lack of freely formed political opinions on candidates and policies, which are crucial aspects of any election process. Therefore, it is difficult to regard such elections as the realization of the right to political participation in its true sense.

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

people, who are committed to cherishing him as the sole core of solidarity and leadership and serving him faithfully with single-minded devotion.”<sup>252</sup> This perception of elections is also vividly illustrated in the following headlines from the *Rodong Shinmun*: “Absolute support for and trust in the people’s regime expressed with the vote of approval;” and “Voters rush to vote Yes.”

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

## B. Violation of the Principle of Secret and Direct Election

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

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<sup>252</sup> Korean Central News Agency, 10 March 2014.

In this regard, North Korea's Election Law also guarantees a secret ballot. Specifically, Article 64 of North Korea's Delegates Election Law for All Levels of the People's Assembly stipulates that "The people are to vote by secret ballot. To vote for a candidate, one simply leaves the ballot unmarked, but to vote against someone, one draws a horizontal line through the candidate's name on the ballot." Moreover, Article 65 of the same law stipulates that "When a voter marks his/her ballot 'Yes' or 'No,' no one else shall enter or look into the booth." As such, based on these regulations, secret ballots are also guaranteed in North Korea. In fact, some testimonies support that the secret ballot is actually guaranteed.<sup>253</sup> However, the majority of North Korean defectors testified that, although there are partitions installed in the polling stations, there is someone standing right behind the ballot box watching. As such, voting is so closely supervised that casting a negative vote is unimaginable.<sup>254</sup> There were even testimonies that a ballot box or slot to submit negative votes was not available.<sup>255</sup> There was also a testimony that the testifier had no experience of filling out a ballot.<sup>256</sup> Moreover, the Delegates Election Law for All Levels of the People's Assembly specifies the freedom of "election campaigns," but it is expressly prohibited to "instigate no votes, abstentions, or

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253\_NKHR2016000110 2016-07-12; NKHR2016000135 2016-08-23.

254\_NKHR2013000120 2013-06-25.

255\_NKHR2012000066 2012-04-20.

256\_NKHR2016000073 2016-05-17.

sabotage elections” (Article 53 of the Delegates Election Law for All Levels of the People’s Assembly). As a result, the stark reality of the right to political participation in North Korea is that voters themselves cannot even imagine casting a negative vote.

In sum, in terms of its institutions, North Korea stipulates direct, universal, equal and secret ballots and most people regularly participate in elections. However, according to the testimonies of many North Korean defectors, it is practically impossible to oppose the authority as they should cast unconditional votes in favor of the candidates pre-decided by the authorities. Moreover, North Korean defectors testified that it is impossible to oppose the authority, and even if it were possible, it is unthinkable due to surveillance.<sup>257</sup> Moreover, before elections, the people’s unit (*inminban*) chiefs inform people of the election rules through people’s unit meetings, and they explain that people should go to the polling place, write down their name, receive a ballot and put the ballot in the ballot box.<sup>258</sup> As a result, in many cases, North Korean people do not have a clear perception of their right to select candidates in an election.<sup>259</sup>

Moreover, North Korean people do not have the choice of whether they will participate in an election or not. Those who do

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257\_NKHR2016000092 2016-06-14.

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

259\_NKHR2015000014 2015-01-27 and many other testimonies.

not or refuse to vote becomes targets of political skepticism and are negatively affected in their daily lives. Therefore, when someone cannot participate in an election, the people's unit chief or his/her family vote on his/her behalf.<sup>260</sup> In addition, when it is difficult to participate an election due to a business trip or disease, one can cast a vote in the area where he/she is currently residing. Alternatively, a mobile voting box is delivered to one's house, which means there is no exception when it comes to participating in an election.<sup>261</sup> With consideration to these various circumstances, the principles of secret and free ballots in their true sense are not guaranteed in North Korea.

### C. Limited Application of Electoral Eligibility

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

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260\_NKHR2016000023 2016-01-26; NKHR2016000024 2016-01-26.

261\_NKHR2017000060 2017-07-31; NKHR2017000065 2017-07-31.

Table II-45 Cases of Infringement on the Right to Political Participation

Testimonies	Testifier ID
Sometimes there were voters' meetings but only as formalities. There was no discussion on opposing the candidates and only discussions in favor of them took place.	NKHR2015000014 2015-01-27
The general population is indifferent to the photos and names of candidates, and it was also impossible to know them. People take it as something not related to them, and the only thing that mattered was to finish the formal procedure of voting.	NKHR2015000092 2015-05-12
Before an election, in the voters' meeting, they let people know who the candidate is and that candidate will be elected. Those who vote against this are sent to political prison camp ( <i>kwanliso</i> ).	NKHR2016000013 2016-01-26
<i>Imminban</i> chiefs went around to check whether people voted or not. When one cannot vote, he/she can just make a call to the polling place or the <i>imminban</i> chief to vote on his/her behalf.	NKHR2016000023 2016-01-26
The identity of the candidate was notified at the voters' meetings and the testifier just put the ballot in the ballot box without writing down yes or no on election day.	NKHR2016000092 2016-06-14
The testifier voted publicly on the stage of a town hall.	NKHR2016000111 2016-07-12
The only method of elections is to place the ticket inside the voting box in time.	NKHR2017000046 2017-07-03

## D. Evaluation

North Korean people participate in elections based on the Constitution and the Delegates Election Law. However, the principles of direct, universal, equal and secret ballots, as mentioned in the Constitution and the Delegates Election Law are not upheld. North Korean people are forcefully mobilized by North Korean authorities without even knowing who the candidate is and almost all voters participate in each election. Furthermore, they vote for



the single candidate recommended by the KWP. As a result, the majority of North Korean people do not even realize that there are principles of democratic elections. In a democratic society, citizens have the right to vote and the right to run for elections through free competition. However, in North Korea, elections are utilized as a means to reinforce and legitimize the regime instead of electing representative who will speak for the people in the political process.

# 13

## Right to Equality

The UDHR stipulates that “All are equal before the law and are entitled without any discrimination to equal protection of the law” (Article 7). The ICESCR and the ICCPR also prohibit “all kinds of discrimination.” The right to equality is closely related to the prohibition against discrimination. Non-discrimination, together with ‘equality before the law’ and ‘equal protection of the law without discrimination,’ constitutes basic and general principles relating to the protection of human rights.<sup>262</sup>

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

**Table II-46** International Human Rights Standards against Discrimination

Article 7 of the UDHR	All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
Article 2, paragraph 2 of the ICESCR	The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
Article 2, paragraph 1 of the ICCPR	Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
Article 26 of the ICCPR	All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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

## A. Continued Discrimination based on *Songbun* and Class

Article 2 of the ICCPR stipulates that all individuals within the territory of State Parties shall not be discriminated against based on “distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 2 of the ICESCR also stipulates that there shall not be “discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” As such, international standards on human rights stipulate equal protection by law for everyone without discrimination of any kind, and particularly prohibit discrimination based on arbitrary and customary divisions, such as those based on social origin, birth or class.

Article 65 of the North Korean Constitution that stipulates “Citizens enjoy equal rights in all spheres of State and public activity,” clearly guarantees equal rights without discrimination. In reality, however, there are unique internal regulations based on class, according to which all residents are classified by. Following a series of citizen registration programs carried out after Korea’s liberation from Japanese colonial rule, North Korea has divided its people into three classes and 56 categories and then separately into 25 types of background (*Songbun*).<sup>263</sup> Regulations on background and class aim at “isolating those hostile to the

regime and securing the majority of the people.” North Korea says that it defines and establish regulations on background and class “accurately by performing extensive and accurate research on individuals regarding: their economic conditions at the time of their birth; the class background of their family and its influence; their social and political activities; the particularities of nation’s historical development and class relations; and class policies that the Party has implemented at each phase of the Revolution.”<sup>264</sup> Background is divided into two types - personal and social – and serves as basic data for determining people’s class.<sup>265</sup> 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.

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

264\_ In-ae Hyun, *Ibid.*, p. 25. (In Korean)

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

**Table II-47** Classification of North Korea’s Residents by Background and Class

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

Backgrounds  
(25 in total)

1. Revolutionaries; 2. Professional revolutionaries; 3. Laborers; 4. Soldiers; 5. Farmhands; 6. Poor farmers; 7. Farmers; 8. Farm managers; 9. Mid-sized farmers; 10. Better-off mid-sized farmers; 11. Agricultural foremen; 12. Rich farmers; 13. Landowners; 14. Office workers; 15. Students; 16. Craftsmen; 17. Foremen; 18. Small- and mid-sized entrepreneurs; 19. Converted businessmen; 20. Entrepreneurs; 21. Petit-bourgeois; 22. Small- and mid-sized merchants; 23. Merchants; 24. Religious personnel; 25. Those who served in Japanese organizations before liberation

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

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

In North Korea, guilt by association is mostly directed towards

those with experience as South Korean civil police agents, families of Korean War POWs, families of returnees from Japan, and those with records of family members escaping to South Korea. First of all, separated families account for 25 to 30 percent of the entire North Korean population and are treated as part of the complex masses, categorized into “traitors who fled to South Korea” or “families of traitors.” They are still denied their basic rights or face various disadvantages, due to the “wrong doings” of their ancestors 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 War<sup>266</sup> or was a Korean War POW, he/she may be exiled to a remote area, or to a coal mine or lumber mill, where he/she will be forced into hard physical labor. One testifier said that his/her family was deported from Gangwon Province where they used to live to North Hamgyeong Province for the reason that his/her grandfather had been a landlord before liberation.<sup>267</sup> Another testifier graduated from the medical school of Hyesan University and was nominated to be a doctor of Department No. 5 of the Central Party, but was not assigned to the post as it was found that his/her grandfather on his/her mother’s side had served as a South Korean civil police agent and had been executed by firing squad in the identification process.

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266\_NKHR2015000053 2015-03-10.

267\_NKHR2014000015 2015-01-27.



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

Recent testimonies assess that since Kim Jong Un came to power, discrimination based on background has been declining.<sup>268</sup>

However, discrimination based on background and class undeniably exists in North Korea. The most representative cases of discrimination in social life based on background and class include those related to employment as a senior official, becoming a Party member, college entrance, and job assignments.

First is discrimination in employment as a senior official. One's background and class play a significant role in being able to join political authorities like Party organizations, the MSS, or MPS and becoming a member of the senior staff. One North Korean defector testified that those with background issues still cannot join political institutions including Party organizations, law enforcement and judiciary institutions, although the "reform" of citizen registration documents in 2012 narrowed the scope recorded based on background.<sup>269</sup> Most North Korean defectors testified that although it is possible to become a Party member through bribery up to a certain level, background is still used as an

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268\_NKHR2016000057 2016-05-03.

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

important criterion when hiring senior political officials such as senior officials for the Party.<sup>270</sup> However, background plays a relatively smaller role when hiring junior officials and administrative workers.<sup>271</sup>

Relevant examples include a North Korean defector who said his/her father was a soldier in the Korean Volunteer Army but his/her six elder brothers could not become Party members until finishing serving in the military. However, even after joining the Party, they remained as administrative and not political workers no matter how hard they worked.<sup>272</sup>

In addition, it appears anyone whose family member has defected from North Korea cannot join the Party<sup>273</sup> and in principle, serving in the military is also impossible. Among the testimonies, however, there was a case where joining the military became possible after paying bribes.

Second, there is discrimination in joining the Party. North Korean defectors testified that from the mid- and late-2000s, people could join the Party by discreetly providing bribes, even if they had unfavorable background and class. Numerous testimonies explained that, now that with the spread and intensification of

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270\_NKHR2014000015 2015-01-27; NKHR2017000126 2017-12-18.

271\_NKHR2017000060 2017-07-31; NKHR2017000065 2017-07-31.

272\_NKHR2015000023 2015-01-27.

273\_NKHR2017000134 2017-12-18.

marketization and prevalent corruptions, bribery became an easy way to join the Party. So “money” comes before background.<sup>274</sup> According to a testimony collected in 2017, one with unfavorable background can join the Party if he invests in the “Kim Il sung fund” which is raised to build his statue.<sup>275</sup> Another testimony explains that these days one cannot be a member of the Party without money regardless of their background.<sup>276</sup> In addition, given that economic life has come to revolve around market activity, there is a tendency to shy away from joining the Party. This is because life as a Party member will bring inconveniences and also because there will be many demands made of a Party member. Likewise, it is true that there have been some changes in the perception and actual situation of joining the Party. However, being a member of the Party is still regarded as a shortcut to achieving social success. Furthermore, discrimination remains as one’s background has a huge influence on joining the party itself and the promotion process afterwards.

Third is the discrimination in college entrance and job assignments. For college admission and job allocation, the degree of discrimination by background and class is relatively light compared to becoming a Party member and promotion, but it does

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274\_NKHR2015000045 2015-02-24.

275\_NKHR2017000054 2017-05-08.

276\_NKHR2017000125 2017-11-20.

have a significant impact on one's career and social prospects. A North Korean defector testified that they passed the entrance exam to a teachers' college but had to enter a different college because his/her grandfather was recorded as missing during the Korean War. In North Korea, teachers' colleges is an institution producing teachers and strictly considers one's background during the admission process.<sup>277</sup> The level of discrimination by background and class in college entrance is found to differ between central colleges like Kim Il Sung University, the People's University of Economy, and Pyongyang Foreign Language University and general local colleges at the provincial and city levels. While it is possible to enter general colleges based on one's ability, it is impossible to enter central colleges if one is not qualified according to background and class, regardless of one's abilities.<sup>278</sup> In this regard, it appears that the level of discrimination based on background and class is high when entering central colleges, whose graduates are likely to be employed mostly by Party organizations and key political organizations, while it is low when entering general colleges, whose graduates are likely to be hired at local administrative institutions or mere junior positions. Meanwhile, if there is a defector in the family, one can face discrimination or unfair treatment when entering college, as seen in the case of a

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277\_NKHR2015000043 2015-02-24.

278\_NKHR2014000015 2015-01-27.

family whose father failed to be promoted and children were refused college entry when their mother had defected from North Korea.<sup>279</sup>

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

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

Such discrimination is stricter when it comes to residence in Pyongyang. The city is divided into central Pyongyang and surrounding districts, and the surrounding districts are further divided into protective zones, satellite cities and farming areas (Article 7 of the Law for the Management of the Capital City of

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279\_NKHR2017000090 2017-09-25.

Pyongyang). In order for a North Korean to live in Pyongyang, he/she must file for resident registration in accordance with the procedures and methods set by the Cabinet (Article 30). In addition, one has to acquire the permission of relevant authorities in order to move into the central Pyongyang from surrounding districts (Article 31). Authorities strictly examine the background and class of individuals when granting permission to live in Pyongyang. Even those living in the city are divided into three categories by background and class, according to which they face discriminatory treatment. Group 1 and 2 constitute about 80~90 percent of Pyongyang residents who have no problems in terms of background, while Group 3 includes Koreans repatriated from Japan, former South Korean residents, and those who have missing family members, accounting for 10 to 20 percent of the city's population. Because of the grouping based on background and class, citizens falling in Group 3 cannot participate in various political events held in Pyongyang. For example, when foreign dignitaries visit the capital, only those citizens belonging to Groups 1 and 2 are mobilized as welcoming crowds. Group 3 citizens are constantly marginalized, and are allowed to join only in ordinary mass rallies. Even when attending these mass rallies, they face discrimination as Group 1 and 2 citizens are lined up in the front rows while those in Group 3 are made to stand at the back and are under the surveillance of MSS agents.

The discrimination between residents of Pyongyang and of

other regions is also severe. First, there is discrimination with regards to freedom of residence and movement. People living in the provinces need to obtain official approval from competent agencies to move to Pyongyang (Article 31 of the Law for the Management of the Capital City of Pyongyang). Second, only the citizens of Pyongyang receive Pyongyang citizenship cards, granting them special status that ensures better treatment compared to residents of other regions. This Pyongyang Citizen ID Card is issued only to those above the age of 17 (Article 7 of the Citizen Registration Law). In practice, the authorities grant access to Pyongyang in a discriminatory manner to those living in other cities or in the provinces, as the latter must undergo complicated procedures and face a variety of restraints. In contrast, Pyongyang citizens can more freely move to other cities or provinces. Third, it is said that there is also discrimination with regard to food rations.

Meanwhile, the movement of people from cities and rural areas has been more strictly controlled since Kim Jong Un came to power. It was previously possible for someone from a rural area to move to a city for a job as a teacher at a university or when joining the military, and a woman from a rural area could move to a city if she married a man from a city. Now, however, it is said that when a man from a city marries a woman from a rural area, he needs to move to the rural area.<sup>280</sup> Moreover, for provincial people to

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280\_NKHR2015000052 2015-03-10.

become Pyongyang residents, they need go through a complicated processes involving five to six institutions due to their background, and some even end up divorcing their partners due to the disadvantages they must encounter during job assignment.<sup>281</sup>

## 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 than North Koreans and enjoy a relatively more affluent life due to their relatives in China and Japan. However, as the Kim Jong Un regime reinforced surveillance on those who defected and returnees from Japan have lost their connections with Japan, discrimination against these groups appears to have intensified.

Testimonies show mixed perceptions in the treatment of ethnic Chinese. While some testify that ethnic Chinese in general have economic power, live wealthy lives and are generally perceived positively,<sup>282</sup> others testify that the general perception of ethnic Chinese is negative and their living standards are not so high.<sup>283</sup> More specifically, there are testimonies that since ethnic Chinese are allowed to vend in both China and Korea, people envy their

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281\_NKHR2016000054 2016-04-19.

282\_NKHR2016000051 2016-04-19.

283\_NKHR2016000116 2016-07-12.



economic power.<sup>284</sup> A North Korean defector testified that there is no discrimination against ethnic Chinese, and rather, there is a perception that North Korea is “a society for ethnic Chinese people.”<sup>285</sup> The negative perception of ethnic Chinese, according to some testimonies, originates from the idea that there are many spies among ethnic Chinese and that those ethnic Chinese ruin the social atmosphere.<sup>286</sup> Both the positive and negative perceptions on ethnic Chinese prove that they are viewed as ethnic minorities in North Korea.

Apart from the mixed social perception of ethnic Chinese, one specific testimony reveals that the testifier was socially discriminated against because he/she is an ethnic Chinese. A North Korean defector testified that the testifier’s grandmother on the mother’s side was Chinese and the grandfather on the mother’s side was an ethnic Korean living in China, and all the cousins were living in China. Due to such connection to China, the testifier had to experience severe discrimination after graduation and was slighted based on his/her background by others at work and in the military and in terms of MPS officers’ surveillance.<sup>287</sup> In particular, since Kim Jong Un came to power, discrimination against people with connections to China seems to have intensified.

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284\_NKHR2016000111 2016-07-12.

285\_NKHR2014000168 2014-10-07.

286\_NKHR2016000170 2016-11-01.

287\_NKHR2015000101 2015-05-19.

According to testimonies, while those with cousin relatives in China were subject to discrimination under Kim Jong Il, the scope has expanded up to the level of second cousin since Kim Jong Un came to power. Specifically, those with connections to China are not allowed to work in border areas and are dispatched away from the front lines.<sup>288</sup> This case shows the discriminatory perception of the North Korean authority that those with connections to China are likely to defect from North Korea and engage in smuggling, treating them as potential criminals.

Meanwhile, there were also testimonies that discrimination against returnees from Japan or those with connections to Japan is intensifying. In the past, this class was treated very well. According to a testifier whose grandmother was Japanese and whose entire family returned to North Korea when the father was 14 years old, the government gave them a house in Dongrim County, North Pyongan Province, and the father of the interviewee graduated from Huicheon Engineering University, became a middle school teacher and was assigned to a job in Musan County, North Hamgyeong Province. Moreover, he was allowed to join the Party and was treated very well.<sup>289</sup> However, the treatment of such returnees from Japan has been recently worsening. A major reason is said to be their weakening financial capability due to

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288\_NKHR2016000146 2016-09-06.

289\_NKHR2016000023 2016-01-26.

their loss of connections to Japan.<sup>290</sup> According to a testimony, the father of the testifier, who was a returnee from Japan, experienced discrimination at work, had his letters to Japan censored, and had to endure hostile attitudes and accusations.<sup>291</sup> One testifier testified that his wife's family members were returnees from Japan, and while returnees from Japan cannot be promoted to high-ranking Party posts, others are available to them. However, the testifier himself experienced discrimination in job selection due to the background of his in-laws.<sup>292</sup> Similarly, according to a North Korean defector who had a boyfriend whose parents were returnees from Japan, the boyfriend was rejected from joining the Party, despite the fact that he had served in the military for eight years. The father of this boyfriend also could not find a job and engaged in vending because he was a returnee from Japan, despite the fact that he had graduated from Gimchaek Engineering University.<sup>293</sup>

## E. Evaluation

For North Korea, discrimination by background and class continues to function as a key system that creates inequality in

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

291\_NKHR2016000127 2016-08-09.

292\_NKHR2014000212 2014-12-30.

293\_NKHR2014000085 2014-07-01.

diverse aspects of people's lives. It was confirmed that discrimination by background and class remains unchanged with regard to advancement in society, job assignments, employment as and promotion to a senior staff position, college entrance, and assignment of residence area. Such discrimination is an important mechanism in maintaining the North Korean regime and has been in place in a structured way for a long time. After Kim Jong Un came to power, discriminatory institutions operated based on background and class seems to be partially mitigated but the prevalent corruption and widening gap between the rich and the poor caused by marketization beget another form of discrimination. Moreover, since Kim Jong Un took office, there are testimonies that movement between cities and rural areas has become more strictly prohibited, and surveillance and discrimination against those ethnic Chinese and returnees has been reinforced. Therefore, existing discrimination and inequality can be interpreted as a continuing phenomenon.





White Paper on Human Rights  
in North Korea 2018



## Part III

### The Reality of Economic, Social and Cultural Rights

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

## Right to Food

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

### Table III-1 Article 11 of the ICESCR

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



## A. Prolonged Chronic Food Shortages

The food situation appears to have stabilized since the start of the Kim Jong Un regime. This is even in consideration of the period of the ‘Arduous March’ which led to mass victims of starvation as well as the 2000s. The food situation may have improved since the Kim Jong Un regime as a result of an increase in food production and marketization, among other reasons.

However, just as UN Food and Agriculture Organization (hereinafter FAO) classified North Korea as a food-deficit nation in 2017, chronic food shortage has not yet been fully resolved. According to South Korea’s Rural Development Administration (hereinafter RDA), it is estimated that the total grain output in North Korea in 2017 was 4.70 million tons. Even after adding the imports, the figure is estimated to be 0.77 million tons short from the minimum requirement. Furthermore, the UN World Food Program estimates that about 70 percent of the North Korean population is in need of humanitarian assistance.

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

North Korean authorities have also taken legal and policy measures to expand food production. The representative example is the implementation of the “paddy unit responsibility system within the team management system.” Introduced in 2012, the size of the production team (*bunjo*) is reduced from 10~25 people to 3~5 people per team. Each team is then assigned to a fixed size of land. The paddy unit responsibility system could lead to increased food production since reducing the number of production team member helps to increase productivity. Furthermore, North Korean authorities are promoting various policies which will encourage production. Once farmers achieve the amount set by the national production plan, and the farmers pay the country with the price of providing seeds, fertilizers, agricultural equipments, among other costs, they are then free to dispose the remaining crops.<sup>294</sup> “The farms have earned the right to manage crops as they wish, when only achieving the national production plan and paying back the nation for the price of land, guaranteed irrigation, agricultural supplies, fertilizers, etc.”<sup>295</sup>

One problem is whether these actions taken by North Korean authorities to increase food availability actually leads to an increase in food production. According to testimonies, the paddy unit responsibility system is actually being promoted in many

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294\_ *The Choson Sinbo*, 7 June 2013.

295\_ *Ibid.*, 19 April 2013.

areas,<sup>296</sup> but the effect does not seem to be significant. Despite the systematic change in the allocation method, labor inducement effect is not appearing. This is because the actual share for each farmer has not increased, and also because fertilizers and agricultural machinery are not properly supplied.<sup>297</sup> Corruption also acts as an obstacle inhibiting the intention of the paddy unit responsibility system. One defector, in the 40s who worked as a farmer in Hoeryeong, North Hamgyeong Province until escaping North Korea in 2016, testified that the farmer's standard of living improved when the paddy unit responsibility system was newly implemented in 2014. However, the defector testified that everything has returned to the conventional way by 2015. The team leaders (*bunjojang*) chose to do things the conventional way, since there was no better profit for them by adhering to the new way.<sup>298</sup>

## B. Food Shortage for Farmers Due to Excessive Government Collection

As previously mentioned, North Korean authorities introduced the paddy unit responsibility system to increase each farmer's share while strengthening their autonomy. However, farmers'

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296\_NKHR2017000016 2017-05-08 and other testimonies.

297\_NKHR2017000016 2017-05-08 and other testimonies.

298\_NKHR2017000004 2017-04-10.

food situation has not improved.

The primary reason lies in the fact that each farmers' share is not enough due to the overpayment to the state. As mentioned previously, North Korean authorities have granted the right to dispose the crops freely, once farmers pay back the country for the provided seed, fertilizer, and farm equipment, after the farm achieves the national production plan level. However, in many cases, this is not implemented in such form. Farmers are burdened with excessive production quota without sufficient equipment or fertilizer. Moreover, official skimming<sup>299</sup> occurs under various pretext such as Rice for the Military (*gullyangmi*), Patriotic Rice (*aegukmi*), Rice for the Needy (*wonhom*), and Rice for the Troops.

According to defector testimonies, food is not distributed to the farmers according to the original policy, even after harvesting. A female defector in her 30s who escaped North Korea in 2017 testified that her parents were farmers and worked diligently, believing that they would be able to take some of the grain after paying back the country. However, they were only distributed one year's ration after the harvest. Moreover, it is also difficult to get the proper amount, because the distribution amount is decided based on dry grain and the actual distribution is given with wet grain.<sup>300</sup>

A male defector in his 20s who escaped North Korea in 2017

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299\_NKHR2017000022 2017-05-08 and other testimonies.

300\_NKHR2017000020 2017-05-08.

testified that although farmers were given incentives, almost nothing was left for them after paying the country the imposed production quota.<sup>301</sup> Another defector testified that they were allocated the remaining grain after paying the rent for the farm equipment, fertilizer, and official skimming. This amount was only approximately ten percent of the total harvest.<sup>302</sup>

North Korean authorities issue propaganda declaring that official skimming is a voluntary act. As an example, the *Chosun Shinbo* reported that “There was a ‘Patriotic Rice’ campaign triggered by an act of a young man at Samjingang cooperative farm. Everyone reflected on ‘the responsibility of the farmer.’ The Management Committee or higher levels did not ‘request’ or ‘appeal’ to them. Last year, 300 tons of ‘patriotic’ rice was collected at the farm level. This increased to 350 tons this year.” Such government propaganda emphasizes the voluntary nature of official skimming.<sup>303</sup>

In reality, it appears that official skimming amounts are assigned. When they fail to meet the allocated amount, they are threatened, sanctioned, or encouraged to purchase the grains to fill the quota. In other words, it is confirmed that when ‘patriotic’ rice is not collected as planned, some families were threatened with a house search,<sup>304</sup> and some were even sanctioned.<sup>305</sup> One defector was

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301\_ NKHR2017000030 2017-06-05.

302\_ NKHR2017000110 2017-11-20.

303\_ “Voluntarily Devoted Rice” (*aegukmi*) (In Korean), *The Chosun Sinbo*, 27 January 2014.

encouraged to purchase the rice to pay the rice for military.<sup>306</sup> As the rationale for official skimming is based on the pretext of Kim Jong Il’s teachings or Party policies, farmers cannot openly resist these mobilization.<sup>307</sup> After the state’s excessive collection of grain, farmers are left with a meager amount. Subsequently, farmers are left disappointed with North Korean authorities, unable to find incentive to work hard, and suffer from deteriorating work motivation.<sup>308</sup>

**Table III-2 Grain Shortages due to Excessive Official Skimming**

Testimonies	Testifier ID
From 2014, individual paddies were given to all residents in Hoeryeong, North Hamgyeong Province, and the residents had to pay a certain amount as a quota and were able to keep the excess amount based on the quality of the soil. However, due to bad soil quality and high quotas, the actual life of residents did not get better.	NKHR2016000059 2016-05-03
In the fall harvest season, the entire harvest was taken by military trucks.	NKHR2014000003 2014-02-18
While the crops were good, due to substantial official skimming for military reserve grains, etc., not much was distributed. As a result only 30~40 percent of the standard amount was distributed from the farms.	NKHR2014000164 2014-10-07
There was official skimming for military reserve grains from the farm and the defector did not receive rations in Daehongdan County, Yanggang Province. Only the heads of sub-work groups and heads of working groups received rations, and the average farmer lived by stealing.	NKHR2015000050 2015-03-10

304\_ NKHR2017000101 2017-10-23; NKHR2017000123 2017-11-20.  
 305\_ NKHR2017000092 2017-09-25.  
 306\_ NKHR2017000073 2017-08-28.  
 307\_ NKHR2014000003 2014-02-18.  
 308\_ NKHR2017000110 2017-11-20.

Farmers compensate the food shortage through cultivating personal fields.<sup>309</sup> Moreover, they use high-interest loan to temporarily resolve food shortage.<sup>310</sup> This refers to borrowing of grain during the season of spring poverty, and paying back with high interest. However, this only leads to a vicious cycle, leaving North Korean residents with an even graver food crisis.

### C. Disparities in Food Rations

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

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

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309\_NKHR2017000021 2017-05-08; NKHR2017000052 2017-07-03; NKHR2017000072 2017-08-28; NKHR2017000085 2017-09-25; NKHR2017000104 2017-10-23.

310\_NKHR2014000099 2014-07-29.

family, some receive regularly, and some receive irregularly.

**Table III-3** Recent Collection of Grains

Testimonies	Testifier ID
Until November 2013, the testifier received 15 day's worth of rations per month, which is 6.5kg of corn.	NKHR2017000018 2017-05-08
A female defector in her 50s, who defected in February 2017, whose husband was a discharged soldier working in the People's Council ( <i>inmin wiwonhoe</i> ) received nearly no rations. The last rations she received was four years ago, a small amount of corn on Kim Jong Il's birthday.	NKHR2017000028 2017-06-05
In 2014, rations for fifteen days were given in Buryeong County, North Hamgyeong Province.	NKHR2015000099 2015-05-19
The defector received rations for 5~6 months until the spring of 2014 in Hyesan, Yanggang Province, but not after that.	NKHR2014000200 2014-12-02
Until May 2014, the testifier received rations for around three months in Samjiyeon County. Among the one month of rations, a ten-day amount was provided as soaked corn. The testifier received only 450g of the ration amount of 700g.	NKHR2016000030 2016-03-08
In August 2015, the ration center in Yanggang Province provided rations once per month with Annam rice, corn, Korean rice and flour. The ration amount was 700g per person based on an adult fifteen years of age or older, but the actual ration amount was 450g.	NKHR2016000063 2016-05-03
Just prior to defecting from North Korea in September 2015, the testifier received corn, barley, or potatoes for a month in turn for every six months (around 18kg per month per person) from enterprises in Daehongdan County, Yanggang Province.	NKHR2016000006 2016-01-26

### (1) Discriminatory Rationing Based on Class

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

First of all, it appears that food is well distributed to the cadres



of Worker's Party, manager, police officer, security officers rather than enterprise workers or farmers. One female defector in her 20s who escaped from North Korea in 2017 testified that police officers received one year's worth of rations (200~300kg) at once.<sup>311</sup> A female defector in her 60s who escaped in 2016 testified that security officers received one day ration of about 600g.<sup>312</sup> Another female defector in her 20s who escaped in 2014 testified that her father used to work as a manager at the Korean Medicine factory, and he received six month's worth of rations once a year, including the portion for her mother and three children.<sup>313</sup> Other numerous defectors testified that elites who work as secretaries at the Worker's Party, security officers or police officers, receive rations.<sup>314</sup> A woman in her 30s who escaped North Korea in 2017 testified that even though people who work for the security offices or police stations receive rice rations, whereas the general public receives 15kg of rice once a year in fall.<sup>315</sup> What is given as ration is another important matter. Rice is generally given to the elite group.<sup>316</sup>

Unlike those in the elite group, it appears that doctors, teachers,

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311\_NKHR2017000018 2017-05-08.

312\_NKHR2017000034 2017-06-05.

313\_NKHR2017000062 2017-07-31.

314\_NKHR2017000020 2017-05-08 and other testimonies.

315\_NKHR2017000042 2017-07-03.

316\_NKHR2017000055 2017-07-31; NKHR2017000076 2017-08-28.

researchers do not receive sufficient rations. A female defector in her 20s who escaped in 2017 testified that in Hoeryeong, North Hamgyeong Province, security officials received the entire ration with 70 percent of them rice, but the doctors received 7kg of corn on monthly basis. This amount is only four days worth of food.<sup>317</sup> A female defector in her 20s who escaped in 2016 testified that doctors cultivate small land to make a living because they also do not receive rations with the exception of holiday rations.<sup>318</sup> Teachers seem to receive small rations as well.<sup>319</sup> According to one testifier, teachers receive 10~15 days of ration per month, and this amount is only for oneself without consideration to his/her family members.<sup>320</sup>

## (2) Discriminatory Rationing Based on Enterprise

Following the breakdown of the food rationing system at the national level, institutions such as enterprises have had to find their own means of food provision. Based on the varying capabilities of these enterprises, the gap in the amount that city workers can receive, in other words, their access to food, is widening. Therefore, workers at enterprises with factories that are

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317\_NKHR2017000024 2017-05-08.

318\_NKHR2017000042 2017-07-03.

319\_NKHR2017000018 2017-05-08; NKHR2017000020 2017-05-08.

320\_NKHR2017000033 2017-06-05.

well-run or with favorable conditions receive relatively more rations.

To begin, laborers in mines receive relatively favourable rations. North Korea has emphasized coal production in order to overcome the energy crisis. With anthracite and iron ore as North Korea's major export items, the management situation at mines have been relatively better. The situation in production companies also appear to be better than other industries. A woman in her 30s, who escaped in 2016 was formerly a worker in apparel factory for export goods. She testified that these foreign currency earning enterprises carry out their own rationing system. This woman testified that she received rations for herself once every fortnight.<sup>321</sup>

It appears workers at special factories that produce supply items for the KPA and those at military camps are also in a relatively better situation. One defector who was a laborer at a military camp, testified that not only himself but also his family received rations.<sup>322</sup> According to a teenager who defected from North Korea in 2017, her father was a laborer at a military camp and received rations monthly which included 50kg of rice, 30kg of grain, and 50kg of corns until October 2014.<sup>323</sup>

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321\_NKHR2017000049 2017-07-03.

322\_NKHR2015000001 2015-01-13.

323\_NKHR2017000071 2017-08-28.

Table III-4 Rations at Coal Mines

Testimonies	Testifier ID
In 2014, in Yeonpoong mine located in Jaseong County, Jagang Province, rations were given one or two times a month. If one performs well, sometimes more rations are given.	NKHR2016000138 2016-08-23
The testifier received a ration from a youth mine in Hyesan, Yanggang Province, until April 2015.	NKHR2015000133 2015-09-22
In the case of Yuseon mine in Hoeryeong, North Hamgyeong Province, a 15-day amount of corn of 30kg was given in the fall of 2015. This kind of ration is said to be given only in the fall.	NKHR2016000089 2016-06-14
The testifier worked in Gungsim Mine in Hoeryeong, North Hamgyeong Province for almost ten years, and rations were given to heavy industry areas. Corn kernels were given as ration every quarter.	NKHR2015000023 2015-01-27
The copper mine in Hyesan, Yanggang Province produced copper jointly with China due to the lack of facilities. Since the joint business was established with China in 2010, the testifier received 7kg and his wife received 4kg as ration once every 15 days or month. His daughter received 7kg. On average, 15kg of rice was given as ration and as it was a joint business with China, Chinese rice was given, but much was deducted.	NKHR2015000130 2015-09-22

Table III-5 Cases of Rations for Enterprises and Special Factories

Testimonies	Testifier ID
In November 2013, the Chin-seon import company that the testifier worked for in Pyongyang gave a ration of 25kg of rice. At that time, food, oil, salt, granulated sugar and dairy products were ration items. Now, it has changed to a monthly salary system.	NKHR2016000170 2016-11-01
Workers at military facilities received 700kg, and their wives received 400kg, and their children also received rations. The workers received soybean paste and oil, and the families of military officers received soybean paste, oil and meat.	NKHR2015000001 2015-01-13
At the Daeheung Administration, Yanggang Province, testifier's husband worked as a driver and received regular ration well.	NKHR2017000067 2017-08-28
Enterprise with strong power gave 3-5 months ration, and enterprise with less power gave 1 month ration.	NKHR2017000077 2017-08-28

In contrast, it appears local enterprises where the business environment is relatively poor do not provide adequate rations with the exception of holidays. A male defector who escaped North Korea in 2016 testified that the enterprise does not give rations when it is not holiday, and mentioned that it is very rare for the manager to prepare the food and provide for the workers.<sup>324</sup> A female defector in her 30s who escaped in 2017 testified that the ration system had long been lost in regular work places.<sup>325</sup> Another female defector in her 20s who escaped North Korea in 2014 said that situation varies by each work place, and that her father only received rations on holidays.<sup>326</sup>

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

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324\_NKHR2017000007 2017-04-10.

325\_NKHR2017000020 2017-05-08.

326\_NKHR2017000027 2017-05-08.

### (3) Discriminatory Rationing in the Military

North Korea has utilized the military to advocate *Sungun* politics. One of the ways to do this is by granting priority to the military in receiving rations. As a result, the food situation of those in the military is better than that of the population at large. However, the fact that military has priority in receiving rations does not necessarily mean that all soldiers receive generous rations. This is because the difference in amount exists by region and rank.<sup>327</sup>

A male defector in his 20s who served at the Minkyung battalion until escaping North Korea in 2017 testified that the Minkyung battalion was among the best military bases in terms of rations. Other bases with special treatment included submarine troops, air force aviators, and Kim Jong Un's guards. He testified that other military units adjacent to his base were in poor condition. The soldiers in this unit mainly ate corn-rice and even that was procured by cultivating the farm themselves because no rations were delivered from a higher level.<sup>328</sup>

Looking at the food distribution based on rank, military food seems to be provided as rations to officers with priority. However, there are testimonies that the amount of rice rationed to the military officers is also very insufficient.<sup>329</sup> Even among military

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327\_NKHR2014000121 2014-08-12; NKHR 2016000037 2016-03-22.

328\_NKHR2017000069 2017-08-28.

329\_NKHR2016000037 2016-03-22.

officers, there are recorded cases that rations are not distributed to their families.<sup>330</sup> Even if the families did receive the ration, it is presumed that the amount is insufficient. A North Korean defector whose husband was a high-ranking soldier testified that although the ration was given to the family members, the amount was not sufficient even for basic survival, that she had to ask for help from her parents or get food by working for others.<sup>331</sup>

The amount of food rationed to enlisted soldiers is known to be even more limited. As a result, there are increasing cases where enlisted soldiers in the military suffer from malnutrition.<sup>332</sup> For this reason, there are some cases where soldiers harm civilians to secure the food required in the military.<sup>333</sup> One defector who served at the military testified that his unit was instructed to provide food for themselves in the month of June. His unit managed to cope with the situation by planting potatoes but it was not enough, that they often stole chickens or goats from nearby private houses.<sup>334</sup>

It seems that corruption prevailing the North Korean military

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330\_NKHR2014000003 2014-02-18; NKHR2016000037 2016-03-22; NKHR2017000104 2017-10-23.

331\_NKHR2016000037 2016-03-22.

332\_NKHR2015000018 2015-01-27.

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

334\_NKHR2017000020 2017-05-08.

plays a role in enlisted soldiers not receiving proper rations. One defector testified that army rations was terrible because platoon leader took all the rice to satisfy his selfish interests and desires.<sup>335</sup>

## D. Evaluation

The broad assessment is that North Korea's food situation has slightly improved. However, North Korea still suffers from chronic food shortage. North Korean authorities have been taking reformative measures, although in a limited manner, including the paddy unit responsibility system, but it has not resulted in production increase. Farmers demonstrated initial interest, but was discouraged due to the excessive production quotas and official skimming campaigns. As a result, their motivation to work has also suffered.

Food is not only insufficient, but distributed in a discriminatory manner according to the social class, engaged enterprise, etc. As a result, some residents can make a living with the rations, but many others are left in a situation where they need to sustain themselves due to nearly no food allocated for them. This reality is pushing many North Korean residents to carry out personal economic activities such as trading in markets and cultivating small land to supplement the scarce food.

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335\_NKHR2017000021 2017-05-08.



# 2

## Right to Health

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

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"> <li>(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;</li> <li>(b) The improvement of all aspects of environmental and industrial hygiene;</li> <li>(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;</li> <li>(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.</li> </ul>

As stipulated in its Constitution and the Public Health Law, North Korea maintains a free medical care system and emphasizes preventive medicine. In addition, North Korea has enacted and implemented health-related laws for the promotion of public health that include the Law on Public Sanitation (1998), the Law on Border Sanitation Inspection (1996, 1998, 2007), the Law on Food Hygiene (1998, 2005), the Law on Medical Care (1997, 1998, 2000), the Medicine Control Law (1997, 1998), the Public Health Law (1980, 1999, 2001), the Law on Prevention of Epidemics (1997, 1998, 2005), the Law on the Protection of Persons with Disabilities (2003), the Red Cross Act (2007), and the Law on Culture and Sport (1997, 1998). However, defector testimonies show that the right to health for North Korean residents are not correctly guaranteed.

## A. Imbalance in Medical Service Access

The State Parties to the ICESCR, including North Korea, are obliged to ensure accessibility to medical care services. Here, ‘accessibility’ means that there should be no discrimination in the access to the medical facilities and services, and that medical facilities and services must be affordable and physically accessible to everyone including vulnerable social group. Since neighborhood-level hospitals are provided in North Korea,<sup>336</sup> physical accessibility seems to be guaranteed to some extent. The following will examine whether North Koreans are ensured with nondiscriminatory and affordable access to the medical services.

### (1) Growing Polarization in Accessibility by Class

North Korea’s health care delivery system consists of primary medical facility (clinics), secondary medical facility (people’s hospitals at city and county), and tertiary medical facility (provincial hospitals, and the central hospital in Pyongyang). However, the level of deterioration caused by North Korea’s struggling economy varies by the level of the system. The system at primary and secondary medical facilities where most citizens receive medical service has collapsed more than at larger hospitals. As a result, the physical accessibility to the right to health of the general population,

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336\_NKHR2017000032 2017-06-05; NKHR2017000110 2017-11-20.

who mostly use clinics and People's hospitals, has deteriorated. However, even in the primary and secondary health care delivery system, medical offices used by senior officials are operating relatively well.<sup>337</sup> As such, even in People's hospitals, there is a gap in accessibility between officials and the general population.

In contrast, the tertiary and quaternary level hospitals where middle class citizens and senior officials have easy access to are in relatively better condition than the primary and secondary facilities.<sup>338</sup> Accordingly while there is a widening gap in physical and financial accessibility to medical service between Pyongyang and other major cities and the provinces, instead of attempting to narrow this gap, North Korea has been expanding its medical facilities for the privileged few by constructing in Pyongyang Children's Hospital, Dental Clinic, etc.<sup>339</sup> As such, as North Korean authorities pursue policies that further widen this gap, it is assessed that they are failing to fulfill their duty to help the North Korean people realize their right to health.

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337\_NKHR2017000017 2017-05-08 and other testimonies

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

339\_Yonhap News Agency, 24 September 2013; *Yonhap News Agency*, 6 October 2012.

Table III-7 Unbalanced Accessibility by Class

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

## (2) Disparity in Medical Service Quality by Wealth

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

Table III-8 Article 10 of the Public Health Law

Free service shall be according to the following:

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

To date, North Korea has officially maintained a free medical care system. But the reality is completely different. The free medical care system has completely collapsed to the point of being perfunctory, and it seems that individuals are almost entirely responsible for the cost of medical services.<sup>340</sup> In other words, the cost incurred in the course of medical treatment such as doctor consultation, hospitalization, surgery, and medicine is entirely borne by the individual rather than the country. While basic medicines are sometimes provided by hospitals for free, patients are mostly charged for special medicines needed for surgery. Even though hospitalization itself is free of charge, patients are charged for most of the items and the expenditures ensued. Once hospitalized, patients must bring their own food and bedding and bear the cost of heating as well. Moreover, one testimony claims that the gauze, cotton balls, surgery gloves used for surgery must

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340\_NKHR2017000013 2017-04-10 and other testimonies.

be bought for prior to the surgery.<sup>341</sup>

In addition, it has become common practice to provide medical staff with some cash or meal for their trouble during surgery. One North Korean defector testified that when his brother was hospitalized in the provincial hospital in Hyesan, Yanggang Province for leg surgery, he gave the doctors 200 Chinese yuan for meals instead of paying for the surgery.<sup>342</sup> With the government unable to fully support hospitals financially, there are some cases where the hospital shifts the cost related to hospital operation to the patients. A North Korean defector was hospitalized for 15 days due to 3rd-degree burns in Hyesan, Yanggang Province. The testifier said that the hospital asked for 200kg of cement (value of 100 yuan) for the operation of the hospital.<sup>343</sup>

Table III-9 Testimonies of Patients Charged for Medical Services

Testimonies	Testifier ID
In the summer of 2013, a nephew/niece of the testifier had two surgeries for bone tuberculosis in his/her legs. The cost was 700,000 North Korean won for the first surgery and 300,000 North Korean won for the second.	NKHR2015000015 2015-01-27
In September 2013, the testifier had an appendectomy at the No. 2 Hospital in Hyesan, Yanggang Province, and the price for the surgery was pre-decided. Simple surgery such as appendectomies are 50 Chinese yuan, while serious surgeries cost 100 Chinese yuan.	NKHR2015000067 2015-04-07

341\_NKHR2016000040 2016-04-05. However, there have been testimonies which claim that in the case of surgery, the hospital provides some, not all, of the cost for free.

342\_NKHR2015000024 2015-01-27; NKHR2015000047 2015-02-24.

343\_NKHR2015000057 2015-03-24.

Testimonies	Testifier ID
The testifier spent about 300 Chinese Yuan when his/her mother had appendectomy in March 2014.	NKHR2017000047 2017-07-03
To have an appendectomy, one needs to pay a bribe to the doctors. The amount of the bribe is 50 Chinese yuan for surgery and 100,000 North Korean won for meals.	NKHR2015000172 2015-12-01
The only thing freely offered is the diagnosis of the disease. Cost of the treatment, from purchasing medicine to the hospitalization, is bought by the patient.	NKHR2017000026 2017-05-08

Laying the total burden of medical cost on the individual in the absence of health care systems such as health insurance can lead to the deterioration of medical service accessibility of vulnerable social groups. In fact, defector testimonies confirm that patients often fail to receive appropriate treatments due to financial issues, and oftentimes, patients with severe condition even die.

**Table III-10** Patients Left Untreated Due to a Lack of Money

Testimonies	Testifier ID
In 2013, the testifier’s older brother was diagnosed with laryngeal cancer, but he could not receive treatment as he did not have money and died as a result.	NKHR2016000043 2016-04-05
The testifier’s brother-in-law had lung disease but died in May 2014 as he could not receive adequate treatment.	NKHR2014000004 2014-02-18
In spring 2016, the testifier saw a homeless person at the hospital with cirrhosis. However, the patient was sent away from the hospital due to lack of money.	NKHR2017000007 2017-04-10
The testifier’s relative had tuberculosis while in the military but eventually died as he/she had to rely on self-treatment due to the lack of adequate care.	NKHR2014000023 2014-04-01
The testifier’s mother died from cancer. Due to economic reasons, she could not get surgery and died while receiving treatment from someone without a doctor’s license.	NKHR2016000073 2016-05-17
In the testifier’s neighborhood, a patient was diagnosed with tuberculosis but did not receive proper treatment because it was financially unaffordable.	NKHR2017000003 2017-04-10



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

The State Parties to ICESCR, including North Korea, are obliged to sufficiently offer quality medical facility, supplies and services. More specifically, such as safe drinking water, sanitation facilities, medical facilities such as hospitals and clinics, specialist-trained medical staffs, basic medicines must be sufficiently available.<sup>344</sup> In addition, medical staff skills, pharmaceuticals, and medical equipments must be in high quantity as well as quality scientifically and medically.<sup>345</sup> In case it is difficult to satisfy the availability and quality with an internal resources, the State Party has a duty to make effort to realize the right to health by seeking help from international community.<sup>346</sup> However, it seems that North Koreans do not receive sufficient medical services in both quality and quantity.

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

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344\_UN CESCR, General Comment, No. 14 (1999), para. 12 (a).

345\_ *Ibid.*, para. 12 (d).

346\_ *Ibid.*, para. 38.

though there are surgical instruments and ultrasonic machines, the facility has no heating and possesses only conventional surgical tools.<sup>347</sup>

For this reason, North Koreans do not trust medical facilities and staff. Furthermore, there is a growing perception among North Koreans that they will not be properly treated even if they do go to the hospital.<sup>348</sup> One North Korean defector mentioned that the staff does not possess sufficient skills because nowadays children of wealthy family pays bribery and enters medical schools.<sup>349</sup> Other North Korean defector said that doctors do not possess sufficient medical skills because they purchase the doctor's license.<sup>350</sup>

In fact, many cases have been identified where the patients face difficulties due to misdiagnosis or incorrect treatment from the hospital. One defector testified that the doctor applied acupuncture on the patient to facilitate digestive system, when the patient visited hospital due to a problem with appendix.<sup>351</sup> Another defector testified that the person was diagnosed and treated for cholelithiasis by a private physician in May 2016. However, the

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347\_NKHR2017000013 2017-04-10.

348\_NKHR2017000039 2017-06-05; NKHR2017000094 2017-10-23; NKHR2017000102 2017-10-23.

349\_NKHR2017000030 2017-06-05; NKHR2017000058 2017-07-31.

350\_NKHR2017000072 2017-08-28.

351\_Above testimony.

patient passed out from the pain in the following July, and was taken to the Shinpo Municipal Hospital by ambulance. After an x-ray, the doctor misdiagnosed as perforation of the stomach. Only after performing laparotomy, the doctor confirmed it was actually a cholelithiasis and performed gallstone surgery. Even after the surgery, the patient still felt pain, and it was confirmed that a surgical tool was inside the patient's stomach and the patient could recover only after removing it.<sup>352</sup>

Given the situation, North Koreans prefer to take care of their illness with own methods rather than visiting the hospital. These methods include, visiting private doctors to be diagnosed and purchasing medicine from unofficial pharmacies referred by those private doctors; or self diagnose the illness and purchasing medicine from the market. Private doctors offer medical service after their retirement. Despite its illegality, North Koreans prefer private doctors because they believe those doctors possess better skills.<sup>353</sup>

However, risk factor exists in self-diagnosis or diagnosis by the private doctors. One defector testified that mother of a friend battled tuberculosis with medicine purchased from the market since 2010 until her death in November 2016. Similarly, many patients make their own diagnosis and treat the illness with

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352\_NKHR2017000070 2017-08-28.

353\_NKHR2017000030 2017-06-05; NKHR2017000094 2017-10-23.

medicine purchased from the market, even though their medical conditions require isolation.<sup>354</sup> Another defector testified that a child in his/her neighborhood died in 2013 after getting an injection by a private physician, who was treating patients at home after his/her retirement.<sup>355</sup>

Moreover, because those with no professional pharmaceutical knowledge sell medicine, it can lead to fatal results for ordinary people. Medicines are smuggled into the country, stored in private homes, and sold wholesale. The wholesalers learn the basic effects, usages, and dosages by translating manuals brought from China and the UN and inform their retailers.<sup>356</sup> Moreover, there are cases where suppliers sell medicines without proper expertise, based only on self-study.<sup>357</sup> As there are many ineffective or fake medicines in marketplace (*jangmadang*), this threatens the right to health of the North Korean people without financial capabilities.<sup>358</sup>

A more concerning factor is that the residents show the tendency of using narcotics such as drugs (*bingdu*) for treatments based on false medical knowledge. According to a North Korean defector who escaped from Hyesan, Yanggang Province in

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354\_NKHR2017000112 2017-11-20.

355\_NKHR2017000085 2017-09-25.

356\_NKHR2011000203 2011-09-06.

357\_NHHR2016000164 2016-11-01.

358\_NKHR2012000018 2012-02-07; NKHR2013000050 2013-03-19; NKHR2015000030 2015-02-10.

August 2016, 70 to 80 percent of the people use drugs (*bingdu*) as antibiotics for their disease, and older people carry small amounts of drugs (*bingdu*) to be used when they become sick.<sup>359</sup> Another North Korean defector who escaped from Pyongyang in June 2015 said that North Koreans carry 1~3g of drugs (*bingdu*) because it can save people’s lives in emergency situations.<sup>360</sup> Another testimony indicated that the testifier’s parents used drugs (*bingdu*) as a medicine or an analgesic when they were treating an illness because they could not afford medical treatment.<sup>361</sup> The use of narcotics for treating illness based on wrong medical knowledge appears to produce considerable side effects, but North Korean authorities do not seem to take enough action.

### C. Insufficient Preventive Medicine

Article 12, paragraph 2 of the ICESCR stipulates the ‘prevention, treatment, and control of diseases.’ North Korea emphasizes preventive medicine. Article 3 of the Public Health Law stipulates that “the basics of Socialist medicine is preventive medicine.” North Korea’s preventive system is mainly about prevention of diseases and a district doctor system. Article 18 of the Public Health Law emphasizes prevention of diseases as “the State shall

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359\_NKHR2017000001 2017-04-10.

360\_NKHR2017000033 2017-06-05.

361\_NKHR2017000029 2017-06-05; NKHR2017000056 2017-07-31.

take establishment of measures in advance so that the people do not develop diseases as an important duty of the State and take such advance measures for prevention.” Moreover, Article 28 of the Public Health Law stipulates regarding the district doctor system “the State shall develop the district doctor system, which is an advanced medical service system under which doctors take charge of a certain district of people and are always in the field to take care of the health conditions of the people in the district for which they are responsible and carry out preventive medicine.” This preventive medicine system is also stipulated in Article 4 and 5 of the Law on Medical Care. Moreover, the Law on Prevention of Epidemics specifically stipulates regarding vaccination that “the State shall rightly establish an epidemic vaccination system and carry out vaccination in a planned manner” (Article 5). The following is to see if such institutional device is properly operated in reality.

Among others, based on the testimonies on the adequacy of vaccination activity in North Korea, the vaccination for children appears to be conducted relatively well. The WHO also reports that the percentage of vaccination conducted on children in North Korea is very high, ranging 96 to 98 percent.<sup>362</sup>

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362\_ “WHO Vaccine-preventable Diseases: Monitoring System. 2016 Global Summary,” [http://apps.who.int/immunization\\_monitoring/globalsummary](http://apps.who.int/immunization_monitoring/globalsummary), 2016.

**Table III-11** Cases Concerning Vaccination

Testimonies	Testifier ID
In Cheongjin, North Hamgyeong Province, the testifier was vaccinated against measles, hepatitis, tuberculosis and paratyphoid until he defected in 2014.	NKHR2014000091 2014-07-15
The testifier received vaccinations for malaria in Yeonsan County, North Hwanghae Province, in the spring of 2014.	NKHR2014000021 2014-04-01
The testifier was vaccinated against hemorrhagic fever in the summer of 2014.	NKHR2016000020 2016-01-26
The testifier was vaccinated against hemorrhagic fever in the summer of 2016.	NKHR2016000171 2016-11-01
The testifier was vaccinated against BCG after childbirth, and against hepatitis a week after that.	NKHR2014000001 2014-02-18
The testifier was vaccinated against typhoid and other infectious diseases in Baeksan-Li, Daehongdan County, Yanggang Province.	NKHR2014000121 2014-08-12
While living in Hamheung, South Hamgyeong Province, the testifier was vaccinated against paratyphoid, malaria, and measles twice a year.	NKHR2014000157 2014-09-23

When an epidemic breaks out, North Korean authorities appear to take measures to prevent the spread of the infectious disease by providing vaccinations by the regions, encouraging health check-ups, and taking isolation measures. A defector testified to have received free vaccination when typhoid broke out, before escaping North Korea in 2017.<sup>363</sup> Another defector testified that residents were encouraged at the city level in Hoeryeong to receive health checkups when it was flooded in 2016, due to concerns about water pollution.<sup>364</sup> One defector who escaped in 2015 testified that Pyongyang offers vaccinations when epidemics

363\_NKHR2017000111 2017-11-20.

364\_NKHR2017000024 2017-05-08.

such as SARS or cholera break out.<sup>365</sup>

However, North Korea still seems to be significantly vulnerable to the prevention of contagious diseases including tuberculosis and malaria. In particular, tuberculosis appears to be serious. According to the “World Tuberculosis Report 2016” published by the WHO, the number of tuberculosis patients in 2015 was 141,000 or 561 per 100,000 persons and about 15,000 residents are estimated to have died with the disease in 2015.<sup>366</sup> This number represents 61 deaths per 100,000 tuberculosis patients, which is very high compared to 5 in South Korea and 2.6 in China and 2.5 in Japan. It is reported that following the direction of Kim Jong Un in 2016, there has been huge investment in tuberculosis medication with an extensive tuberculosis prevention program under a three-year plan. However, tuberculosis still significantly threatens the right to health of the North Korean people.<sup>367</sup>

Moreover, the district doctor system conducted mainly for medical prevention fails to fulfil its function. There are regions where district doctors work to prevent diseases through giving prescriptions, giving vaccinations against epidemics, and holding sessions to explain epidemics to people.<sup>368</sup> However, in many cases, they do not seem to faithfully conduct their duty to prevent

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365\_NKHR2017000033 2017-06-15.

366\_WHO, “Global Tuberculosis Report 2016,” ([www.who.int/en](http://www.who.int/en)).

367\_NKHR2016000164 2016-12-27.

368\_NKHR2014000111 2014-08-12; NKHR2015000024 2015-01-27.



diseases.<sup>369</sup> Some said they have only heard of the district doctors and have not met them in reality<sup>370</sup> while some others said the district doctor system was in operation as a matter of form but was not of much use unless one had lots of money.<sup>371</sup> According to testimonies, in some cases nurses act as district doctors<sup>372</sup> or district doctors ask for money when requested to visit.<sup>373</sup>

The district doctor system's inability to function properly can be traced to the fact that the State does not provide adequate rewards for the doctors' labor, as is the case of other workers.<sup>374</sup> As a result, these doctors must find ways to make a living for themselves. Some doctors vend in markets or cut wood from the mountains to sustain their livelihood.<sup>375</sup>

## D. Evaluation

Although North Korea stipulates a free medical care system, most of the cost incurred in the process of receiving medical service is shouldered by the patient. Therefore, residents with financial hardships cannot visit the hospital when they are hurt or

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369\_NKHR2014000212 2014-12-30; NKHR2015000018 2015-01-27; NKHR2015000019 2015-01-27.

370\_NKHR2017000058 2017-07-31; NKHR2017000066 2017-08-28.

371\_NKHR2017000004 2017-04-10.

372\_NKHR2013000063 2013-04-02.

373\_NKHR2015000130 2015-09-22.

374\_NKHR2016000021 2016-01-26; NKHR2016000164 2016-11-01.

375\_NKHR2016000021 2016-01-26.

become sick, and in some cases end up dying. In addition, as access to health care service becomes more polarized, the use of medical facilities is relatively easier for senior officials whereas it is becoming increasingly difficult for the general public. Furthermore, due to the poor quality of health care services, residents no longer trust medical institutions and choose to visit private doctors instead. Despite the risk factor even in such medical practice, North Korean authorities are not taking sufficient action. Particularly, it is confirmed that North Korean residents use narcotics such as drugs (*bingdu*) for treatment. Appropriate action by North Korean authorities seems necessary.

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

# 3

## Right to Work

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

Table III-12 Article 6, 7, 8 of the ICESCR

<p>Paragraph 1</p>	<p>The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.</p>
<p>Article 6 Paragraph 2</p>	<p>The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.</p>
<p>Article 7</p>	<p>The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:</p> <ul style="list-style-type: none"> <li>(a) Remuneration which provides all workers, as a minimum, with:             <ul style="list-style-type: none"> <li>( 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;</li> <li>( ii ) A decent living for themselves and their families in accordance with the provisions of the present Covenant;</li> </ul> </li> <li>(b) Safe and healthy working conditions;</li> <li>(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;</li> <li>(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays</li> </ul>
<p>Article 8 Paragraph 1</p>	<p>The States Parties to the present Covenant undertake to ensure:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(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;</li> </ul>

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

By guaranteeing the right to work, it assures the survival of individuals and their families. In general, the right to work is reviewed in terms of freedom to choose jobs,<sup>376</sup> decent work,<sup>377</sup> prohibition of forced labor,<sup>378</sup> prohibition of unfair dismissal,<sup>379</sup>

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

377\_ *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.”

378\_ *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.”

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

and principles of non-discrimination.<sup>380</sup> The right to form and engage in trade unions voluntarily and the right to strike are also important items of the right to work.<sup>381</sup>

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

However, laws and institutional guarantees are irrelevant of the

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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."

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

381\_ ICESCR, Article 8, para. 1.

realities on the ground. This chapter examines whether the right to work is properly guaranteed by reviewing the freedom of choosing one's job, availability of quality jobs, prohibition on forced labor, and freedom to form and join trade unions.

## A. Failing to Observe Regulations that Guarantee Freedom to Choose One's Job

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

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

properly when assigning work in reality.

According to defector testimonies, one's own opinion and ability are not major factors in job assignment. There are some cases that reflected workers' opinion and ability when assigning jobs<sup>382</sup> but mostly background (*songbun*), personal connection, ability to bribe (assets) are found to be the key factors that decide the job assignment.<sup>383</sup> Some testimonies showed that recently background started to play more important role than economic power.<sup>384</sup> However background still seems to play an unwaveringly important role as in many cases the job is assigned in a way he/she can be inherited the job by their parents or grandparents.<sup>385</sup> This is especially so when being assigned to special-grade enterprises or as an official.<sup>386</sup> If one refuses to work as an expression of complaint about being assigned to a job they do not want, he/she is subject to discipline that includes loss of employment and imprisonment at labor training camps.<sup>387</sup>

In North Korea, the most common example of violations of the

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382\_ NKHR2017000083 2017-09-25; NKHR2017000116 2017-11-20.

383\_ NKHR2017000019 2017-05-08; NKHR2017000030 2017-06-05; NKHR2017000039 2017-06-05.

384\_ NKHR2017000043 2017-07-03; NKHR2017000066 2017-08-28; NKHR2017000123 2017-11-20.

385\_ NKHR2017000047 2017-07-03; NKHR2017000063 2017-07-31; NKHR2017000090 2017-09-25; NKHR2017000102 2017-10-23; NKHR2017000116 2017-11-20; NKHR2017000120 2017-11-20.

386\_ NKHR2016000103 2016-06-28; NKHR2017000019 2017-05-08; NKHR2017000056 2017-07-31; NKHR2017000073 2017-08-28.

387\_ NKHR2015000018 2015-01-27.



individual's right to choose jobs is that most job appointments are based on group allocation. Group allocation refers to a situation where people are forcibly and unilaterally assigned their jobs in groups to factories, mines or construction facilities and workplaces with a labor shortage issue. It is done following the direction of the State, regardless of the people's intention. Those school graduates with little asset or connections and discharged soldiers have been common targets of this group allocation. They are mostly assigned to highly unwanted workplaces such as storm troops (*dolgyeodae*), mines, factories and military supply factories, farms, and construction units (*geonseoldae*).<sup>388</sup> Considering the testimonies that personal connections or bribery are frequently used to avoid group allocations,<sup>389</sup> it is assumed that such allocations take place against workers' desires.

It is also difficult to change jobs based on worker's own will. Changing job is not only restricted but also complicated. It appears that not only is bribery necessary, but the larger the bribe, the faster the process.<sup>390</sup>

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388\_ NKHR2016000006 2016-01-12; NKHR2017000029 2017-06-05; NKHR2017000096 2017-10-23; NKHR2017000111 2017-11-20.

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

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

## B. Poor Working Conditions

The most important condition for “decent work” is that it guarantees “a decent living for (workers) and for their families in safe and healthy working conditions” (Article 7 of the ICESCR). North Korea has declared that “In the Democratic People’s Republic of Korea unemployment has disappeared forever” (Article 5, the Labor Law). North Korea insists that all workers are guaranteed stable jobs and safe working conditions by the State, but the reality is quite different.

In terms of realizing the right to work to support families in safe working conditions, North Korea’s reality falls far short of “safe working conditions” prescribed in the Labor Law. Moreover, as people cannot earn a sufficient living from jobs officially assigned by the State, they have to support themselves and their families through unofficial work.<sup>391</sup> This shows that North Korea’s working conditions are far from the “stable jobs” prescribed in North Korean laws.

Legal provisions prescribing “working hours” and “working conditions” are also only nominal and not practically applied in reality. Article 30 of the North Korean Constitution stipulates, “The daily working hours of the working people shall be eight

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<sup>391</sup>\_This will be elaborated further in C. Exploitation of Labor through Unpaid Labor and Labor Mobilization.

hours,” and in the Socialist Labor Law, it is more specifically stipulated as “The daily working hours of workers is eight hours. The government set daily working hours as seven hours or six hours based on the level of difficulties of labor and special conditions. The daily working hours of female workers with three or more children shall be six hours” (Article 16). Moreover, regarding rest for workers, Article 65 of the Socialist Labor Law stipulates that “laborers, office workers and farmers of cooperative farms shall receive 14 days of regular leave and 7 to 21 days of supplementary leave based on job type.” Labor Protection Law also stipulates similar provisions related to working hours and rest.

Even with consideration to the differences in region and factory size, lack of electricity and raw materials, deterioration of factory facilities following the economic crisis has led to an overall decrease in factories’ operation rates. Subsequently, average working hours have become more or less meaningless. In this regard, multiple North Korean defectors testified that average working hours were less than the standard working hours (eight hours) as there was not much work at the work sites.<sup>392</sup> On the other hand, for some factories, working hours have been extended. A North Korean defector who worked at a 2nd-grade enterprise testified that although the 8 hours are working standard, it was no

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392\_NKHR2016000103 2016-06-28; NKHR2016000135 2016-08-22.

exaggeration to say that people actually worked almost 24 hours,<sup>393</sup> and according to another North Korean defector, the standard working hours were not well complied with and people had to work overtime in occasions such as “100-day battle” or “70-day battle.”<sup>394</sup> One defector who was a leader of the working team in a shoe factory located in Hyesan city, Yanggang Province testified that they worked around 20 hours when provided with electricity and without electricity around five hours in maximum or at least one to two hours.<sup>395</sup> Additional pay was not given despite occasional overtime work.<sup>396</sup>

The situation related to rest for workers varied by work sites similar to working hours. Workers at work sites could use the legally guaranteed 15 days of annual leave,<sup>397</sup> while another factory worker testified that the work site did not give days of leave or did not allow workers to take any leave.<sup>398</sup> One defector testified that there was no concept of holiday because 15 days of annual leave was provided only after fully working for a year and even when the annual leave was given, it was not for rest but for

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393\_NKHR2016000056 2016-05-03.

394\_NKHR2016000135 2016-08-22.

395\_NKHR2017000135 2017-12-18.

396\_NKHR2107000075 2017-08-28; NKHR2017000063 2017-07-31; NKHR2017000120 2017-11-20; NKHR2017000121 2017-11-20.

397\_NKHR2017000019 2017-05-08; NKHR2017000041 2017-07-03; NKHR2017000051 2017-07-03; NKHR2017000052 2017-07-03; NKHR2017000083 2017-09-25; NKHR2017000114 2017-11-20.

398\_NKHR2017000043 2017-07-03; NKHR2017000102 2017-10-23.

working at another workplace to make up for financial shortages.<sup>399</sup>

Meanwhile, regulations on working hours of pregnant women seem to be relatively well complied. North Korea had regulated the pre-/post-natal leave of pregnant women as 60 days of pre-natal and 90 days of post-natal leave until June 30, 2015. One North Korean defector, who gave birth in 2004, testified that she was provided with five months of pre-/post-natal leave and another North Korean defector testified that at farms, pregnant women received two months of pre-natal leave and three months of post-natal leave and they also received benefit money.<sup>400</sup> On June 30, 2015, North Korea revised the Socialist Labor Law and Law on the Protection and Promotion of the Rights of Women to expand pre-/post-natal leave for pregnant women to 60 days of pre-natal leave and 180 days of post-natal leave (Article 66 of the Socialist Labor Law and Article 33 of the Law on the Protection and Promotion of the Rights of Women) and emphasized such measures in the implementation report on the CEDAW and the implementation report on the CRC submitted in April 2016.<sup>401</sup> Not enough testimonies have been collected in this regard. It appears there is a need to observe whether pre-/post-natal leave is provided as stipulated in the legal regulations.

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399\_NKHR2017000135 2017-12-18.

400\_NKHR2016000006 2016-01-12; NKHR2016000181 2016-11-29.

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

## C. Exploitation of Labor through Unpaid Labor and Labor Mobilization

Article 7 of the ICESCR stipulates that State Parties must offer remuneration sufficient enough to afford decent standard of living for oneself and the family. However, most North Korean residents appear to receive no remuneration at the designated enterprise or farm. Even if the wage is paid, the wage is mostly not helpful in sustaining the family. Some people do receive rations at the work or farm, but it also is too insufficient to maintain a livelihood.

Table III-13 Situation of Wages in North Korea

Testimonies	Testifier ID
At Sambong Regional Product Office, the testifier received yearly income of 250,000 won from September 2008 to March 2013. At Yanggang Province Plant Construction Unit, the testifier received yearly income of 300,000 won from April 2015 to October 2016.	NKHR2017000093 2017-10-23
Ration was received twice a month, once every two weeks, with the amount of 3kg rice and 3kg corn. Also received 4,500 won as a wage once a month.	NKHR2017000083 2017-09-25
Received living expense of 1,100 won instead of ration. 1,100 won cannot even afford 1kg of corn. Even that money is not paid regularly, but postponed and was provided altogether.	NKHR2017000085 2017-09-25
Husband working at the sanatorium received neither ration nor wage.	NKHR2017000094 2017-10-23
A woman born in 1990 worked at the Yanggang Province Raw Material Base Office as a secretary received ration on every holiday (5 days ration, 2~3 ration, etc) without any payment.	NKHR2017000116 2017-11-20
The testifier never received any payment, but received ration each month. Samjiyeon County tends to offer relatively higher ration compare to other counties.	NKHR2017000121 2017-11-20

Testimonies	Testifier ID
The testifier never received any payment, but received ration each month. The testifier only received 10kg of ration when the policy states 21kg should be received.	NKHR2017000122 2017-11-20
Received neither payment nor ration. Farmers do not get any distribution even if they work all year.	NKHR2017000123 2017-11-20

Because people cannot earn a sufficient living from the jobs officially assigned by the State, it became common for North Korean workers to be engaged in various market-related activities rather than going to their workplace. Large portion of laborers is the so-called 8·3 workers, which means that they pay a certain amount of money to the business for not going to work, and become engaged in personal economic activity instead. A male defector in his late-20s who used to reside in Pyongyang testified that he was registered as a 8·3 laborer at the business. He made money by borrowing some space from the business for operating a table tennis court, or by investing money in a private factory to share the profit.<sup>402</sup> He also said that he had many friends who are free from work duty. Paying 30 dollars to the business, they had to attend Life Review Sessions (*saenghwalchonghwa*), but paying 50 dollars allows them to never visit the business at all.<sup>403</sup>

However, this constitutes an illegal act under North Korean laws. Article 90 of the Administrative Penalty Law prescribes penalties for “jobless hoodlum” behaviors. According to this

402\_NKHR2017000031 2017-06-05.

403\_Above testimony.

provision, if anyone does not come to their assigned workplace for six months or more or if anyone is missing from work for a month or more, he/she can be penalized with three months or less, or three months or more of reform through labor (*rodong gyoyang*) discipline, depending on the seriousness of the case. Indeed, one defector testified that a female worker who had not come to work for a month without notice in 2015 was punished with spending a month in labor training center.<sup>404</sup> This is a case of human rights infringement as the worker had to conduct unwanted labor due to the disadvantage arising when not participating in labor work. However, in North Korea where corruption is rampant, one can get away with punishment when being absent from work without notice as long as he/she is able to pay a certain amount of money. Also, it is assumed that there are many workers who negotiate with the enterprise to pay money and be absent from work just like the 8·3 laborers.<sup>405</sup>

Meanwhile, North Korean authorities are found to mobilize people for large-scale civil engineering work and force people to work in poor working environments without paying proper wages. A North Korean defector testified that he/she was working for the “618 Shock Troop (*dolgyeokdae*)<sup>406</sup> from 2006 to 2011.”

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404\_ NKHR2017000036 2017-06-05.

405\_ NKHR2017000007 2017-04-10; NKHR2017000042 2107-07-03; NKHR2017000083 2017-09-25; NKHR2017000113 2017-11-20.

406\_ The name originated from the labor schedule where one takes a 6 hour break (sleep included) and works for the other 18 hours.



The 618 Shock Troop was assigned to the construction of Samsoo power plant in Yanggang Province, Bukcheong-Hyesan highway, Gosan fruit farm in Gangwon Province. Despite the intense labor, they were only provided with the monthly wage of 5,000 North Korean won and 230g of corns per meal. The testifier woke up at 3:30 am and worked from 6 am until midnight and many of the mobilized residents died of malnutrition and weakness.<sup>407</sup> Another testifier who defected after working in Shock Troop Kimhyongjik County for two to three months said that the level of work was very intense and the meal was corns in bland water soup with no wages paid at all.<sup>408</sup>

#### D. Restrictions on Forming, Joining and Withdrawing from Trade Unions

Article 8, paragraph 1 of the ICESCR stipulates that State Parties must ensure the right to form, join, and withdraw from the labor union. However, free labor unions that protect and represent the interests of laborers do not exist in North Korea. The only labor union that exists is the Chosun (North Korea) General Federation of Trade Unions (hereinafter The Trade Union), but its only functions is a “link between the Party and the working class,”<sup>409</sup> and does not have the right to collective organization or collective

407\_NKHR2015000021 2015-01-27.

408\_NKHR2017000095 2017-10-23.

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

bargain. Following the Ninth Plenum of the Fourth Party Central Committee held in June 1964, “trade union roles of monitoring and controlling corporate management” were abolished and the interests of the laborers were placed under the complete control of the Party. The Chosun (North Korea) General Federation of Trade Unions is responsible for controlling the work environment, including projects for worker protection, promotion of productivity, and tightening of work rules. In this respect, it is entirely different from trade unions in capitalist societies.<sup>410</sup> Furthermore, in North Korea’s general worker-related laws, there are no provisions concerning workers’ rights to collective action or collective bargaining.

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

In these circumstances, there is no meeting or activity that represents the will of workers at the workplace.<sup>411</sup> Therefore, it is

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410\_ *Ibid.*, p. 155.

411\_ NKHR2017000018 2017-05-08 and other testimonies.

hard to find the case where representative of the laborer and manager of the business get into discussion to improve working environment. North Korean residents' perception of related right is also estimated to be low.<sup>412</sup> One defector testified that in 2012, state policy required enterprises to carry out a survey of employees' opinions. Most respondents' statements requested pay for work done and permission to sell in the market. However, there were no changes after the survey was rounded up.<sup>413</sup>

## E. Evaluation

It appears that North Korean authorities do not properly recognize the right to work, as stipulated in international standards on human rights. As indicated in the practice of 'group allocation,' North Korean authorities forcibly assign people to the workplace without guaranteeing the freedom to choose work according to each individual's ability and hope. In addition, North Korean authorities also do not ensure the right to work under favorable working conditions, as well as the right to receive just compensation for labor. In reality, wages are not provided to the laborers and they are forced to carry out separate economic activities to sustain both lives of their own and their families. Moreover, because the freedom to form, join, and withdraw from the labor union is not

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412\_NKHR2017000019 2017-05-08 and other testimonies.

413\_NKHR2017000019 2017-05-08.

protected, workers cannot demand improvement of the work environment despite unreasonable treatment.

# 4

## Right to Education

The right to education refers to everyone, not only children. Furthermore, the right to education includes the right to private or public education as well as formal or non-formal education. At the same time, it is also the right to lifelong education for all members of society. Article 26 of the UDHR stipulates that “everyone has the right to education,” while Article 13 of the ICESCR, to which North Korea is a State party, stipulates the right to education as is represented in the following table:

Table III-14 Article 13 of the ICESCR

Paragraph 1	The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
Paragraph 2	The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally

	<p>available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;</p> <p>(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;</p> <p>(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;</p> <p>(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.</p>
<p>Paragraph 3</p>	<p>The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.</p>
<p>Paragraph 4</p>	<p>No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.</p>

Article 73 of the North Korean Constitution stipulates that “Citizens have the right to education. This right is ensured by an advanced educational system and by the educational measures enacted by the State for the benefit of the people.” The Constitution also describes matters regarding overall free mandatory education system based on the socialist pedagogy such as law on education, elementary education, and higher education. In general one can decide the level of “right to education” guaranteed based on the availability, accessibility, acceptability, and adaptability. This chapter examines the reality of right to education in North Korea

based on the standards described above.

## A. Lack of National Resource Investment on Educational Institutions

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

Article 7 of the North Korean Education Law describes the principles of guaranteeing the conditions for educational programs as “the State shall systematically increase investment in education and reinforce support for education by smoothly guaranteeing educational conditions.” Moreover, North Korea extended its eleven years of free compulsory education to twelve years through the educational system reform in 2012 when Kim Jong Un came to power. Specifically, it was restructured to free education for one year of pre-school and eleven years of primary and middle school. There are five years of elementary school, three years of junior secondary school (junior high school), three years of senior secondary school (high school), and 4~6 years of advanced (college) education. Kindergartens (pre-school) are divided into one year of lower class and one year of upper class.<sup>414</sup>

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414\_Jeong-ah Cho *et al.*, *Education Policy, System and Textbooks in North Korea*

Although the free compulsory education and educational system by stages (elementary, middle, advanced school) are established by law, many difficulties appeared after the economic hardship of the mid-1990s such as shortage of basic supplies including textbooks, poor working environment for the teachers, and obstacles in managing educational facilities. Although there is a tendency to emphasize the investment in education after Kim Jong Un came to power, the burden of students' parents appears to be increasing due to improper distribution of the resources at the central level.<sup>415</sup> Also, because financial compensation for the teachers is not properly given, teachers face a difficult situation where they have to engage in other economic activities to sustain themselves. The reality of the improper distribution of educational facility and management resources by North Korean authorities is leading to a lack of availability in terms of students' educational rights. However, some testimonies have suggested that the problem of textbook shortage has partially improved after Kim Jong Un came to power, and that free distribution of the school uniform has been partially resumed.<sup>416</sup>

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*under Kim Jong Un* (Seoul: KINU, 2015), pp. 19~20. (In Korean)

415\_Parents are forced to buy items necessary in school and pay the school's running costs. NKHR2017000117 2017-11-20; NKHR2017000121 2017-11-20; NKHR 2017000122 2017-11-20; NKHR2017000123 2017-11-20; NKHR2017000131 2017-12-18.

416\_There are some testimonies that school started to distribute testbooks and school uniforms from 2015. NKHR2017000008 2017-04-10; NKHR2017000010 2017-04-10; NKHR2017000116 2017-11-20.



## B. Discrimination in Educational Opportunity

Accessibility means all people have access to education institutions and programs, without discrimination, and constitutes an important element of the right to education. Accessibility in education is divided into non-discriminatory physical and economic accessibility.<sup>417</sup> Non-discriminatory accessibility means that there should be no legal or practical discrimination against certain vulnerable groups of people when it comes to access of educational opportunities. Regarding the principle of non-discrimination, North Korean people's access to education is not guaranteed. North Korean authorities do not permit the access to normal education or educational programs to children of those regarded as potential reactionaries including political criminals, etc. One's background (*songbun*) acts as an important criteria in the admission process of universities, including Kim Il-Sung University. The twelve years of education provided as compulsory under North Korean law are not permitted inside political prison camps. Although

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417. 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.”

elementary education is offered inside camps, the curriculum is different from outside elementary schools.

In terms of gender equality in education, it is identified that there is no difference in the rate of boys and girls going to school until the mandatory education of senior-middle school. However, the rate becomes significantly eschewed in the case of college entrance. Specifically, the rate of female students advancing to higher education is much lower than that of male students. In the 2016 National Performance Report submitted by North Korea to the United Nations Committee on Elimination of All Forms of Discrimination against Women (CEDAW), North Korea does not specifically indicate female enrollment rate above highschool. However, figures indicate that 10 percent of the female population received university education.<sup>418</sup> Through granting access to university education in the field of science and technology and also through the distance education system, North Korea emphasizes that they are increasing the percentage of girls entering and completing their studies.<sup>419</sup> In this regard, the UN Committee on the Rights of the Child suggested that North Korea “promote

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418\_ Consideration of reports submitted by State parties under article 18 of the Convention, Second, third and fourth periodic reports of States parties due in 2014. DPR Korea. Committee on the Elimination of Discrimination against Women, UN Doc. CEDAW/C/PRK/2-4 (2016), para.102.

419\_ List of issues and questions in relation to the combined second to fourth periodic reports of the Democratic People’s Republic of Korea, UN Doc. CEDAW/C/PRK/Q2-4/Add.1 (2017), paras. 54~55.

gender equality in all educational institution.”<sup>420</sup> In 2017, CEDAW also suggested that North Korea improve the traditional perceptions and structural constraints which have been preventing female students from entering schools in such fields as science.<sup>421</sup> Such gender difference in educational accessibility is also related to women’s lower participate rates in North Korean society.

In terms of physical accessibility, Article 15 of the North Korean Education Law mandates that “the local authorities must take measure to ensure the compulsory education of children who is residing in deep mountains or remote island, as well as the children with disabilities.” Article 22 of North Korean Elementary Education Law mandates that elementary and middle schools may be operated together, or a branch school may be established depending on the number of students and distance to the school. In the 2017 National Performance Report submitted to the UN Committee on the Rights of the Child, North Korea emphasized that they are undergoing improvement projects. “From 2013 to 2014, they will build new nursery schools, kindergartens, and schools in 10 islands located in the West Sea. Newly built institutions will be equipped with the same equipment as urban schools. One village in South Pyeongan Province will be selected

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420\_ 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.

421\_ 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.

as a model village for improving educational conditions. However, outside of these legal regulations, actual accessibility to education by students living in remote areas is assessed to be substantially low due to the general condition of roads, mass transit systems and the difficulties of distance learning. Furthermore, these students are mostly from the absolute poverty class, and the inequality to educational opportunity caused by isolation tends to coincide with poor economic accessibility.

Since the economic crisis, economically vulnerable groups' access to education grew worse as the public education system deteriorated. The State's financial support for elementary and middle school education has been reduced, and it has become a common occurrence for schools to depend on parents' money to run the school. Currently, a substantial portion of the costs of public education is paid for by the parents. These costs include buying school furniture such as desks and chairs, creating laboratories, buying equipment such as computers, renovating and maintaining school facilities, and paying for heating.<sup>422</sup> Due to the ensued financial burden, many students choose not to go to school, to take a leave, or to drop out.<sup>423</sup> This burdening costs related to education applies not only to parents of students in

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422\_NKHR2017000008 2017-04-10; NKHR2017000025 2017-05-08; NKHR2017000008 2017-04-10; NKHR2017000048 2017-07-03; NKHR2017000120 2017-11-20.

423\_NKHR2017000077 2017-08-28; NKHR2017000097 2017-10-23; NKHR2017000125 2017-11-20; NKHR2017000136 2017-12-18.

elementary and middle schools, but also to those with children in daycare center, kindergartens and colleges. Ultimately, the free education system is rendered meaningless in all but name.<sup>424</sup> In this regard, the UN Committee on the Rights of the Child recommended in 2017 that North Korea take immediate measures to prohibit schools from making any request to parents to pay costs and donate food or materials.<sup>425</sup>

### C. Emphasis on Socialist Education

Acceptability is an important factor in determining whether the form and nature of education, including educational programs and instructional styles, are acceptable to students who are the receivers of education and its direct beneficiaries.

Article 29 of the CRC states that the goal of education should be well-rounded in terms of acceptability and stresses its importance in children's education. North Korea also advocates, by law, education based on Socialist principles, as it stipulates in Article 3 of the Education Law that "raising trust-worthy personalities who possess sound ideological awareness, deep scientific-technological knowledge, and strong physical capability

424\_ Most North Korean defectors had consistently similar views of the collapse of the free education system and matters related to support for school supplies. NKHR2017000026 2017-05-18; NKHR2017000041 2017-07-03; NKHR 2017000048 2017-07-03; NKHR2017000050 2017-07-03; NKHR2017000063 2017-07-31; NKHR2017000076 2017-08-28; NKHR2017000103 2017-10-23.

425\_ UN Doc. CRC/C/PRK/CO/5 (2017), para. 46.

is the basic principle of Socialist pedagogy.” In addition, the Article 29 of the Education Law puts emphasis on the importance of political and ideological education as main content of education.<sup>426</sup> However, excessive political ideological education, mobilization for political events and regime propaganda and mandatory military training are far from the realization of the goals of children’s education.

Meanwhile, Article 32 of the CRC stipulates that children shall be protected from labor that threatens their health, education and development. However, North Korean students are mobilized for diverse work including farming and construction under the pretext that it is a part of their educational programs. This clearly goes beyond the meaning of education.<sup>427</sup> Regarding this issue, the UN Committee on the Rights of the Child recommended North Korea in 2017 to guarantee the right to education, rest, and leisure of child as well as not to be forced to labor that damages physical and psychological well-being.<sup>428</sup>

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426\_ Educational organizations must impart to students sound ideology, morality, and deep knowledge, so that they can attain strong body and broad sensibilities, along with scientific, technological, athletic and artistic education under an overall political ideological education.

427\_ The issue of the lack of acceptability in education shall be examined in more detail in Part IV, Chapter 2, Children.

428\_ UN Doc. CRC/C/PRK/CO/5 (2017), para. 46.

## D. Limits in the Learners' Right to Choose

Adaptability in education refers to the degree of guarantee of an adequate educational environment from the perspective of the receivers and the degree of appropriateness of the educational material provided for each developmental stage. It also reflects the degree to which the various ways the social environment is changing and adequately reflected in education. Whether North Korean students receive adequate education that is also appropriate according to such standards varies according to family environment, social status and economic capability. One noteworthy point is that the State is the only authority that decides and controls educational programs in North Korea. Such control of education by the authority is applied uniformly to students from all social classes in North Korea.

In addition to State-run educational facilities, there are other educational facilities run by the workplace, social organizations, and other social facilities. However, the State, particularly the Party decides the system, direction, content and methods of basic education. The operational process and evaluation are also controlled by the Party. In other words, from school education to social education and education for adults, the State picks the content and develops the educational programs and textbooks. The operation of all educational programs is centrally and uniformly controlled. As a result, it is no exaggeration that there is little left to the

discretion of schools and teachers in the operation of educational programs. As there are few elective subjects, all students take the same educational programs, except for specially-talented students at special educational facilities. All educational institutions, from kindergarten to elementary and middle school to college, are set up and run by the State, and no private educational institutions exist in North Korea. It can be said that the opinions of students and parents are not reflected in the schools or the educational programs.

Such rigidity in education caused by the State-led system serves as a constraint that prevents the North Korean educational program and system from fundamentally reflecting the changes and innovations of the time. Although North Korea emphasizes modernization and informatization of education through its official media, such educational goals are bound to face fundamental limitations as long as the educational system is led by the State and the Party.

## E. Evaluation

North Korea has institutionalized 12 years of compulsory education in 2012 and announced its Education Strategy (2015~2032) in 2014.<sup>429</sup> When analyzed in terms of availability,

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429\_UN Doc. CRC/C/PRK/CO/5 (2017), para. 45.



accessibility, acceptability and adaptability, North Korean's education system was found to be insufficient on all counts. In particular, the ideological education that North Korean authorities continue to emphasize is assessed to constitute a serious infringement on the right to autonomous learning and to choose what to learn. North Korean authorities should make efforts to provide a universal and creative educational environment for students, breaking away from the educational policies that are absolutely focused on "Kim Il Sung and Kim Jong Il Patriotism." Although North Korea claims to provide a free education system, the economic burden imposed on students and parents seems to be very large since the distribution of resources for basic school operation as well as the teachers' remuneration is not properly operated at national level. Due to this burden, students who cannot afford such payment are prevented from going to school. Grave impediments persist in students' education due to their being mobilized for various work, such as agriculture, construction, and political events. Even though there are some children who cannot complete compulsory education due to poverty, North Korean authorities have denied the seriousness of the issue and have not set appropriate countermeasures.

# 5

## Right to Social Security

The UDHR stipulates that everyone, as a member of society, has the right to social security (Article 22). The ICESCR also stipulates that the States Parties shall recognize the right of everyone to social security (Article 9). The right to social security is very important in keeping the human dignity of the people who face situations where it is difficult to realize the rights of the Covenant.<sup>430</sup> Moreover, the right to social security contributes to reducing and mitigating poverty, preventing social exclusion, and promoting social cohesion.<sup>431</sup>

The UN Committee on Economic, Social, and Cultural Rights presents health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors, and orphans as the nine principal branches of social security.<sup>432</sup> North Korea has laws and regulations related to most of these

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430\_ UN CESCR, General Comment, No. 19 (2007), para. 1.

431\_ *Ibid.*, para. 3.

432\_ *Ibid.*, paras. 12~21.

factors. However, given the gap between North Korea's legal provisions and actual situation, it would be difficult to say that institutional existence guarantees actual social security. In this light, it is necessary to confirm whether these institutions are fulfilling its role. The following will examine whether the social security rights of the residents are appropriately guaranteed, in terms of four categories of old age, family and children, sickness and disability, and industrial accidents.<sup>433</sup>

Table III-15 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, Socialist Labor Law, Labor Protection Law
Employment Injury		
Family and Child Support		Law on the Nursing and Upbringing of Children, Law for the Protection of Children's Rights, Law on the Protection and Promotion of the Rights of Women
Maternity		
Disability		Law on the Protection of Persons with Disabilities
Survivors and Orphans		Social Insurance Law

433\_ Content regarding orphans is not covered here as it dealt with in Part IV, Chapter 2, Children.

## A. Insufficient Pension and Subsidy for Sustenance

North Korean Social Security Law stipulates the obligation to provide a social security pension and subsidies (Articles 17 to 23), and the North Korean Law on the Protection of Elderly Persons stipulates the obligation to provide age pension and subsidies for elderly persons (Article 14). To receive elderly pension and subsidy, one must have completed a labor period or be working, and must be aged 60 or above for men and 55 or above for women (Article 2 of the Law on the Protection of Elderly Persons).

Before the Arduous March of the mid-1990s, elderly pension may have been sufficient, although the actual amount may not have been much.<sup>434</sup> However, this pension has not been paid out since the Arduous March. While laws stipulate payment, it was actually not paid in many cases.<sup>435</sup> Even when the pension was given, the amount could not possibly be sufficient for sustenance and thus appears to have been little help for the elderly. According to the testifiers, although the amount varied, it was estimated to range from 600 won to 1,000 won per month. This amount cannot buy 1kg of rice. A woman who lived in Yonsa County, North Hamgyeong Province before escaping North Korea in 2017, testified that her mother used to receive 600 won a month.<sup>436</sup> A

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434\_NKHR2013000065 2013-04-02.

435\_NKHR2017000027 2017-05-08; NKHR2017000073 2017-08-28.

436\_NKHR2017000055 2017-07-31.

woman in her mid-30s who lived in Hyesan, Yanggang Province, testified that her parents received 700 won from the regional office every month.<sup>437</sup> A woman in her late-30s who escaped from North Korea in 2017 testified that her parents-in-law received about 700 won per month.<sup>438</sup>

**Table III-16** Testimonies on the Practical Difficulties of Sustaining Life with Elderly Pension

Testimonies	Testifier ID
The grandmother of the testifier, who lived in Hoeryeong, North Hamgyeong Province, received an elderly pension of 700 won per month.	NKHR2015000141 2015-10-06
The mother of the testifier who resided in Dancheon, South Hamgyeong Province, received medal payment and military term payment as well as elderly pension, but supplemented living costs through farming and vending as it was hard to support herself.	NKHR2016000137 2016-08-23
The mother of the testifier who resided in Bocheon County, Yanggang Province, received 800-900 won of elderly pension per month after the father passed away, but as it was impossible to maintain livelihood to the extent of not being able to buy corn rice, she supported herself through cultivating paddies.	NKHR2016000164 2016-11-01
A woman in her 40s who defected in 2016 while living in Onsung county of North Hamgyeong Province testified that teachers were given the elderly pension monthly ranging from 700-1,000 won to 1,800 won.	NKHR2017000006 2017-04-10
A woman in her 50s who defected in 2016 while living in Samjiyeon County, Yanggang Province testified that the elderly pension was provided monthly but the amount was around 1,000 to 2,000 won. It was not enough to buy 1kg of rice.	NKHR2017000012 2017-04-10
A woman in her 30s who defected in 2014 while living in Samjiyeon County, Yanggang Province testified that their mother-in-law was a doctor and received elderly pension of 800 won.	NKHR2017000048 2017-07-03

437\_NKHR2017000060 2017-07-31.

438\_NKHR2017000115 2017-11-20.

According to some testimonies, payment amount appears to vary depending on the level of merit. However, because the actual amount of pension is too small, such discrimination does not seem to have practical meaning. For example, a woman in her early 30s who used to live in Onsung province, North Hamgyeong Province before defecting in 2017 testified that her mother-in-law was awarded with a medal and a title of meriter, thereby receiving more pension than others. Nevertheless, the monthly pension was only 2,700 won.<sup>439</sup>

On the other hand, some have testified that there are cases where the elderly are not provided pension, but instead distributed land for them to manage, the yields of which are for them to keep. A man, in his early 40s who used to live in Hoeryoeng, North Hamgyeong Province before defecting in 2017, testified that even though his mother did not receive the pension, 100~150 *pyeong* of land was granted, and the crop yields were for her to keep.<sup>440</sup> Another man who used to live in Gyeongwon County, North Hamgyeong Province before defecting in 2017 also testified that land was provided to the elderly as a part of a pension plan.<sup>441</sup> However, since this is not a general phenomenon, it is assumed that it may be measures taken at the regional level rather than at

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439\_NKHR2017000092 2017-09-25.

440\_NKHR2017000004 2017-04-10.

441\_NKHR2017000016 2017-05-08.

the national level.

Since elderly pension is not a sufficient means of sustenance, the elderly maintain their livelihood by either financially depending on their children or by earning little income through economic activities. Those people who cannot do either appear to enter the nursing homes. A North Korean defector testified that his/her mother received about 800~900 won of elderly pension, but as that was not sufficient to buy corn, she supported herself through cultivating paddies.<sup>442</sup> One woman who used to live in Hoeryeong, North Hamgyeong Province before escaping in 2017, testified that the elderly pension plan is only offered in a perfunctory manner, and that old people must work at the paddies until they die, unless they have children who are senior officials. She also mentioned that those people who are unable to work end up in nursing homes.<sup>443</sup>

## B. Absence of an Emergency Welfare Support System

The ICESCR stipulates that as much protection and assistance as possible should be provided as long as the family is responsible for the care and education for the children (Article 10, paragraph 1). Government support for families plays a crucial role in realizing

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442\_NKHR2016000164 2016-11-01.

443\_NKHR2017000043 2017-07-03.

these rights.<sup>444</sup> However, it seems that North Korean authorities do not provide adequate support for the families. In particular, there is no emergency welfare support system for families whose primary income earner is unable to make a living for the family due to illness or death. In these situations, residents are vulnerable to economic crises. It appears residents regard such situation as being inevitable.

A woman in her 20s, who used to live in Gapsan County, Yanggang Province before defecting in 2015 said that, if a woman who used to make a living through the marketplace activity becomes ill, the woman must sustain her own life because it is regarded as her personal issue.<sup>445</sup> Another woman in her mid-30s, who used to live in Hyesan, Yanggang Province testified that people may ask parents or siblings for financial help in such difficulties but people cannot expect any help from the government.<sup>446</sup> A woman in her 40s who used to live in Suncheon, South Pyeongan Province before defecting in 2017 testified that she had no place to ask for help in case she suddenly gets sick or faces a difficult situation while doing business in the marketplace.<sup>447</sup> A woman in her late-50s who used to live in Hamheung, South Hamgyeong Province testified that people sometimes do ask help to the

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444\_UN CESCR, General Comment, No. 19 (2007), para. 18.

445\_NKHR2017000046 2017-07-03.

446\_NKHR2017000060 2017-07-31.

447\_NKHR2017000063 2017-07-31.



people's unit (*inminban*) and then the neighbors collect small portions of rice, but there is no government support available.<sup>448</sup> A woman in her mid-30s who used to live in Kimhyeongjik County, Yanggang Province before defecting in 2016 testified that the whole family goes under if the woman making a living in the marketplace suddenly becomes ill, and that is why many people decide to escape North Korea.<sup>449</sup>

### C. Inadequate Support System for People Suffering from Illness or Disability

Article 25 of the UDHR stipulates that everyone has the right to be assured in case of illness or disability. Therefore, cash benefits must be provided for the people who cannot work due to health reasons, and disability benefits should be provided to people suffering from long-term illnesses.<sup>450</sup>

In this regard, Article 72 of the North Korean Constitution stipulates that those who cannot work due to disability shall have the right to material assistance and this right shall be guaranteed by the social security system. Article 2 of the Social Security Law also includes those who cannot work due to disease or physical disability as being eligible for social security.

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448\_NKHR2017000052 2017-07-03.

449\_NKHR2017000075 2017-08-28.

450\_UN CESCR, General Comment, No. 19 (2007), para. 14.

However, the government seems to provide almost no support for residents who are unable to be engaged in economic activities for a long time due to illness or disability. A man in his mid-30s, who used to live in Gyeongwon County, North Hamgyeong Province until defecting in 2016, testified that his brother lost his ability to work due to accidental blindness but received no governmental support in sustaining his livelihood.<sup>451</sup> A woman in her mid-20s, who used to live in Bocheon Province, Yanggang Province until defecting in 2015, testified that social security is offered to people who are unable to work for a long period of time. However, she explained that this merely means one does not need to go to work; there is no rations or help provided.<sup>452</sup> A woman in her early-20s, who used to live in Samjiyeon County, Yanggang Province until defecting in 2016, also testified that no governmental support is provided for people who are unable to carry out economic activities for a long period of time.<sup>453</sup>

In contrast, some have testified that farms have distributed food to those who cannot participate in economic activities. A woman in her 30s, who used to live in Eunsung County, North Hamgyeong Province before defecting in 2017, testified that if he/she has confirmation from the hospital, the farm will not ask him/her to

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451\_NKHR2017000018 2017-04-10.

452\_NKHR2017000072 2017-08-28.

453\_NKHR2017000038 2017-06-05.

work. Even so, he/she is provided with half the farm yield.<sup>454</sup> However, with reference to other cases, it is assumed that this measure was taken by the farm itself rather than taken at the national level.

On the other hand, government support seems to be provided to the Honorable Military Servicemen, but the benefit is meager, irregular, and varies by regions. A man in his mid-30s, who used to live in Gyeongwon County, North Hamgyeong Province before defecting in 2016, testified that his father who was a honorable military serviceman received corn or potatoes. The potatoes were given once a year in the harvesting season, the amount varies from nothing to 50kg or 100kg.<sup>455</sup> A woman in her early-20s, who used to live in Gilju County, North Hamgyeong Province before defecting in 2014, testified that she saw a honorable military serviceman receiving an apartment with rations, but she also commented that even that was not enough to make a living.<sup>456</sup>

## D. Vulnerable System for the Protection of Injured Workers

Article 32 of the ILO Social Security Convention No. 102 stipulates that benefits should be paid if the worker loses the

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454\_ NKHR2017000092 2017-09-25.

455\_ NKHR2017000018 2017-04-10.

456\_ NKHR2017000050 2017-07-03.

ability to work due to “work-related accidents or diseases.” North Korea also has provisions in this regard. The Socialist Labor Law stipulates that temporary subsidies shall be paid for the workers who are temporarily unable to work due to industrial accidents, sickness, or other injuries, and ability benefits shall be paid if the duration exceeds six months. Article 77 stipulates that in the event of the worker’s death, survivor benefits shall be paid to the bereaved family.

However, it appears that there is inadequate compensation to those who have lost their labor capacity due to industrial accidents. In some cases, no compensation is given at all. Even in cases where compensation is provided, it is understood that it is not provided in a practical and continuous manner. A woman in her mid-30s, who used to live in Kimjongsuk County, Yanggang Province testified that her father became paraplegic from cerebral thrombosis at workplace in 1996, thereby becoming eligible for compensation. However, authorities refused to process the social security benefits and thus she had not once received them prior to her escape in 2014.<sup>457</sup> A man in his early-50s, who used to live in Pungso County, Yanggang Province before defecting in 2017, testified that he could be excluded from the farming duty if he goes through the social security benefit process when he gets hurt, but he also testified that no other benefit was offered by the

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457\_NKHR2017000056 2017-07-31.

government.<sup>458</sup>

It seems that the cost of medical treatment due to industrial disaster is borne by the injured person. Some have testified that injury occurring in mines,<sup>459</sup> or cases of injury as a result of negligence have led to situations where the government would provide benefits.<sup>460</sup> However, most defector testimonies support the claim that costs pertaining to treatment were usually shouldered by the worker. A woman in her late-30s, who used to live in Hyesan, Yanggang Province until defecting in 2017, testified that one of her neighbor was injured by a shock troop brigade in February 2017 but she herself was responsible for paying for the medical bill.<sup>461</sup>

No adequate compensation is given to people who die from industrial accidents. A woman in her early 20s, who used to give in Gyeongwon Province, North Hamgyeong Province until defecting in 2011, testified that one of her neighbors who was in his/her early 20s was crushed under the machines in the 618 shock troop brigade, but only 200kg of corn was paid to the parents.<sup>462</sup> A woman in her mid-20s, who used to live in Hyesan, Yanggang Province until defecting in 2014, testified that if a miner dies from

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458\_NKHR2017000102 2017-10-23.

459\_NKHR2017000098 2017-10-23.

460\_NKHR2017000111 2017-11-20.

461\_NKHR2017000097 2017-10-23.

462\_NKHR2017000018 2017-05-08.

industrial disaster, the government would only give 25kg of rice to the bereaved.<sup>463</sup> A man in his early 20s, who used to live in Hyesan, Yanggang Province until defecting in 2017, testified that eight people were killed when a train tunnel collapsed. However no compensation was given.<sup>464</sup>

In some cases, measures are taken to honor those who died from industrial accidents instead of giving appropriate compensation, but this does not seem to have much contribution to the survival of the bereaved family. A man in his 20s who used to live in Hyesan, Yanggang Province until defecting in 2017, testified that a 22-year-old man died from standing against falling rocks while serving in the shock troop brigade, but the man was rewarded with Kim Jong Il honorable man's award with a small amount of compensation.<sup>465</sup> A woman in her early-40s who used to work in Samjiyeon County, Yanggang Province before defecting in 2016, testified that when a laborer dies from industrial accidents, nothing is given to the bereaved except for a title about his/her heroic efforts.<sup>466</sup>

A woman in her 50s, who used to live in Hamheung, South Hamgyeong Province before defecting in 2014, testified that the business is instructed to provide 10 days of rations to the bereaved

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463\_NKHR2017000098 2017-10-23.

464\_NKHR2017000111 2017-11-20.

465\_Above testimony.

466\_NKHR2017000051 2017-07-03.

family in case of an industrial accident. However, this policy stopped after one or two occasions.<sup>467</sup> This suggests that the lack of compensation for the worker suffering from an industrial accident may also be caused by corruption or vulnerability of the administration system.

## 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 due to financial difficulties and other reasons. Elderly pension is provided in only small amounts, being little help for the elderly in sustaining their lives. In addition, the lack of an emergency welfare system makes households vulnerable to financial crises if the breadwinner has to stop economic activities due to unexpected diseases or death. The welfare system established to support residents who are not eligible to do economic activities due to diseases or disability is limited; playing only a nominal role and threatening the very survival of the people in need. Lastly, the situation is the same for employment injuries. Although provisions stipulate that pensions or subsidies shall be provided, they are not, or are provided in such small quantities that they offer no substantive assistance.

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467\_NKHR2017000052 2017-07-03.



White Paper on Human Rights  
in North Korea 2018





## Part IV

### Vulnerable Groups

1. Women
  2. Children
  3. Persons with Disabilities
-

# 1

## Women

The Preamble of the UDHR reaffirms the equal right of men and women along with the basic human rights and the value of human dignity. Article 2 stresses that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, including gender. 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.<sup>468</sup> However, the UDHR, the ICCPR and the ICESCR are limited in their attempt to guarantee the rights of women through realizing the

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468\_ For example, the ICESCR stipulates that “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant,” and Article 7, paragraph 1 on the right to work stipulates the condition of “Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.” Article 10 stipulates that “Special protection should be accorded to mothers during a reasonable period before and after childbirth” to protect motherhood. The ICCPR stipulates that “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant,” and Article 26 on equality before the law stipulates prohibition of discrimination based on gender.

right to equality between men and women instead of considering the special characteristics of women's rights. CEDAW, which was adopted by the UN General Assembly on December 18, 1979, and took effect on September 3, 1981, is distinguished from previous international documents on women in that it reflects the special characteristics pertaining to women's issues that can occur in private life as well as gender sensitivity, overcoming the limitation of only dealing with the right to equality in the public area. CEDAW is composed of a preface, 6 parts and 30 articles. Part 1 (Article 1~6) stipulates the duties of States Parties to eliminate discrimination, Part 2 (Article 7~9) stipulates civil and political rights, Part 3 (Article 10~14) stipulates economic, social and cultural rights, Part 4 (Article 15~16) stipulates legal abilities and the rights on marriage and family life, Part 5 (Article 17~22) establishes the UN Committee on the Elimination of All Forms of Discrimination against Women (hereinafter the Committee) and the country report system and Part 6 (Article 23~30) sets forth conditions for the Convention to enter into force and its revision procedures, etc.

North Korea ratified the CEDAW on February 27, 2001, according to which the States Parties have to submit an implementation report to the Committee (Article 18). North Korea had postponed its submission of reports after submitting the first report in September 2002 until April 2016 when it submitted a report which combined second, third and fourth periodic reports.

The Committee finished its preliminary review in March and full review in November 2017. Based on the review, it announced the Concluding Observations, including major concerns and recommendations.

In the combined second, third and fourth periodic reports, North Korea self-evaluated that, from 2002 to 2015, “North Korean women, as complete owners of society, enjoyed equal rights to those of men in all areas of politics, economy, society and culture and performed great work for the prosperity of their home country.”<sup>469</sup> North Korea also stressed that it decided to withdraw from its deferral of Article 2, paragraph (f) and Article 9, paragraph 2 of the CEDAW and gave notification of this to the UN in November 2015.<sup>470</sup> North Korea announced that it has legally/institutionally and practically guaranteed gender equality since it enacted the Law on Sex Equality through Decision No. 45 of the Interim People’s Council on July 30, 1946, and that the North Korean Socialist Constitution and Family Law stipulate women’s equal rights to political and social participation and in family life.<sup>471</sup> Moreover, North Korea stressed that it had adopted the Law on the Protection and Promotion of the Rights of Women in 2010 to raise the status and roles of women by more strictly

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469\_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 2.

470\_ *Ibid.*, para. 7.

471\_ *Ibid.*, paras. 9~10.

guaranteeing women’s rights in all areas of social life and has pursued consistent policies to guarantee gender equality as stipulated in Article 2 and is strictly preventing all forms of discrimination.<sup>472</sup> Meanwhile, North Korea also explained that “all forms of discrimination” stipulated in Article 2 include all direct/indirect discrimination against women and that the meaning of the phrase is identical with the definition of discrimination in the CEDAW. Based on this law, North Korea stressed that it established an education plan to spread the concept and improve awareness of gender equality and carried out diverse measures including holding seminars and workshops.<sup>473</sup> The Concluding Observations published by CEDAW in 2017 noted positively North Korea’s acceptance of the 2005 recommendations as well as its adoption of the Law on the Protection and Promotion of the Rights of Women. However, the Concluding Observations also expressed concern that the concept of comprehensive definition of discrimination against women, encompassing direct and indirect discrimination in women’s public and private spheres in line with Article 1 of the Convention was absent. The Concluding Observations set forth relevant recommendations.<sup>474</sup>

The CEDAW stipulates that State Parties shall take, across all

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472\_ *Ibid.*, para. 11.

473\_ *Ibid.*, paras. 12~13.

474\_ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 11~12.

fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men (Article 3). In the Law on the Protection and Promotion of the Rights of Women, North Korea stipulates women's social/political rights, rights to education/culture/health care, right to work, right to liberty and property and right to marriage and family and the obligation of the State to protect and guarantee such rights. The same law reconfirms the provisions of existing laws on women's rights and protections that were scattered among the Law on Sex Equality, Socialist Labor Law, Labor Protection Law, Criminal Law, Family Law and Civil Procedure Law. However, given that North Korean society has yet to move beyond a perfunctory rule of law, legislative measures cannot be taken at face value. In this light, this chapter will examine the situation of North Korean women's rights by major issue.

## A. Discrimination against Women

According to Article 1 of the CEDAW, “discrimination against women” means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality between

men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Article 2 of the CEDAW stipulates the obligation of the States Parties to “condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.” Paragraph (f) of the same article, which North Korea withdrew from deferral in November 2015, specifically stipulates that all State Parties should take all appropriate measures to “modify or abolish existing laws, regulations,” as well as “customs and practices which constitute discrimination against women,” including legislation. Through the Law on the Protection and Promotion of the Rights of Women, North Korea prevents “all forms of discrimination against women.” However, the traditional distinction and exclusion based on gender still seem to directly and indirectly limit North Korean women from exercising their basic freedoms under the concept of equality with men.

### (1) Stereotype of Male Superiority and Fixed Gender Roles

State Parties to the CEDAW shall take all appropriate measures to modify the social and cultural patterns of conduct of both men and women, with the goal of achieving the elimination of prejudice, customary discrimination and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or

on stereotyped roles of men and women (Article 5). In its first State Party's Report on the CEDAW in 2002, North Korea admitted that "while the fixed division of gender roles has almost been eliminated, customary discrimination, including men being considered responsible for the sphere outside the home and women being considered responsible for the sphere inside the home or major forms of work regarded as work for men and miscellaneous forms of work regarded as work for women still exist."<sup>475</sup> In the combined second, third and fourth periodic reports published in 2016, North Korea also stated that the custom of male superiority still remains ingrained in society and family even after the Law on the Protection and Promotion of the Rights of Women was adopted and explained that it is because the general population does not know about the national policies and laws and the customary stereotypes and attitudes remain.<sup>476</sup>

North Korea emphasized that the Korean Democratic Women's Union (hereinafter Women's Union) is working with the People's Committee to eliminate fixed gender roles and improve awareness on gender equality and that it has actively responded to the related issues through educational campaigns and the reinforcement of administrative/legal measures, etc.<sup>477</sup> Moreover, North Korea

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475\_UN Doc. CEDAW/C/PRK/1 (2002), para. 101.

476\_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 53.

477\_ *Ibid.*, para. 56.



stated that it has pledged to identify cases of prejudice and discrimination against women in all government agencies at the institutional level and actively respond to such issues.<sup>478</sup> However, North Korean authorities admitted that the stereotype of male superiority and fixed gender roles are deeply rooted in the perceptions of North Korean people. One North Korean defector in her late-50s who defected from North Korea in 2010, stated that “women are biologically inferior to men and as women should prioritize their families, it is more appropriate that men become senior officials than women,”<sup>479</sup> which clearly shows how strongly the idea of male superiority is ingrained among the older North Korean generation.<sup>480</sup>

**Table IV-1** Testimonies on Stereotypes of Male Superiority and Fixed Gender Roles

Testimonies	Testifier ID
A woman in her 20s who defected from North Korea in 2012 testified that the idea of male superiority is prevalent, and as an example, there is intense control over women’s clothing and hairstyles in the streets.	NKHR2016000135 2016-08-23
A woman in her 20s who defected from North Korea in 2013 testified that men are 100 percent and women are 50 percent in North Korea, which means that women are treated as though they have half the status of men and must respect men.	NKHR2015000093 2015-05-12

478\_ *Ibid.*, para. 58.

479\_ NKHR2015000095 2015-05-12.

480\_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 13.

Testimonies	Testifier ID
A woman in her 20s who defected from North Korea in 2013 testified that the idea of male superiority still exists in North Korea, and generally, women are regarded as being responsible for miscellaneous matters as the owner of the sphere inside the home.	NKHR2016000139 2016-08-23
A woman in her 30s who defected in 2015 testified that: 1) men are social beings and they have to work at a company and not sell items in the market; 2) Men are like the sky; and 3) Women belong to men.	NKHR2017000033 2017-06-05
A woman in her 20s who defected in 2016 testified that the husband comes first in a family.	NKHR2017000009 2017-04-10

As such, majority of the testimonies revealed that the idea of male superiority is still generally held in North Korean society.<sup>481</sup> However, while this concept was stronger among the older generation, the idea has weakened recently as women’s economic participation has increased.<sup>482</sup> Furthermore, there have been testimonies claiming that the situation varies by individual family and province.<sup>483</sup> One North Korean defector who defected in 2016 commented that in families where the woman carries out economic activities, the man is usually dependent on the woman. In addition, compared to the past, more husbands are carrying out household tasks.<sup>484</sup>

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481\_ NKHR2017000080 2017-09-25; NKHR2016000121 2016-07-26; NKHR2016000123 2016-07-26; NKHR2016000132 2016-08-09.

482\_ NKHR2016000131 2016-08-09; NKHR2016000140 2016-08-23.

483\_ NKHR2016000134 2016-08-09.

484\_ NKHR2017000067 2017-08-28.

## (2) Women’s Limited Political Participation and Social Entry

According to CEDAW, state parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure these rights to women on equal terms with men (Article 7). The North Korean Socialist Constitution stipulates that the social status and rights of women are equal to those of men (Article 77), and the Law on the Protection and Promotion of the Rights of Women stipulates that “the State shall actively involve women in social and political activities and raise the ratio of women deputies in each level of the People’s Assembly” (Article 12). In the combined second, third and fourth periodic reports submitted in 2016, North Korea stressed that North Korean women have equal status with men in political and public life.<sup>485</sup>

However, it seems that North Korean women’s social and political activities are in effect, limited. A case in point is the very low political participation. Since the 1970s, North Korea has maintained a level of 15~20 percent of the deputies of the SPA as women and 20~30 percent of the deputies of local People’s Assemblies are known to be women. Through the combined second, third and fourth periodic reports, North Korea stated that the ratio of women deputies in the 13th Supreme People’s

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485\_UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 75~83.

Assembly in 2014 was 20.2 percent, and the ratio in the local People's Assemblies in 2015 was 27 percent.<sup>486</sup>

Given the characteristics of the North Korean regime, it is more appropriate to identify the level of North Korean women's political participation based on the ratio of women in major positions of the KWP than the ratio of women in each level of the People's Assembly.<sup>487</sup> At the 7th Party Convention held in May 2016, 3,467 representatives with the right to vote and 200 representatives with the right to address the convention, who were elected from the Party Representatives of each level, participated, and among them, there were 315 women, accounting for 8.6 percent of all representatives. Breaking down the 129 members and 106 candidate members of the Party Central Committee based on gender, there are four female members (3.1 percent) and three candidate members (2.8 percent).<sup>488</sup> Moreover, all five permanent members of the Political Bureau of the Party Central Committee

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486\_ *Ibid.*, para. 77. The ratio of female lawmakers is one of the representative indicators of the level of women's political participation in each country. The statistics of the Inter-Parliamentary Union (IPU) that compare each country's female lawmaker ratio shows that among the 687 deputies of the 13th Supreme People's Assembly in North Korea, women account for 122 deputies, or 16.3 percent. This ranks 122nd among the 191 countries surveyed. However, based on the 20.2 percent that North Korea stated in the combined second, third and fourth periodic reports, it ranks 93rd among the 191 countries. Please refer to Inter-Parliamentary Union (IPU), "Women in National Parliaments, Situation of 1st January 2017," <[www.ipu.org/wmn-e/arc/classif010616.htm](http://www.ipu.org/wmn-e/arc/classif010616.htm)>.

487\_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 9.

488\_ There could be some errors in the statistics as the data to identify the identity of some newly elected members and candidate members are limited.

and 19 members of the Political Bureau and nine candidate members of the Political Bureau elected at the 7th Congress of the Workers' Party of Korea held on May 9, 2016, are male. As such, the ratio of women in the Party is low, and the ratio decreases the closer it gets to the core of the power structure.<sup>489</sup> Moreover, there is only a small number of women appointed as members of the Cabinet that have political and administrative responsibility and authority, and women also account for a very small share of the Party Central Committee that actually exercises power.

North Korea's Law on the Protection and Promotion of the Rights of Women stipulates that with regard to the hiring of female senior officials, their planned nurturing and hiring shall be carried out and discrimination against women in the selection processes of institutions, enterprises and organizations shall be eliminated (Article 15). However, it seems that actual opportunities for North Korean women to improve their social status remains limited. The Report of the Detailed Findings of the Commission of Inquiry on Human Rights in North Korea published in 2014 points out that only 10 percent of central government officials are women.<sup>490</sup> In its first State Party's Report on the CEDAW, submitted in September 2002, North Korea stated, "We have increased the ratio of female senior staff in the public sector in an

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489\_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 8-10.

490\_UN Doc. A/HRC/25/CRP.1 (2014), para. 314.

effort to improve the social status of women. The ratio of female judges, for example, has reached 10 percent, while some 15 percent of employees at the Foreign Ministry are women,”<sup>491</sup> and the respective ratios reached 11.9 percent and 16.5 percent in the combined second, third and fourth periodic reports submitted in 2016, revealing an increase of only 1~2 percent.<sup>492</sup> In its Concluding Observations published in 2017, CEDAW pointed out that in North Korea, women’s participation in political and public sectors are extremely low. In this respect, the report recommended that North Korea adopt measures to set up the strategy and goals regarding articles to allocate female participations in major political and public sectors (high-ranking positions, SPA, local People’ Assembly, Ministry of Foreign Affairs, higher educational institutes, legislative branch, police, and safety institutes, etc.) to conform with the relevant articles of CEDAW (Article 4, paragraph 1 and Article 25 of General Recommendations).<sup>493</sup> Moreover, the Committee expressed concerns that only 27.3 percent of women participate in the “National Committee for Implementing International Human Rights Treaties.”<sup>494</sup> CEDAW

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491\_ UN Doc. CEDAW/C/PRK/1 (2002), para. 111.

492\_ UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 89, 254.

493\_ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 29~30.

494\_ In November 2017, during the deliberation of the implementation report submitted by North Korea, it answered that by 2014 there had been different coordinating committees for different covenants, after which relevant committees were integrated into “National Committee for Implementing International Human Rights Treaties” in April, 2015 and in operation until now.

recommended North Korea to encourage women’s equal participation in the National Committee and allow the Committee to build up expertise in areas of female empowerment.<sup>495</sup>

It is problematic that opportunities for women’s social entry will not expand considerably in the future.<sup>496</sup> First, there appears to be a gap between men and women in terms of education opportunities. There is little difference in the school entrance ratio based on gender for compulsory elementary/middle school education. However, there seems to be a wide gap in the entrance ratios in higher education including colleges. In the first State Party’s Report on the CEDAW, submitted in 2002, the ratio of women among college students was stated as 34.4 percent, which means that the college entrance ratio for women was almost half that of men at that time.<sup>497</sup> However, the combined second, third and fourth periodic reports submitted in 2017 stated that college entrance ratio for women has increased, without presenting specific statistics that was provided for elementary/ middle school education.<sup>498</sup> In this respect, it seems that higher education opportunities for women have not changed much in the last decade. One North Korean defector in her 20s who defected in

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495\_UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 15-16.

496\_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 9-10.

497\_UN Doc. CEDAW/C/PRK/1 (2002), para. 132.

498\_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 99.

2016, testified that there are many women in technical schools, and more men are entering colleges.<sup>499</sup> Another woman in her 50s who defected in 2014, testified that men are mostly selected for senior official training and there is little opportunity for women.<sup>500</sup>

The perception of women's social status among the general population of North Korea is in line with the testimonies above. Of the respondents to KINU's interviews from 2013 to 2017, 76.1 percent replied that the social status of North Korean women was "unequal" (including 18.5 percent who replied "very unequal"). When examining the statistics of only those who came to South Korea in 2017, the ratio of those replying "unequal" was 68 percent, which shows that overall perception of the general population has improved, but still the social status situation is still believed unequal. One defector testified that women's scope of social entry is limited to art and statistics, etc.<sup>501</sup> However, there were also many testimonies that revealed that, regardless of gender, financial capability or family power, parents' status and family background were more important than one's capability for social entry.<sup>502</sup>

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499\_NKHR2016000141 2016-08-23.

500\_NKHR2016000143 2016-08-23.

501\_NKHR2016000117 2016-07-26.

502\_NKHR2016000128 2016-08-09; NKHR2016000129 2016-08-09; NKHR2016000133 2016-08-09; NKHR2016000134 2016-08-09.



### (3) Family Life Centered around Male Heads of Household

Early on in the regime, North Korean authorities declared that the existing male-centered and authoritarian traditional Confucian family system was not only a hurdle to the Socialist revolution but also oppressed women politically and economically. Furthermore, it regarded the “liberation of women from the colonial and feudalistic yoke of oppression and the guarantee of equal rights with men in all aspects of social activity as crucial tasks in its anti-imperialist, anti-feudal democratic revolution.” However, although superficial legal and institutional measures were implemented to provide Socialist-style equality between men and women, traditional patriarchal structures were maintained within families. In particular, as the sole leadership of Kim Il Sung and Kim Jong Il solidified during the 1970s, premodern traditions of family life were emphasized.

The North Korean Family Law stipulates, “In family life, the husband and wife have equal rights” (Article 18). However, in North Korea, only men can be the “head of household.” Furthermore, it has been found that overall family life is decided and carried out centered around the male “head of household.” Traditionally, the husband who is the “head of household” in a North Korean family was regarded as having absolute power in all family matters including issues related to children. However, it has been found that such patriarchal characteristics of North

Korean families have weakened and the status of the head of household (husband) is changing. It appears that these changes have not occurred as a result of institutional factors such as the enactment of the Law on the Protection and Promotion of the Rights of Women. Rather, it is attributed to an increase in women's voice, as a result of increase in their economic activities and cases where women become the breadwinner of the family.<sup>503</sup>

In the 2016 KINU survey, 59.1 percent of those surveyed said the husband was the “actual authority” in the family, while 29.6 percent viewed the husband as the “perfunctory authority.” In addition, 48.6 percent replied that the status of and perceptions on women have “changed since they started engaging in economic activities.” One defector in her 40s, who defected in 2014 replied that her husband was only the perfunctory authority and that women's status had improved with their increasing economic activity, a trend that was more pronounced in urban areas. However she said that in farming villages, family life was still centered around men.<sup>504</sup> Meanwhile, a defector in her 20s, who left North Korea in 2015 replied that even if women do all the housework, outside work and childcare, when there are struggles, it is the men who boss around their wives.<sup>505</sup> As such, while there is a trend

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503\_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 15~16.

504\_NKHR2016000038 2016-04-05.

505\_NKHR2016000154 2016-09-06.

that women's status is increasing in the family, as will be examined below, women are still mainly responsible for household tasks. Furthermore, in addition to economic activity in the informal sector, the roles expected of them in the Women's Union impose ever more burden on North Korean women.

#### (4) Double Burden of Housework and Social Labor

North Korean authorities argue that it has guaranteed the conditions for women's equal social entry through the socialization of housework and the socialization of childcare. However, despite this argument, it seems that the traditional role of women in the family is still emphasized. With the continued economic crisis, policies to socialize housework and childcare have decreased and the division of housework and childcare at home is not taking place, leading to an excessive labor burden on North Korean women and a dramatically increased amount of labor related to securing food.

Through its recommendations in the 2005 and 2017 Concluding Observations, the Committee expressed its concern that there was indirect discrimination against women, for example, in how women were not choosing management positions due to the lack of time for social activities as a result of the increase in household responsibilities.<sup>506</sup> In the 2016 implementation report, North Korea explained that it is taking diverse measures, including

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506\_ UN Doc. CEDAW/C/PRK/1 (2002), paras. 27~28. UN Doc. CEDAW/C/PRK/CO/2-4 (2017). paras. 23~24.

seminars and education, etc., to overcome fixed gender roles and indirect discrimination against women. North Korea considered women's job assignments and made it mandatory to establish welfare facilities and daycare facilities at work sites as temporary special measures for the improvement of gender equality.<sup>507</sup>

Yet, in reality North Korean women's rights have not been improved. Women are still responsible for housework and social labor. In surveys conducted by KINU from 2012 to 2017, 91.7 percent of the respondents replied "women" were responsible for housework, while 77.6 percent replied women (wives) should take responsibility for housework even when they are the ones to financially support their families. When examining the survey response from those entered into South Korea in 2017, these figures changed to 86.8 percent and 69.8 percent, respectively. This means that the perception that housework should be shouldered by women has not decreased significantly despite the fact that women are engaging in economic activities to maintain the livelihood of the family. The idea that women should both earn money and do household chores has been so firmly ingrained that insufficient economic performance can lead to domestic violence.<sup>508</sup> Such situation creates substantial burden on women. One defector in her late-50s pointed out that women are getting

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507\_UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 45, 47, 55.

508\_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, pp. 17-18.

married at a later age because “they are worried that they need to support their husband and also their kids when they get married.”<sup>509</sup>

While economic activities and housework already represent substantial labor burden, North Korean women have little free time to rest. This is because they need to participate in Life Review Sessions (*saenghwalchonghwa*), and labor mobilization campaigns carried out by the Women’s Union, etc., on a daily basis.<sup>510</sup> One defector in her early 50s, who defected in 2014 testified that she participated in mobilization campaigns for farming villages, railroads and people’s unit (*inminban*) almost every day, working from 8 am to 12 pm and 2 pm to 4 or 5 pm, and she had to pay 3,000 North Korean won if she was absent.<sup>511</sup> Another defector in her late-20s, who defected in 2011, testified that street mobilization by the people’s unit was so frequent that the phrase “the street is endless and endless” was popular. In addition, she had participated mostly in mobilization campaigns for farming villages and road construction, etc., that she had to walk back and forth several kilometers and that the intensity of the labor was very high.<sup>512</sup> However, there was no compensation for any of the social labor that women were mobilized to do.<sup>513</sup>

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509\_NKHR2015000095 2015-05-12.

510\_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 18.

511\_NKHR2016000143 2016-08-23.

512\_NKHR2016000133 2016-08-09.

513\_NKHR2016000148 2016-09-06.

## B. Prevalent Violence against Women

### (1) Domestic Violence

Domestic violence is one of the most malicious forms of violence against women.<sup>514</sup> Through its specific recommendations, the Committee recommended that State Parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act (a), provide appropriate protective and support services for victims (b) and identify the nature and extent of attitudes, customs and practices that perpetuate violence against women and the forms of violence that result (e).<sup>515</sup>

The Committee expressed concerns in its Concluding Observations both in 2005 and in 2017 that North Korea is not fully aware of the seriousness of family violence and is not taking any protective or preventive measures against such violence. Specifically, it urged North Korea to enact laws on the criminal punishment and civil relief of domestic violence, to establish ways for women victims of violence to request immediate protection and relief and to ensure that assailants are prosecuted and punished.<sup>516</sup> Article 46 of the Law on the Protection and Promotion of the Rights of

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514\_UN CEDAW, General Recommendation, No. 19 (1992), para. 23.

515\_ *Ibid.*, para. 24.

516\_UN Doc. CEDAW/C/PRK/CO/1 (2005), paras. 37-38. UN Doc. CEDAW/C/PRK/CO/2-4 (2017), paras. 25-26.

Women enacted in North Korea in 2010 stipulates that “All forms of domestic violence against women must not take place within the family. The Local People’s Committees and institutions, enterprises and other organizations should regularly hold educational programs for people and employees to prevent domestic violence in families in their jurisdiction or district they are in charge of” in order to establish the provisions of measures to prevent domestic violence and of protective measures. However, there was no specific revision of the Criminal Law on this matter and it seems that there has been little change in reality.

76.9 percent of respondents in the interview conducted by KINU from 2013~2017 on North Korean defectors replied that domestic violence is common, demonstrating the frequency of which domestic violence occurs. However, the more serious problem is that women victims are still unable to respond properly or receive protection. The majority of the North Korean defectors replied that one could report domestic violence to an officer at the city/county branch but would not because no measures would be taken even if reported.<sup>517</sup> Also, one of the reasons women victims are reluctant to file reports is that even if they report domestic violence to MPS town offices, etc., the offices respond as though the reports are troublesome, saying that family matters should be handled within families and not show any willingness to resolve

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517\_NKHR2017000049 2017-07-03 and other testimonies.

the problems. One defector in her mid-20s who left North Korea in 2015, testified that even when women talk to the MPS officers in charge, they just say “handle your family problems between yourselves,” and that it is hard to expect any legal measures or assistance.<sup>518</sup> Even when officers witness domestic violence, they urge the victim to understand and not to make any fuss since arguments between husband and wife is like trying to cut water with a knife (Korean proverb meaning that it is inconsequential).<sup>519</sup> One defector who left North Korea in 2017, testified that she was a victim of domestic violence but the officer did not do much except for stopping the violence at the scene.<sup>520</sup> Even party organizations simply advise or criticize the husbands. For such reasons, victims of domestic violence rarely reveal their situations, even to their neighbors, and cases of reporting domestic violence are also very rare. A defector who left North Korea in 2017, testified that although there are frequent cases of domestic violence as their lives are so hard, people do not even consider reporting them.<sup>521</sup> A woman in her 40s who defected from North Korea in 2014, also testified that she was a victim of domestic violence and sought legal measures only to be beaten even more.<sup>522</sup>

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518\_ NKHR2016000154 2016-09-06.

519\_ NKHR2017000084 2017-09-25.

520\_ NKHR2017000049 2017-07-03.

521\_ NKHR2017000084 2017-09-25.

522\_ NKHR2016000148 2016-09-06.



In some cases, wives file for divorce due to domestic violence. However, it appears they are not acceptable grounds for divorce.<sup>523</sup>

Some cases have been confirmed where a victim reported domestic violence and her husband was punished. For example, a woman in her 30s who resided in Jeongju, North Pyeongan Province, and defected from North Korea in 2013 testified that a woman in her late-50s who was assaulted by her husband in around January 2012 reported the case to the Women's Union, local secretary, MPS Jeongju city/county branch several times and her husband had to spend three months in a labor training camp (*rodongdanryundae*).<sup>524</sup> However, this case seems to be a rare exception, and unless there is an extreme situation such as a domestic violence homicide, measures such as criminal punishment are rarely given. Moreover, North Koreans tend not to think of domestic violence as something that should be reported, believing that reporting domestic violence is a humiliation. It also seems that there is a deep-rooted perception that the cause of domestic violence is the women themselves.<sup>525</sup> The Women's Union that proclaims to enhance women's empowerment is also not very helpful in resolving domestic violence issues.<sup>526</sup> In addition, there are no shelters for victims of domestic violence. As such, it

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523\_NKHR2017000099 2017-10-23; NKHR2017000100 2017-10-23

524\_NKHR2014000188 2014-11-04.

525\_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 20.

526\_*Ibid.*, p. 21.

has been found that women exposed to domestic violence are not protected by the government or society.

## (2) Gender-based Exploitation and Violence

According to CEDAW, States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women (Article 6). Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.<sup>527</sup> The Law on the Protection and Promotion of the Rights of Women in North Korea stipulates that those who conduct, organize, encourage or force prostitution shall be punished by law (Article 40). In the combined second, third and fourth periodic reports published in 2016, North Korea emphasized that gender-based exploitation and violence against women are strictly addressed based on related provisions in the Criminal Law (Article 249 of the Criminal Law on the crime of prostitution, Article 279 of the Criminal Law on the crime of rape and Article 281 of the Criminal Law on the crime of sex with a minor), and the crime of the introduction and distribution of decadent culture (Article 183 of Criminal Law) is heavily punished to prevent any encouragement of sexual exploitation.<sup>528</sup> Moreover, North Korea stated that it

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527\_UN CEDAW, General Recommendation, No. 19 (1992), para. 1.

528\_UN Doc. CEDAW/C/PRK/2-4 (2016), paras. 66~70.

guarantees the protection of the identity of the victims of sexual violence and providing compensation for damages based on the Law on Compensation for Damages.<sup>529</sup> In 2017, CEDAW expressed concerns over North Korea's decision to mediate the criminal punishment on sexual assault crime. In 2009, the law sentenced two years, two years, and five years of correctional labor for prostitution, forced sexual relation with the subordinate, sexual relation with a minor, respectively. However, the sentences are changed now to one year of correctional labor for all three crimes. In the deliberation process of the implementation reports, North Korea answered that one reason to alleviate the punishment on the forced sexual relation with a subordinate was that it was understood as a kind of consensus between the two as the victim (woman) would expect convenience in return for the sexual relation and accepted it accordingly. In response, the Committee recommended that the sentence should be equivalent to that of rape (five years of correctional labor).<sup>530</sup> For sexual assault between a married couple, there was almost no perception that it would constitute a crime. In addition, North Korea has repeatedly stated that there is no sexual harassment issue in workplace. Likewise, North Korea does not seem to properly recognize the seriousness of violence imposed on women and such lack of perception has led to the absence of protective and preventive

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529\_ *Ibid.*, para. 71.

530\_ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), para. 38.

measures for victims.

In fact, it is very difficult to identify the accurate reality of the related situation in North Korea as sexual violence mostly occurs secretly and victims are highly likely to be reluctant to disclose their case. However, in this regard, defector testimonies confirm a number of concerns. First of all, in contrast to arguments made by North Korean authorities, North Korean defectors were skeptical of the possibility of victims being protected and suspected assailants being punished when sexual violence occurs. It is said that even if victims report their case, suspects can avoid punishment through bribery,<sup>531</sup> and there are a substantial number of cases where victims avoid reporting the case and hide their experience, believing that reporting sexual violence is humiliating.<sup>532</sup> There are also testimonies that there is negative social perception of the victims of sexual violence,<sup>533</sup> and that victims do not report the violence for the sake of their future because it may be difficult to get married later if they report their case.<sup>534</sup> Most North Korean defectors testified that there are no follow-up measures to protect victims of sexual violence and they are completely unaware of such measures. In 2017, CEDAW requested detailed statistics on

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531\_NKHR2016000143 2016-08-23.

532\_NKHR2016000139 2016-08-23; NKHR2016000140 2016-08-23; NKHR2017000050 2017-07-03.

533\_NKHR2016000143 2016-08-23; NKHR2016000145 2016-08-23; NKHR2017000026 2017-05-08; NKHR2017000039 2017-06-05.

534\_NKHR2016000148 2016-09-06; NKHR2017000046 2017-07-03.

reports filed for sexual violence and how they were managed. However, official statistics have not been presented.

There are occasional cases where suspects have been punished. One North Korean defector who used to live in Samjiyeon County, Yanggang Province, witnessed a public trial of a man who sexually assaulted a female middle school student in 2013. The man was sentenced to five years of correctional labor punishment. However, the testifier said that such punishment was only possible because the father of the victim worked for the Inspection Division of the Samjiyeon County MPS city/county branch.<sup>535</sup> Another defector who left North Korea in 2016 testified that a perpetrator who raped a minor in Hyesan, Yanggang Province was sentenced to one year of correctional labor.<sup>536</sup>

Although physical violence is not involved, it seems that there are many cases where women experience sexual exploitation or suffer damages based on societal structure. For women who are engaging in unofficial economic activities, those working for the authority demand bribes in return for turning a blind eye to such illegal activities and some demand sexual favors in return. For women who are barely maintaining their livelihood through vending, it would not be easy to reject and resist such demands.<sup>537</sup>

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535\_NKHR2014000120 2014-08-12.

536\_NKHR2017000010 2017-04-10.

537\_Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 25.

Another problem that should be pointed out is that education to prevent sexual violence is absent.<sup>538</sup> When asked if there is education to prevent sexual violence in North Korea, North Korean defectors jointly replied that they have not received such education.<sup>539</sup> One defector testified that although the testifier received much education on socialist gender equality, he/she had never received sex education.<sup>540</sup> As a result, it seems that some North Korean women do not sufficiently perceive the seriousness of the issue although they themselves have experienced or witnessed sexual violence or are exposed to the risks of sexual violence. A woman in her 20s who defected from North Korea in 2012 testified that in North Korea, senior officials sexually assault women they like without hesitation, but the testifier only realized that such behaviors constitute sexual violence and were wrong when she stayed in China after defecting from North Korea. The testifier also stated that it was hard to perceive such acts as an issue as the women who accept the sexual assault of such senior officials are well-off.<sup>541</sup> This clearly shows the seriousness of the lack of education on the prevention of sexual violence.

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538\_ *Ibid.*

539\_ NKHR2016000117 2016-07-26; NKHR2016000118 2016-07-26; NKHR2016000119 2016-07-26; NKHR2017000050 2017-07-03 etc.

540\_ NKHR2016000134 2016-08-09.

541\_ NKHR2014000157 2014-09-23.

## C. Treatment of Repatriated Women

### (1) Punishment of Women Victims of Human Trafficking

In general, poverty and unemployment lead to an increase in the trafficking of women. The Committee expressed concerns over new forms of sexual exploitation, including planned marriages between women from underdeveloped countries and foreign men, in addition to existing forms of human trafficking. The Committee held the view that such practices are contradictory to women's equal enjoyment of rights and to the respect for their rights and dignity and that they expose women to special risks of violence and abuse.<sup>542</sup> The Committee called for the introduction of special measures to eliminate poverty aimed at improving the situation of vulnerable women exposed to exploitation including human trafficking, etc., in its 2005 recommendations. Moreover, it emphasized the necessity of support for women who returned to North Korea after defecting for economic reasons so that they can be reintegrated with their families and society and be protected from all forms of human rights violations.<sup>543</sup> In 2014, the UN Commission of Inquiry on Human Rights in the DPRK stressed that the trafficking of women should be immediately and effectively

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542\_UN CEDAW, General Recommendation, No. 19 (1992). para. 14.

543\_UN Doc. CEDAW/C/PRK/CO/1 (2005), para. 42.

addressed and recommended that the structural reasons for these women becoming vulnerable to such violence be resolved.<sup>544</sup> In 2017, the Committee showed concerns over women who once defected from and were repatriated to North Korea, specifically, that these women were punished for illegal border-crossing (*bibeop wolgyeongjoe*) and subject to sexual assault, forced abortion, and deprived of a fair trial, and recommended corrective measures.<sup>545</sup>

North Korea strictly limits the freedom of entering/exiting its borders and stipulates in Article 221 of the Criminal Law that anyone who illegally crosses border shall be sentenced to correctional labor (one year up to five years depending on seriousness of the crime). As a result, North Korean women are sometimes put in situations where they have no choice but to use organized human trafficking to cross the border.<sup>546</sup> In the 2016 implementation report, North Korea emphasized that human trafficking is strictly punished and did not provide an answer regarding the measures it has taken to resolve the structural reasons behind women's vulnerability to trafficking or authorities' role in protecting victims. However, North Korea emphasized in the report that those who returned after illegally crossing the border receive educational measures instead of legal punishment

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544\_ UN Doc. A/HRC/25/63 (2014), para. 89 (i).

545\_ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), para. 46.

546\_ NKHR2014000071 2014-06-17; NKHR201400083 2014-07-01; NKHR2015000043 2015-02-24; NKHR2015000072 2015-04-07.



and that the People's Committee in charge takes measures to ensure their reintegration with their families and society.<sup>547</sup> In addition, in the deliberation process by the Committee in 2017, North Korea responded that there are no social and structural factors inducing human trafficking within North Korea. Rather it argued that Kim Ryenhee who defected from North Korea and entered South Korea in 2011 and 12 females who worked at restaurants and defected from North Korea in 2016 were the victims of intentional human trafficking.<sup>548</sup> However, it has been found that, in reality, women victims of trafficking are subject to punishment.<sup>549</sup> It appears this is because North Korean authorities regard them as “criminals” who have committed the crime of illegal border-crossing and not as victims of trafficking based on the grounds<sup>550</sup> that the women who are subjects of trafficking mostly accepted being trafficked to go to China to earn money or knew that they would be subjects of trafficking beforehand. One defector who left North Korea in 2014 testified that because victims of trafficking knew in advance that they would be trafficked, they are not exempted from punishment and are punished for the crime of illegal border-crossing.<sup>551</sup> In the 2000s,

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547\_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 74.

548\_UN Doc. CEDAW/C/PRK/Q/2-4/Add.1 (2017), para. 43.

549\_NKHR2016000117 2016-07-26.

550\_NKHR2017000014 2017-04-10; NKHR2017000058 2017-07-31; NKHR2017000094 2017-10-23; NKHR2017000100 2017-10-23.

551\_NKHR2016000148 2016-09-06.

consistent with what North Korean authorities have claimed, there were testimonies that women who voluntarily returned after going to China through traffickers received education sessions that they commuted to for a week after being questioned on their reasons for border-crossing instead of legal punishment. In some cases, they were released or treated with “group discipline” after they turned themselves in.<sup>552</sup> However, according to most testimonies, the current situation has changed and those who have committed illegal border-crossing are punished without exception.<sup>553</sup> Even in cases where victims do not be sentenced to legal punishment, the harsh treatment they receive during the investigation process means they are treated similarly to actual criminals.<sup>554</sup>

In general, the weight of punishment is decided based on the length of the defectors’ stay in China.<sup>555</sup> According to testimonies by women defectors, the level of punishment of forcibly repatriated women has become more severe after Kim Jong Un came to power. One woman in her 40s who defected from North Korea in 2010, testified that the punishment for those who returned after staying in China for six months was not that severe under the Kim Jong Il regime.<sup>556</sup> Another woman in her 20s who

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552\_NHKR2016000131 2016-08-09; NKHR2016000129 2016-08-09; NKHR2016000143 2016-08-23.

553\_NKHR2016000143 2016-08-23; NKHR2016000134 2016-08-09.

554\_NKHR2016000148 2016-09-06; HKHR2017000124 2017-11-20.

555\_NKHR2016000131 2016-08-09; NKHR2016000133 2016-08-09.

556\_NKHR2016000145 2016-08-23.

left North Korea in 2014 testified that while people received six months of labor training for light cases just two to three years ago, the current punishment was strengthened to two to three years of correctional labor punishment for those who “only took one step into” China.<sup>557</sup>

## (2) Human Rights Violations in the Process of Forced Repatriation and the Investigation Process

One of the most serious human rights violations against women conducted by North Korean authorities is the practice of forced abortions during the forced repatriation process as well as inhumane treatment in the investigation process. Such forced sterilizations and abortions have a malicious impact on women’s physical and mental health and infringe upon the women’s right to decide the number and age difference among their children.<sup>558</sup> Following international criticism of cases where North Korean women impregnated in China were forcibly repatriated and forced to undergo abortion or cases where newborns were neglected to the point of death, some regions in North Korea have authorized the birth of these babies, who were to be given to their Chinese fathers. However, there are numerous testimonies in which testifiers witnessed or heard that women who stayed in China and

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557\_NKHR2016000123 2016-07-26.

558\_UN CEDAW, General Recommendation, No. 19 (1992), para. 22.

were forcibly repatriated to North Korea while pregnant with the baby of a Chinese man had to go through a forced abortion in the repatriation process.<sup>559</sup>

**Table IV-2** Cases of Human Rights Violation of Forcibly Repatriated Pregnant Women

Testimonies	Testifier ID
In spring of 2008, a woman was told that she could not give birth to a child of a different race in the MSS branch in Manpo, Jagang Province. She was then taken for surgery to a hospital in Manpo City. She was forced to acquiesce as she had already been caught.	NKHR2017000058 2017-07-31
In February 2010, a 3-month pregnant woman voluntarily returned to North Korea from China. She was taken to a MSS branch after being reported by a neighbor. She was forced to undergo abortion. Afterwards, MSS agents visited to confirm whether the abortion had been carried out.	NKHR2017000104 2017-10-23
In 2012, at a holding center ( <i>jipkyulso</i> ) in an unidentified region, a fellow prisoner was beaten to induce a miscarriage because she was pregnant with a Chinese baby.	NKHR2014000113 2014-08-12
In March 2013, a woman in her 24th week of pregnancy was admitted to Nonpo holding center located in Cheongjin, North Hamgyeong Province and was criticized. She ended up being forced to have an abortion with an injection called “adona.”	NKHR2017000047 2017-07-03
In February 2014, a woman who was prisoned in the No. 12 Jeongeori <i>kyohwasa</i> , North Hamgyeong Province witnessed a bleeding prisoner who underwent forced abortion prior to imprisonment. The prisoner eventually died of complication.	NKHR2017000047 2017-07-03
In October 2016, at the holding center in Songpyeong area of Cheongjin, North Hamgyeong Province, a pregnant woman was injected with a drug for abortion.	NKHR2017000099 2017-10-23
In November 2016, at MSS detention center in Hyesan, Yanggng Province, a 4-month pregnant woman was investigated taken to hospital to get curettage ( <i>sopa susu</i> ).	NKHR2017000128 2017-12-18

559\_ NKHR2017000047 2017-07-03; NKHR2017000099 2017-10-23; NKHR2017000128 2017-12-18; NKHR2017000058 2017-07-31; NKHR2017000104 2017-10-23; NKHR2017000130 2017-12-18.

There are also cases where physical violence is directed at pregnant women who are forcibly repatriated. One North Korean defector testified that in January 2014, when the testifier was at an MSS provincial detention center (*guryujang*) in Hyesan, Yanggang Province, the testifier witnessed a woman, who was 24 years old and forcibly repatriated after getting caught on her way to South Korea, being beaten despite the fact that she was three months pregnant.<sup>560</sup> There are also cases where forcibly repatriated women are exposed to hard labor and violence without receiving treatment after having a miscarriage. One defector was sent to a holding center (*jipkyulso*) in Cheongjin after being forcibly repatriated from China in 2010. She found out she was pregnant and had a miscarriage after she experienced continuous bleeding. However, she did not receive proper treatment, was forced to do hard labor and was even assaulted by an MPS officer of the provincial holding center. The officer demanded that she pay him, claiming that the bleeding continued because she was hiding money. As a result, her physical condition became weak and she was sent to a relief center instead of being sent directly to a prison camp (*kyohwaso*).<sup>561</sup> The issue of sexual violence at detention facilities has also been identified. One defector testified that in July 2016, when she was in a holding center, she was sexually

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560\_NKHR2014000203 2014-12-02.

561\_NKHR2016000149 2016-09-06.

assaulted by a correctional officer who said that “this does not constitute as sexual assault because you are dead here and a dead person cannot say she is assaulted.” She wanted to die after hearing this.<sup>562</sup>

Another serious problem is the so-called “uterus examination,” which is not only humiliating but also very unsanitary, conducted during the body search process to find money, secret letters or secret documents. A substantial number of female North Korean defectors who have experienced forcible repatriation testified that they received such an examination at the MSS detention centers and MSS holding centers etc.<sup>563</sup> In most cases, it was found that the body searches of women were conducted by women. However, it was identified that there were some cases where these examinations were performed by men. In 2015, a defector who left North Korea in 2014 testified that at the detention center located in the Manpo, Jagang Province, she received a uterus examination with a steel stick by a female military doctor. All her items were confiscated while she was forced to stay naked.<sup>564</sup> In other testimonies, the woman who carried out the examination was not a military officer or doctor, but was someone responsible for filing documents.<sup>565</sup>

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562\_NKHR2017000045 2017-07-03.

563\_NKHR2017000025 2017-05-08; NKHR2017000045 2017-07-03; NKHR2017000104 2017-10-23;

564\_NKHR2017000025 2017-05-08.

565\_NKHR2017000104 2017-10-23.

In another testimony, while the body search was done by a female, a male officer was watching it and insulted the woman saying “you and your ugly body served the Chinese.”<sup>566</sup> In these ways, the pretext of finding money brought in from China is used to justify not only uterus examinations but also forcing women to repeatedly sit and stand or force women to eat and then defecate.<sup>567</sup>

## D. Poor Women’s Health and Maternal Health Care

According to CEDAW, State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning (Article 12, paragraph 1). State Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation (Article 12, paragraph 2).

In the combined second, third and fourth periodic reports published in 2016, North Korea emphasized that it took several measures to protect women’s health and guarantee maternal health care. For legislative measures, it emphasized that it has provisions

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566\_NKHR2017000130 2017-12-18.

567\_NKHR2016000131 2016-08-09; NKHR2016000149 2016-09-06.

to protect women's rights in the Public Health Law, the Law on the Nursing and Upbringing of Children, the Law on the Protection of Persons with Disabilities, the Law on the Protection of Elderly, the Law on Administration of Medical Supplies, among others.<sup>568</sup> In terms of policies, North Korea emphasized that it has established the Medium Term Strategic Plan for the Development of the Health Sector in the DPRK (2010~2015), Health Education Strategy for RH (2013~2015), and Strategy and Action Plan to Control Child and Maternal Malnutrition (2014~2018).<sup>569</sup> Moreover, it introduced specific measures including the establishment of a modern breast cancer center under the OB/GYN clinic of Pyongyang in 2012 and the introduction of paid maternity leave of eight months from 2015.<sup>570</sup> Related contents are similar to the contents of the country report submitted to the second Universal Periodic Review in 2014.<sup>571</sup> However, such measures are limited to Pyongyang and their effectiveness is also questionable. Moreover, most women in the public sector quit their jobs after they get married. This chapter will examine the details of the actual situation by classifying the issue into the categories of women's health and maternal health.

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568\_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 143.

569\_ *Ibid.*, paras. 164-167, 196.

570\_ *Ibid.*, paras. 155, 161.

571\_UN Doc. A/HRC/WG.5/19/PRK/1 (2014), paras. 91~95.



## (1) Women's Health

It is already well known that many North Korean women suffer from poor health conditions including malnutrition and anemia due to the food crisis that has continued since 1990s, excessive labor to support the livelihood of their families and the psychological burden based on their increasing responsibility to support their families. It is of concern that the recent survey indicates the continuity of such dire conditions.

In September 2012, the Central Bureau of Statistics of North Korea conducted a nutrition investigation on the North Korean population with technological support from the UNICEF, WFP and WHO.<sup>572</sup> As part of the investigation, an analysis of 7,649 women of childbearing age from 15~49 with children aged 0~59 months was performed,<sup>573</sup> which measured plasma hemoglobin concentration and mid-upper arm circumference among other indicators. The overall health condition of the women was found to be poor. The results showed that 31.8 percent of women in their 20s, 30.2 percent of those in their 30s and 38.7 percent of those in their 40s were found to have anemia, showing that the prevalence

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572\_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)

573\_96.3 percent of them are women aged 20~39. Moreover, there was one woman aged 15~19 and teenagers are not mentioned in the following discussion.

rate of anemia was significantly high among all childbearing age groups. Moreover, 25.2 percent of women in their 20s, 21.4 percent of women in their 30s and 21.8 percent of women in their 40s were found to be malnourished, showing that the nutritional status of North Korean women was significantly poor.

The hard daily life of women engaging in both housework and economic activities also seems to be the main factor aggravating the poor sanitation environment and the resulting diseases. It is also questionable whether women who develop women's diseases can receive systematic treatment.

## (2) Maternal Health Care

One of the most important indicators related to maternal health care is the maternal mortality rate. Through the report published in 2016, North Korea stated that the maternal mortality rate decreased from 97 deaths per 100,000 newborns to 62.7 deaths in 2012.<sup>574</sup> Considering that the figure stands at 547 in sub-Saharan Africa and that the average figure for low-income countries is 495, it seems that North Korea's maternal health care level is not among the lowest in the world. In the report in 2016, North Korea stated on the direct causes for maternal mortality. Specifically,

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574\_ UN Doc. CEDAW/C/PRK/2-4 (2016), para. 185. In a report North Korea submitted to the UN CRC, it prescribed that the maternal mortality was 85.1%, 76%, 68.1%, and 62.4% in 2008, 2010, 2012, 2014, respectively. Un Doc. CRC/C/PRK/5 (2016), p. 40.

58.5 percent of the deaths are due to premature birth, among which 50 percent are due to bleeding.<sup>575</sup>

North Korean authorities argue that “there are maternity hospitals with modern healthcare facilities in all provinces in our country, and based on the passionate care by health care workers including competent midwives, the life and health of mothers and newborns are strictly guaranteed. The medical service system for the reproductive health of women is also well-established.”<sup>576</sup> In the 2016 report it also self-evaluated that as of 2011, 94 percent of mothers received four or more treatments during pregnancy, and through such efforts, the maternal mortality rate has been lowered.<sup>577</sup> However, all of the health care systems for pre-natal/childbirth/post-natal care seem to be in very poor condition. For example, regarding pre-natal examinations, according to the survey conducted by the Central Bureau of Statistics of North Korea with technological support from UNICEF in 2009, the ratio of women who received all of the three examinations that WHO requires as basic examinations, a blood pressure check, blood test (syphilis and severe anemia, etc.) and urine examination (bacteriuria and albuminuria, etc.), was only 79 percent.<sup>578</sup>

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575\_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 185.

576\_ *Rodong Shinmun*, 6 May 2016.

577\_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 188.

578\_UNICEF, “Multiple Indicator Cluster Survey: Democratic People’s Republic of Korea,” (2009), p. 64, <<http://mics.unicef.org/>>.

With regard to childbirth, North Korea stated that childbirth under the supervision of an experienced medical provider increased from 92.6 percent in 2002 to 99.1 percent in 2012.<sup>579</sup> Moreover, based on the survey results in 2011, it stated that 87 percent of mothers received a doctor's assistance in childbirth in cities, and the rate was also 75 percent in rural areas. Among them, childbirths in medical facilities stood at 87.9 percent with the remaining 12.1 percent conducted at home or other places.<sup>580</sup> Indeed, based on testimonies by North Korean defectors, it was found that the ratio of childbirths at hospitals has increased recently.<sup>581</sup> However, in rural areas, it is still assessed that the ratio of childbirths with the assistance of midwives at home is substantially high.<sup>582</sup> In this case, many receive the help of midwives who do not have licenses,<sup>583</sup> and the high ratio of childbirths at home with insufficient means of transportation in case of an emergency can be a factor that raises the maternal mortality rate caused by excessive bleeding and infection, etc.

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579\_UN Doc. CEDAW/C/PRK/2-4 (2016), para. 186.

580\_ *Ibid.*

581\_NKHR2016000133 2016-08-09; NKHR2016000154 2016-09-06.

582\_NKHR2016000118 2016-07-26; NKHR2016000134 2016-08-09; NKHR2016000142 2016-08-23; NKHR2016000143 2016-08-23.

583\_NKHR2016000148 2016-09-06.

## E. Evaluation

As stated in the Preamble of CEDAW, discrimination against women violates the principles of equality of rights and respect for human dignity. Discrimination against women not only becomes an obstacle to women’s participation in the political, social, economic and cultural life of a country based on equal conditions to those of men but also limits the prosperity of the society and its families and the complete development of women’s potential. North Korea showed confidence that it was resolving the concept of discrimination as defined in CEDAW in its Law on the Protection and Promotion of the Rights of Women and prohibiting all forms of direct/indirect discrimination. However, in reality, it has been found that North Korean women are still experiencing direct/indirect discrimination due to fixed gender roles, limited social entry, family life centered around male heads of household and the double burden of housework and social labor after marketization. This shows that North Korea is not appropriately fulfilling the duties of State Parties stated in the Article 5 of CEDAW which stipulates that State Parties shall take all appropriate measures to eliminate all forms of discrimination including customary practices. As CEDAW pointed out in its 2017 Concluding Observations, gender discriminatory laws on the minimum age for marriage (male-18, female-17), on retirement age (male-60, female-55), the laws that “reconciliation” or

“coordination” come first to punishment when it comes to violence against women still remain as problems.<sup>584</sup> Moreover, North Korean women are easily exposed to domestic violence, gender-based exploitation and violence in society, and the social conditions where women can be protected from such violence or seek relief were found to be lacking. There are practically no protective shelters for female victims.

The most serious human rights violations against women imposed by North Korean authorities are the forced abortions during the repatriation process of female North Korean defectors and their inhumane treatment during the investigation process. Moreover, due to limitation of freedom to enter/exit borders, North Korean women sometimes become victims of organized human trafficking. While women defectors get married and live in China in many cases, they cannot request appropriate protection when they become victims of domestic violence because of limitations in their local status and the risk of forcible repatriation. Meanwhile, North Korean women were found to suffer from poor overall health conditions due to the food crisis that has continued since the 1990s, excessive labor to support the livelihood of their families and the psychological pressure caused by their increased responsibility to support their families, etc. The poor sanitary environment also serves as a factor that threatens women’s health.

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584\_ UN Doc. CEDAW/C/PRK/CO/2-4 (2017), para. 11.

Regarding maternal health care, there are also positive changes including the decrease in the maternal mortality rate and the increase of childbirths at medical facilities. However, in rural areas, maternal health care is still at a poor level due to inadequate medical facilities and unprofessional pre-/post-natal care.

Part I

Part II

Part III

Part IV  
Vulnerable Groups

Part V

## 2

# Children

Children need special protection and care, including appropriate legal protection due to their physical/mental immaturity. The UDHR stipulates the protection of motherhood and childhood (Article 25, paragraph 2) and the right to education (Article 26) but does not specifically mention the rights of children. The ICCPR and the ICESCR contain provisions that can be related to the rights of children.<sup>585</sup> However, neither of these two covenants explicitly recognize children as the subject of rights. The CRC, which was unanimously adopted at the UN on 20 November 1989 and took effect on 2 September 1990, is distinct from previous international documents related to children in that it fully recognizes children, who had long remained as the targets of

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<sup>585</sup>For example, the ICCPR stipulates that “every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State” (Article 24, paragraph 1). The ICESCR stipulates that “special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions” (Article 10, paragraph 3).



protection, as the subject of rights. The CRC is composed of a preamble, three parts, and 54 articles. Part 1 (Article 1~41) stipulates the rights of children and the duties of state parties. Part 2 (Article 42~45) establishes the Committee on the Rights of the Child (hereinafter the Committee) and country report system. And Part 3 (Article 46~54) sets forth the signature, ratification, accession, and amendment procedures, etc. The rights set forth in the CRC are largely composed of the right to survival, protection, development, and participation.

Table IV-3 The Four Major Rights in the CRC

Right to Survival	Rights of the child required for basic life: right to enjoy adequate living standards; right to live in a safe residence; and right to sufficient nutrition and basic medical services, etc.
Right to Protection	Right of the child to be protected from harmful environment including all forms of abuse and negligence, discrimination, violence, torture, conscription, unjust criminal punishment, and excessive labor and substance and sexual abuse, etc.
Right to Development	Rights of the child to realize his or her maximum potential including the rights to receive education, enjoy leisure, engage in cultural life and acquire information, and enjoy freedom of thought, conscience and religion, etc.
Right to Participation	Rights of the child to actively participate in the activities of a country or local community including the freedom of expression and the right to join organizations or participate in peaceful assemblies, etc.

North Korea ratified the CRC on 21 September 1990, and the Convention took effect in North Korea on 21 October 1990. Moreover, North Korea ratified the Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography on 10 November 2014, which took effect in North Korea on

December 10, 2014. States Parties are required to submit a CRC implementation report to the Committee (Article 44). North Korea submitted its first report in February 1996, its second report in May 2003, its integrated third and fourth reports in December 2007, and its fifth report in April 2016. The Committee completed its preliminary review of North Korea's fifth report in February 2017 and announced its Concluding Observations, which included major concerns and recommendations, in its main review session on September 29, 2017.

In the fifth report, North Korea self-evaluated that “children in the DPRK fully enjoyed their rights and their welfare was promoted at a higher level under the policy of love for children of the supreme leader Kim Jong Un.”<sup>586</sup> Moreover, the report emphasized that North Korea took several measures, including the enactment of the Law on the Protection and Promotion of the Rights of Children (2010), the Law on General Secondary Education (2011), the promulgation of the Ordinance on the Enforcement of Universal 12-year Compulsory Education (2012), and the establishment of the Korean Association for Supporting the Children (2013), etc.<sup>587</sup> In addition, children's age was stipulated as “up to the age 16” in the Law on the Protection and Promotion of the Rights of Children, which is different from the definition of children in the

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586\_ UN Doc. CRC/C/PRK/5 (2016), para. 7.

587\_ *Ibid.*, paras. 8~10, 17, 21, 25.

CRC. This difference is because North Korean children generally finish their education at the age of 16 or 17 under the existing eleven years of the compulsory education system. However, the definition of children will be changed to match that of the CRC, since children are now expected to finish their education at the age of 17 or 18 under the new 12-year compulsory education system.<sup>588</sup> This can be evaluated as a positive measure that considers the recommendations presented in the Concluding Observations set forth by the Committee in 2009. However, provisions in the North Korean Constitution and other laws that do not conform to the CRC should also be revised accordingly.<sup>589</sup> For example, North Korea's minimum age for labor is 16 years and minimum age for women to enter into marriage is 17 years.

According to the CRC, state parties are obligated to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention (Article 4). North Korea properly reflects most of the rights in the CRC in its Law on the Protection and Promotion of the Rights of Children. Relevant provisions on civil rights and freedoms, including the freedom of ideology, conscience, and religion, and the freedom of assembly and association, can be found in the Constitution and other laws. In 2017, the Committee

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588\_ *Ibid.*, paras. 27-28.

589\_ Kyung-ok Do *et al.*, *Human Rights Situation of Women and Children in North Korea*, p. 42.

evaluated the adoption of the National Plan of Action for the Well-Being of Children (2011~2020) in its Concluding Observations, and recommended going beyond education and a health-related national plan, suggesting that comprehensive planning also include a resolution to end violence against children, child exploitation, and child poverty.<sup>590</sup> The following sections will examine issues concerning the status of North Korean children's rights.

## A. Status of Children's Health Care/Welfare

### (1) Shortage of Educational Facilities for Disabled Children

Article 23 of the CRC stipulates that mentally or physically disabled children should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate children's active participation in the community. In the Law on the Protection of Persons with Disabilities, North Korea stipulates matters related to the restorative treatment, education, cultural life, and labor of disabled people, and the Law on the Protection and Promotion of the Rights of Children also has provisions on the protection of disabled children (Article 30). In particular, Article 30, paragraph 2 of the Law on the Protection and Promotion of the Rights of Children stipulates that "educational supervision

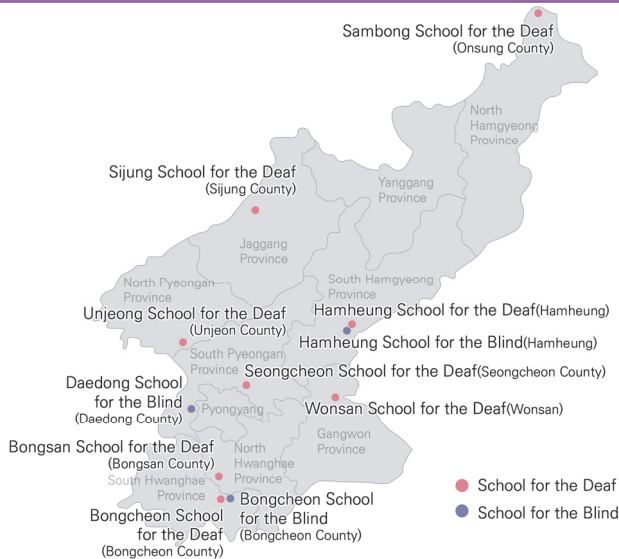
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590\_UN Doc. CRC/C/PRK/CO/5 (2017), para. 7.

institutions and health care supervision institutions and local People's Committees shall immediately operate schools for the blind/deaf and guarantee the conditions required for the education, treatment and life of disabled children.”

In its fifth report, North Korea emphasized that it has established special classes for disabled students in general schools and has established special schools for students with visual/hearing disabilities.<sup>591</sup> It appears there are eight schools for the deaf and three for the blind.

Figure IV-1 Schools for the Deaf and the Blind in North Korea



Source: Green Tree Korea, (<http://www.greentreekorea.org>).

591\_UN Doc. CRC/C/PRK/5 (2016), para. 137.

It is difficult to accurately identify the ratio of children with visual and hearing disabilities among the overall population of North Korean children. However, the provision of special education to disabled children is evaluated as poor, given that there are only 11 special schools for children with visual and hearing disabilities in North Korea and in particular, that there is no such school in Yanggang Province.<sup>592</sup> Moreover, even if a number of special schools are being operated, it is questionable whether they have the appropriate facilities, personnel, and environment for children with disabilities. One defector testified that her sister visited Wonsan School for the Deaf in Gangwon Province as she considered sending her child to that school, but decided not to because the facilities and environment were very poor.<sup>593</sup> According to a different defector, who had lived in Wonsan, Gangwon Province, and defected in 2016, there was a school for the deaf in Changchon-dong in Wonsan.<sup>594</sup> Another defector, who had lived in Hamheung, South Hamgyeong Province and defected in 2016, commented that there was a school for the deaf

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592\_ North Korean defectors, who resided in Kimjongsuk County, Yanggang Province, responded that they have not heard of the existence of special schools for children with disabilities in the region. NKHR2017000023 2017-05-08; NKHR 2017000049 2017-07-03; NKHR2017000056 2017-07-31; It seemed that there was no special school or special class for students with disabilities in Hyesan Yanggang province. NKHR2017000060 2017-07-31; NKHR2017000025 2017-05-08. North Korean defectors, who resided in Baegam County, Yanggang, responded that they too have not heard of the existence of special class or school for children with disabilities. NKHR2017000062 2017-07-31.

593\_ NKHR2013000224 2013-12-10.

594\_ NKHR2017000007 2017-04-10.

in Duksan, Hamheung and that families without money could not afford to pay for that school since students had to bear the financial burden of all school-related costs.<sup>595</sup> However, North Korea stated in its fifth report that it had carried out a project from 2013 to 2015 to improve the living environments at special schools for the disabled.<sup>596</sup> In this regard, it appears there is a need to evaluate whether these improvements have been made and to what degree. Meanwhile, there has been no confirmation as to whether special classes for disabled students are provided in general schools, as North Korea has claimed. The question of whether special classes for the disabled are run in general schools have been asked to North Korean defectors who arrived in South Korea in both 2016 and 2017. However, no relevant testimonies have been acquired. In 2017, the Committee reviewed whether the nine-year educational course for the disabled is equivalent to the standard 12-year compulsory education system. After its review, the Committee recommended that children with disabilities not be separately educated but receive a comprehensive, integrated education from general schools.<sup>597</sup>

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595\_NKHR2017000049 2017-07-03.

596\_UN Doc. CRC/C/PRK/5 (2016), para. 140.

597\_UN Doc. CRC/C/PRK/CO/5 (2017), para. 36.

## (2) Poor Health Care and Nutrition

Article 24 of the CRC stipulates that children have the right to enjoyment of the highest attainable standard of health and to facilities for the treatment of illnesses and rehabilitation of health. In its Public Health Law, North Korea stipulates matters related to the free treatment system and health protection based on preventive medicine. Moreover, the Law on the Protection and Promotion of the Rights of Children has provisions on children's right to receive free treatment, medical services for children, children's hospitals, nursing facilities for children, and nutritional supplements and nutritious foods (Article 33~37). The Law on the Nursing and Upbringing of Children stipulates that systematic medical services be provided to children in daycare centers and kindergartens and that children's wards be established in daycare centers (Article 25 and 26).

In its fifth report, North Korea explained that hospitals and clinics are available in all regions and that there are designated medical personnel in charge of vaccinations.<sup>598</sup> Moreover, the report stated that several medicine factories have produced hundreds of medicines and vaccines, thus sufficiently meeting basic demand for medicines, and that North Korea has made efforts to close the gap between regions on children-related health care services.<sup>599</sup>

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598\_ *Ibid.*, para. 152.

599\_ *Ibid.*, paras. 154, 157.



According to surveys conducted thus far, North Korea's vaccination levels appear to have been improving (Part III, Chapter 2, Right to Health). However, there are still many cases where children with diseases cannot receive proper treatment due to the shortage of hospitals and medicines, and the situation was identified as particularly serious in rural areas compared to cities.<sup>600</sup> It was also found that, with regard to children's hospitals, there is a significant gap between Pyongyang and other regions. North Korea has carried out a massive propaganda campaign promoting the 2013 opening of Okryu Children's Hospital. However, even with the existence of children's hospitals in other regions, they are not being properly operated. A female North Korean defector who resided in Hyesan, Yanggang Province, before defecting from North Korea in 2013, testified that there was a children's hospital in Hyesan, Yanggang Province, but it was barely ever in operation.<sup>601</sup> Another woman who resided in Wonsan, Gangwon Province and defected from North Korea in 2014, explained that a children's hospital in Gangwon Province had very good quality facilities because the hospital received support from UNICEF and was geographically close to Pyongyang.<sup>602</sup> Meanwhile, some cases have been confirmed where treatment was administered at daycare centers. One North Korean defector testified that when a

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600\_NKHR2016000131 2016-08-09; NKHR2016000132 2016-08-09.

601\_NKHR2016000136 2016-08-23.

602\_NKHR2014000209 2014-12-16.

child has diarrhea or a fever, the teacher at the daycare center will give the child an injection.<sup>603</sup>

In its fifth report, North Korea also emphasized that it established the Strategy and Action Plan to Control Child and Maternal Malnutrition (2014~2018) in response to the recommendations made by the Committee in 2009. It also stressed that the mortality rate for infants under the age of one and children under the age of five has dramatically decreased due to public health care policies and efforts by medical providers.<sup>604</sup> In fact, the malnutrition rate and the infant/child mortality rate have been declining in North Korea,<sup>605</sup> which is a trend that should be understood as the combined results of measures taken by North Korean authorities, the spread of markets and the private economy, and support from the international community. Although the situation is not at its worst, it has been found that North Korean children still suffer from malnutrition. The WFP stated, based on the survey it conducted in 2014, that one out of three North Korean children aged less than five and almost half of the children aged twelve months to twenty-three months suffer from anemia.<sup>606</sup> In addition, the 2015 WFP survey on children aged six months or

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603\_NKHR2015000015 2015-01-27.

604\_UN Doc. CRC/C/PRK/5 (2016), paras. 53, 149.

605\_See, World Bank, "World Development Indicators 2016," (<http://data.worldbank.org/products/wdi>).

606\_See, WFP, "DPR Korea Country Brief," (2016), ([www.wfp.org/countries/korea-democratic-peoples-republic](http://www.wfp.org/countries/korea-democratic-peoples-republic)).

older to less than five years, in daycare centers supported by the WFP, showed that 25.4 percent had poor growth.<sup>607</sup> Furthermore, the gap between cities and rural areas seems to be substantial. The FAO estimated the ratio of underweight children in rural areas at 26.7 percent and in cities at 13.2 percent in a report titled “The State of Food and Agriculture in 2015.”<sup>608</sup>

### (3) Collapse of the State Child Care System

Article 27 of the CRC stipulates that every child has the right to a standard of living adequate to the child’s physical, mental, spiritual, moral, and social development. The Law on the Nursing and Upbringing of Children specifies matters related to child care based on state and social support and child care education institutions. Moreover, the Law on the Protection and Promotion of the Rights of Children (Article 31) has provisions on the care of children without caregivers.

North Korea stated in its fifth report that all children at nurseries and kindergartens are provided with food in accordance with Article 15 of the Law on the Nursing and Upbringing of Children, which states that “all children shall be supplied with food from birth in the DPRK.” This report also specified that,

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607\_ *Ibid.*

608\_ See, FAO, “The State of Food and Agriculture (Social Protection and Agriculture: Breaking the Cycle of Rural Poverty),” (2015), p. 92, <[www.fao.org/publications/sofa/2015/en/](http://www.fao.org/publications/sofa/2015/en/)>.

despite food shortages, pregnant women and children under the age of four are supplied with food on a monthly basis.<sup>609</sup> However, contrary to North Korea's claim, North Korean defectors commonly testified that the free food service at daycare centers and kindergartens ended in 2000.<sup>610</sup> A North Korean defector testified that when sending a child to a work-site daycare center, parents were responsible not only for meals but also for diapers and even the teachers' salaries.<sup>611</sup> These testimonies show that, in reality, North Korean authorities only provide space, and that parents shoulder all the costs for the operation of daycare centers and kindergartens. The facilities provided for children without caregivers has also been found to be very poor. One North Korean defector testified that an orphanage in Musan County, North Hamgyeong Province, sent children to farms to work, as it barely had state support.<sup>612</sup> Meanwhile, the majority of North Korean defectors testified that they were not aware of any regular provision of food to pregnant women and children younger than four years old. However, it seems that special benefits are given to the families of some authorities. A woman who defected from North Korea in 2015 testified that her nephew was born in 2011,

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609\_UN Doc. CRC/C/PRK/5 (2016), para. 178.

610\_NKHR2016000121 2016-07-26; NKHR2016000133 2016-08-09; NKHR2016000143 2016-08-23; NKHR2016000145 2016-08-23; NKHR2016000151 2016-09-06; NKHR2016000154 2016-09-06.

611\_NKHR2016000153 2016-09-06.

612\_NKHR2016000133 2016-08-09.

and as her brother was working for the MSS, rations were provided to the mother and baby for around one year.<sup>613</sup>

## B. Violation of Children's Right to Education

Article 28 of the CRC stipulates that children have the right to education. Article 29 requires that each child's education be directed toward the following goals: (a) The development of the child's personality, talents, and mental and physical abilities to his or her fullest potential; (b) The advancement of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The advancement of respect for the child's parents, his or her own cultural identity, language and values, the national values of the country in which the child is living and the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship, in relations with all people, including all ethnic, national, and religious groups and persons of indigenous origin; and (e) The development of respect for the natural environment. Moreover, Article 31 of the CRC stipulates that children have the right to rest and leisure, to engage in play and

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613\_NKHR2016000154 2016-09-16.

recreational activities, and to participate freely in cultural life and the arts. North Korea has enacted and executed the Education Law, the Law on General Secondary Education, the Law on the Nursing and Upbringing of Children, etc., and has educational provisions on the right to receive free compulsory education, the right to develop hope and talents, and the right to have rest and cultural life, etc., in its Law on the Protection and Promotion of the Rights of Children (Article 22~28).

### (1) Excessive Political Ideology Education

In its fifth report, North Korea mentioned that it carries out 12 years of compulsory education and that its educational program has been revised to conform to Article 29 of the CRC, which specifies the goals of child education.<sup>614</sup> However, when viewing North Korea's education curriculum, it appears to lean heavily towards political ideology education, and focuses on idolizing the present Supreme Leader and his family. The education time allotted for subjects related to Kim Il Sung, Kim Jong Il and Kim Jong Un by grade is presented in <Table IV-4>.

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614\_UN Doc. CRC/C/PRK/5 (2016), para. 209.

Table IV-4 Education Time of Subjects Related to Kim Il Sung, Kim Jong Il and Kim Jong Un

Category		Kim Il Sung	Kim Jong Il	Kim Jong Un
Junior secondary school (Junior high school)	1st grade	68 hours		34 hours
	2nd grade	68 hours	68 hours	34 hours
	3rd grade		68 hours	34 hours
Senior secondary school (High school)	1st grade	104 hours		27 hours
	2nd grade	56 hours	56 hours	27 hours
	3rd grade		92 hours	27 hours

Subjects on Kim Jong Un have been introduced into the revised education curriculum in 2013. Although their share is relatively smaller compared to subjects related to Kim Il Sung and Kim Jong Il, they still account for a substantial proportion of the curriculum.<sup>615</sup> While major learning contents are divided into five categories: 1) the greatness of the party and *Suryong*, 2) the principles of *Juche* ideology, 3) party policies, 4) the revolutionary tradition, and 5) revolutionary and communist education, they all converge on recognizing the greatness of *Suryong*.<sup>616</sup> Political ideology education is considered to be an important part of school education and it appears students accept it without question.<sup>617</sup>

Meanwhile, political ideology education is carried out not only in the general education system, but also in compulsory organizational life, including through the Chosun Children's

615\_ Jeong-ah Cho *et al.*, *Educational Policies, Educational Programs and Textbooks under the Kim Jong Un Regime* (Seoul: KINU, 2015), p. 69. (In Korean)

616\_ *Ibid.*, pp. 95-96.

617\_ NKHR2017000115 2017-11-20.

Union and Kim Il Sung Socialist Youth League, etc. Children aged 7~13 join the Chosun Children's Union and learn and practice Unitary Ideology through education on ideology and organizational activities. Youth aged 14~30 join the Kim Il Sung Socialist Youth League and engage in organizational life. Although students are obligated to join the Chosun Children's Union and the Kim Il Sung Socialist Youth League, passionate and prize students are selected to join prior to other members. This creates a feeling of pride when becoming a member of the organization.<sup>618</sup>

## (2) Mobilization for Political Events and Regime Propaganda

In its fifth report, North Korea stated that it took diverse measures related to the education and leisure of children in response to the relevant provisions in the CRC and the recommendations of the Committee.<sup>619</sup> However, the right to receive education and the right to enjoy leisure are seriously infringed upon in North Korea, as students are still mobilized for various political events or regime propaganda.

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618\_ NKHR2017000025 2017-05-08; NKHR2017000052 2017-07-03; NKHR2017000062 2017-07-31; NKHR2017000041 2017-07-03; NKHR2017000079 2017-09-25; NKHR2017000120 2017-11-20.

619\_ UN Doc. CRC/C/PRK/5 (2016), paras. 181~226.



**Table IV-5** Cases of Mobilization for Political Events and Regime Propaganda

Testimonies	Testifier ID
Students were mobilized under the name of "choir team" ( <i>gachangdae</i> ) during the election seasons. In most cases, from one month before the election, students sang songs in lines about election, holding paper sunflowers they made at lunch time and after school hours before they went back home.	NKHR2016000121 2016-07-26
Students were mobilized for the preparations for the birthdays of Kim Jong 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 holding flowers were mobilized for campaigning at an election of SPA deputies.	NKHR20170063 2017-07-31
For every national holiday including Kim Jong Il and Kim Il Sung's birthdays, students were to present baskets of flowers. Students from different schools would gather in the square in Hyesan and take part in a solidarity gathering ( <i>gyeolyimoim</i> ).	NKHR20170078 2017-08-28
Welcoming projects were proceeded with flowers put in front Kim Il Sung portraits ( <i>taeyangsang</i> ). Students were mobilized for projects welcoming the military. They were also mobilized when Kim Jong Il passed away.	NKHR20170086 2017-09-25

It had been found that North Korean students suffer from physical burden and disruption in learning that takes place during long hours of practice for mobilizations for political events and regime propaganda, etc. A teenage North Korean defector testified to being required to practice group gymnastics, even on weekends, from February onwards, to prepare for the April 15 “Day of Sun” every year, in cold weather, and sometimes late into the night.<sup>620</sup>

620\_NKHR2016000123 2016-07-26.

Part I

Part II

Part III

Part IV  
Vulnerable Groups

Part V

Another North Korean defector said that some students fainted after practicing three to four hours in the mid-summer heatwave.<sup>621</sup> Most of them are found to believe that such mobilizations are something they should accept even though they are difficult.<sup>622</sup> It was noted that not only students, but also their parents view such mobilizations as something they must do.<sup>623</sup>

### (3) Compulsory Military Training

Despite the continuous concerns expressed by the Committee regarding compulsory military training, North Korea still maintains the military subject, “preliminary military activities,” in its senior secondary school (high school) program. In its fifth report, North Korea avoided directly mentioning this issue, stating only that the educational goal of senior secondary school “includes promoting sound body and mind instilled in students so as to make them fully prepared for military service, social life, and campus life.”<sup>624</sup> For one week, students in the second grade of advanced senior secondary school (high school) receive military training at a camping training facility of the Red Youth Protective Guard. Third graders develop preliminary abilities for military activities

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621\_NKHR2016000151 2016-09-06.

622\_NKHR2016000122 2016-07-26; NKHR2016000134 2016-08-09; NKHR2016000143 2016-08-23; NKHR2016000152 2016-09-06.

623\_NKHR2017000002 2017-04-10; NKHR2017000041 2017-07-03; NKHR2017000051 2017-07-03; NKHR2017000055 2017-07-31.

624\_UN Doc. CRC/C/PRK/5 (2016), para. 198.

through one week of outdoor billeting. According to defector testimonies, training on shooting, gun disassembling and assembling, crawling, and forming ranks, and education on military norms, are provided during the military training.<sup>625</sup>

### C. Labor Mobilization

Article 32 of the CRC stipulates that children have the right to be protected from labor that threatens their health, education, and development. North Korea prohibits child labor in its Constitution, Socialist Labor Law, and Law on the Protection and Promotion of the Rights of Children. However, as mentioned above, none of those laws conform to the CRC, as the current Law on the Protection and Promotion of the Rights of Children defines the age of children as “up to 16 years old,” and the Constitution and Socialist Labor Law also stipulate the age available for labor as 16 years old.

In its fifth report, North Korea repeated its stance of previous reports, that child labor was eradicated a long time ago.<sup>626</sup> Moreover, North Korea stated that it included on-site exercises in its educational curriculum to combine theory and practice and have children visit farms and factories.<sup>627</sup> In fact, the North Korean curriculum shows that the junior secondary school

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625\_ NKHR2016000118 2016-07-26; NKHR2016000121 2016-07-26; NKHR2016000123 2016-07-26.

626\_ UN Doc. CRC/C/PRK/5 (2016), para. 240.

627\_ *Ibid.*, para. 203.

(junior high school) program includes tree-planting, and the senior secondary school (high school) program includes tree-planting and production labor.

However, it has also been found that students are frequently mobilized during after-school or school hours aside from the officially established curriculum. Students are mobilized for after-school labor for six or seven days every 10 days in spring, summer, and fall. At times, students are said to be mobilized for weeding and rice-planting in spring, and for potato-digging and corn harvesting for about a month in fall, while skipping classes.<sup>628</sup> Moreover, students are mobilized for construction work, such as transporting sand and pebbles.<sup>629</sup> One North Korean defector testified that such work was physically very demanding, as quotas are assigned to them when they are mobilized to supplement the labor shortage.<sup>630</sup> Another North Korean defector testified that while the testifier was not hungry in fall, when it was possible to pick and eat potatoes or fruits, the testifier was very exhausted and hungry in spring.<sup>631</sup> It is said that there are students who do not attend school to avoid mobilization.<sup>632</sup> However, one testimony

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628\_NKHR2016000139 2016-08-23; NKHR2016000145 2016-08-23; NKHR2016000150 2016-09-06; NKHR2016000152 2016-09-06; NKHR2017000002 2017-04-10; NKHR2017000008 2017-04-10; NKHR2017000029 2017-06-05.

629\_NKHR2016000133 2016-08-09.

630\_NKHR2016000131 2016-08-09.

631\_NKHR2016000139 2016-08-23.

632\_NKHR2016000150 2016-09-06.

claimed that except for those who are sick, a student who missed work had to pay money to the school.<sup>633</sup> One defector testified that students stopped being mobilized at the order of Kim Jong Un starting in the fall of 2016.<sup>634</sup>

## D. Children in Need of Special Protective Measures

### (1) Treatment of Forcibly Repatriated Children

Article 37 of the CRC stipulates that no child shall be subjected to torture or other cruel, inhuman, or degrading treatment or punishment, unlawful imprisonment, or deprivation of liberty. Article 39 stipulates that state parties shall take all appropriate measures to promote the recovery and social reintegration of a child victim of torture, abuse, exploitation, etc. North Korea has relevant provisions in its Criminal Law and Criminal Procedure Law. The Law on the Protection and Promotion of the Rights of Children stipulates the basic requirement of protection for children's rights in the judiciary, prohibition of the imposition of criminal responsibility and the death penalty on children, application of social educational measures, and respect for the dignity of children in handling cases (Article 47~49 and 51).

In its fifth report, North Korea stated that “returnees who

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633\_NKHR2016000152 2016-09-06; NKHR2017000065 2017-07-31.

634\_NKHR2017000006 2017-04-10.

illegally crossed the border were subject to educational measures.”<sup>635</sup> In other words, the principle is to improve compliance with the law by making returnees aware of the relevant provisions in the Law on the Protection and Promotion of the Rights of Children, Immigration Law, and Criminal Law after investigating their motivation and goals for illegal border-crossing.<sup>636</sup> North Korea also explained in its report that such education will ensure the adaptation of such children to school life through special care and that the People’s Committee is in charge of continuous contact with their parents to resolve any issues that parents may face in raising such children.<sup>637</sup> In past surveys, testers said that children repatriated from China receive mistreatment, including verbal abuse, violence, and torture during the interrogation process, and that they suffer beatings, hard labor, and hunger during their detention.<sup>638</sup> In addition, in the 2016 survey, a North Korean defector testified that a 16-year-old child was sold in China through human trafficking after his/her parents died, lived a life as a child beggar (*kotjebi*) in China, was forcibly repatriated in the fall of 2014, and died of malnutrition during the MSS investigation.<sup>639</sup> However, according to the 2016 survey, there were also testimonies

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635\_ UN Doc. CRC/C/PRK/5 (2016), para. 239.

636\_ *Ibid.*

637\_ *Ibid.*

638\_ NKHR2013000018 2013-01-22; NKHR2013000032 2013-02-19.

639\_ NKHR2016000121 2016-07-26.

which stated that repatriated children were released after only receiving educational measures.<sup>640</sup> One defector said that his/her younger brother who was 17 in 2013 was forcibly repatriated after defecting from North Korea with his mother and the mother was sentenced to three years of correctional labor punishment and the younger brother was released after a 15-day education session.<sup>641</sup> However, they were said to be continuously subjected to surveillance by the people's unit (*inminban*) thereafter.<sup>642</sup> Another North Korean defector testified that minors were sent to Group 9.27, as they could not be detained in detention centers (*guryujang*) with adults.<sup>643</sup> As there has been mixed testimony on this issue, it is necessary to continuously examine how cases on forcibly repatriated children are handled. Additional analysis is also required on the specific contents and methods of these educational measures.

## (2) “*Kotjebi*”

Article 20 of the CRC stipulates that “a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.” North Korea stipulates in the Law on the

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640\_NKHR2016000112 2016-07-26; NKHR2016000123 2016-07-26.

641\_NKHR2016000131 2016-08-09.

642\_Above testimony.

643\_NKHR2016000143 2016-08-23.

Protection and Promotion of the Rights of Children that “children who cannot be cared for by their parents or guardians shall be raised, at a cost paid for by the State, at child-caring institutions (*yugawon*), orphanages (*aeugwon*), and other institutions.” (Article 31).

With regard to this, it is necessary to examine wandering child beggars known as “*kotjebi*.” In its fifth report, North Korea did not explicitly mention *kotjebi*. It only explained that children who are deprived of their family environment due to natural disaster or the death or divorce of their parents are protected and that a suitable living environment and learning environment are provided for them.<sup>644</sup> It is not known how many *kotjebi* exist throughout North Korea. North Korean authorities are known to send *kotjebi* who are caught to accommodation facilities such as “relief centers,” “lodging centers,” “boys’ education centers,” “lodging centers for drifters,” or “protection centers,” to protect and manage them. However, most North Korean defectors testified that *kotjebi* are often found in front of stations or marketplaces (*jangmadang*) in border regions or provinces. However, a male North Korean defector who defected in June 2016 testified that it is hard to find them in the streets anymore. This is because, at the direction by Kim Jong Un, many orphanages have been constructed, providing children with clothes and meals, and many *kotjebi* have flocked

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644\_UN Doc. CRC/C/PRK/5 (2016), para. 109.



these orphanages.<sup>645</sup>

However, testimonies continuously reveal that even if *kotjebi* have access to accommodations, they eventually run away because of the poor facilities and environments and harsh discipline.<sup>646</sup> North Korean defectors who resided in Hyesan, Yanggang Province, testified that there is a *kotjebi* accommodation facility called “*yuhakwon*” in Seonghu-dong, Hyesan. It is said that the discipline there is very harsh and that only a small portion of meals are provided.<sup>647</sup> It is also known that there have been cases of violence and sexual abuse by staff at *kotjebi* accommodation facilities in North Korea. A North Korean defector who was accommodated at a “lodging center for drifters” testified that he was beaten with a club, for no reason, immediately after entering the facility, and was kicked for talking back.<sup>648</sup> Another North Korean defector also testified that there were cases where *kotjebi* ran away because of violence and sexual abuse by staff at *kotjebi* accommodation facilities.<sup>649</sup> While not all *kotjebi* are orphans, it appears that the increase in orphanage facilities has meant that some *kotjebi* have been housed in facilities for the orphans.<sup>650</sup>

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645\_NKHR2016000158 2016-09-20.

646\_NKHR2016000121 2016-07-26; NKHR2016000122 2016-07-26; NKHR2016000143 2016-08-23; NKHR2016000157 2016-09-20.

647\_NKHR2016000139 2016-08-23; NKHR2016000140 2015-08-23.

648\_NKHR2016000132 2016-08-09.

649\_NKHR2016000139 2016-08-23.

650\_NKHR2017000050 2017-07-03.

In the deliberation process of the CRC implementation report, North Korea reported in 2017 that under Kim Jong Un's instructions, 40 facilities nationwide, including child-caring institutions, orphanages, elementary academies (*hagwon*), and middle academies, have been modernized from 2014 to 2017 and that all those institutions had been equipped with the state-of-the-art learning tools and equipment. In addition, North Korea highlighted that those facilities for orphans have been primarily given nutritious food and living supplies in accordance with the standard. North Korea's claim has been backed by a number of North Korean defectors.<sup>651</sup> One defector who left North Korea in 2016 testified that two nephews had gone to a middle academy since 2009, and had not been properly fed or clothed in the past, but that the quality of food and clothing have greatly improved in conjunction with the construction projects that have taken place since Kim Jong Un came into power.<sup>652</sup> Another defector who left North Korea in 2017 responded that the construction of a child-caring institution and orphanage was completed in the Ranam zone in Cheongjin in 2016.<sup>653</sup> North Korea explained that such projects for modernization have been made possible thanks to national investments and society-wide interest. While the

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651\_KHR2017000049 2017-07-03; NKHR2017000088 2017-09-25.

652\_NKHR2017000002 2017-04-10; Similar testimony on middle academy (*hagwon*) in Hyesan, NKHR2017000009 2017-04-10.

653\_NKHR2017000028 2017-06-05.

construction of those projects has been verified by testimonies from North Korean defectors, manpower from people's units and the resources of storm troop brigades seem to have been mobilized in the process. A defector who left North Korea in 2017 testified that students at orphanages or child-care institutions in Najin live in a better environment than children living with their parents, thanks to the support of companies that have invested in Najin.<sup>654</sup> Another testimony suggested that there were cases in which defectors were exempted from punishment when paying support fees, so that these funds could be spent on the maintenance of facilities for orphans.<sup>655</sup>

## E. Evaluation

In its fifth report submitted to the Committee in April 2016, North Korea stated that it carried out diverse measures to realize the rights of the child from 2008 to 2015. However, the 2017 survey found that the human rights situation of North Korean children still remains poor. The overall level of the health care/welfare of children is low, and the gap between Pyongyang and the provinces, and between the cities and rural areas, is also serious. Moreover, there has been little improvement of North Korea's educational policies, such as excessive education on

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654\_NKHR2017000088 2017-09-25.

655\_NKHR2017000052 2017-07-03.

politics, which do not conform with the goals of child education, despite the continuous concerns and recommendations of the Committee regarding its educational policies. The mobilization of children for manpower and political events still appears to continue in order to supplement the labor shortage, going beyond the goals of education. However, there have been some positive changes, including an increase in the vaccination rate, and declining child malnutrition and infant/child mortality. North Korea's efforts to modernize facilities for orphans and to distribute goods primarily for them are evaluated positively as they have been reported to the Committee. However, attention needs to be paid to whether such measures will continue to be implemented in the future.

# 3

## Persons with Disabilities

The CRPD specifically stipulates the rights of persons with disabilities, declaring that “States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability” (Article 4). On July 3, 2013, North Korea became a signatory to this Convention. By ratifying the Convention on December 6, 2016, North Korea became a state party to the CRPD.

### A. Policies on and Population of Persons with Disabilities

#### (1) Policies on Persons with Disabilities

Taking into consideration criticism and concerns of the international community regarding discrimination against persons with disabilities, North Korea adopted the Law on the Protection of Persons with Disabilities in June 2003. This law was enacted

“to provide favorable living conditions and environment for persons with disabilities by firmly establishing systems and order in terms of treatment, rehabilitation, education, work and cultural life” (Article 1). Article 2 defines persons with disabilities as “citizens whose normal life is hampered for an extended period of time due to the loss or restriction of physical and mental functions.” It also states, “the State shall respect the personal dignity of all persons with disabilities, and guarantee them social and political rights and freedoms, as well as benefits, that are equal to those granted to healthy citizens.” The Law on the Protection of Persons with Disabilities also stipulates details concerning Rehabilitation (Chapter 2), Education (Chapter 3), Cultural Life (Chapter 4), and Work (Chapter 5). Provisions to protect persons with disabilities also exist in the Social Insurance Law, the Socialist Labor Law, and the Social Security Law.

The activities of the Korean Federation for the Protection of the Disabled (hereinafter KFPD) promote the rights of the disabled. On July 29, 1998, North Korea’s Cabinet passed a resolution establishing the Korean Association for Supporting the Disabled (hereinafter KASD), a civil organization representing the rights and interests of persons with disabilities. The KFPD carries out important tasks such as conducting surveys on the status of persons with disabilities, improving their health and living conditions, and developing action programs to enhance social awareness of and interest in persons with disabilities. It has branch committees at

the county, city, and province levels.<sup>656</sup> KFPD considers itself to be an NGO even though the Ministry of Public Health pays staff salaries and maintenance costs.<sup>657</sup> The KFPD has also established the Deaf Association of Korea, the Korean Rehabilitation Center for Children with Disabilities, the Blind Association of Korea, the Korean Company Supporting the Disabled, the Korean Association for Sports of the Disabled, and the Korean Art Association of the Disabled.<sup>658</sup> In addition, the KFPD established its first mission in Beijing in July 2008, and its Shenyang mission in 2015. Pun-hui Ri, formerly the secretary general of Korean Association for Sports of the Disabled, is said to be serving as the first representative.<sup>659</sup> The North Korean authorities also established a Comprehensive Action Plan for Persons with Disabilities, which was scheduled to last from 2008 to 2010.<sup>660</sup> Additionally, North Korea expressed its plan to the Special Rapporteur that it will complete its action plan for the protection of persons with disabilities by the end of

656\_ 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.

657\_ Katharina Zellweger, "People with Disabilities in a Changing North Korea. Stanford University," *Shorenstein APARC Working Paper* (2014).

658\_ *Rodong Shinmun*, 30 September 2012; *Korean Central News Agency*, 16 December 2014.

659\_ *Voice of America*, 13 May 2015.

660\_ CRC, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention: The Combined Third and Fourth Periodic Reports of States Parties Due in 2007: Democratic People's Republic of Korea," para. 134; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance* (Seoul: KINU, 2013), p. 66. (In Korean)

2017.<sup>661</sup>

## (2) Size of the Population of Persons with Disabilities

North Korea has stipulated in the Law on the Protection of Persons with Disabilities, that “the State shall regularly investigate the reality for disabled people, accurately evaluate the levels of disability and establish the right standards” (Article 5). It has not been identified whether the North Korean authorities have conducted a systematic investigation of the overall reality for persons with disabilities in accordance with this provision. However, two instances of sample investigations have been found to have taken place, once before and once after the enactment of the Law on the Protection of Persons with Disabilities.

In fact, it is said in 1999, the KASD carried out a factual survey. According to data, there are 763,237 persons with disabilities in North Korea, accounting for 3.41 percent of the entire North Korean population. According to these findings, there were 296,518 persons with physical disabilities, accounting for the largest portion of the total disabled population at 38.8 percent, followed by 168,141 persons with hearing impairments, 165,088 with visual impairments, 68,997 persons with severe disabilities, and 37,780 persons with mental disabilities. Around 1.75 percent

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661\_Report of the Special Rapporteur on the rights of persons with disabilities of her visit to the Democratic People’s Republic of Korea, 8 December 2017, UN Doc. A/HRC/37/56/Add.1 (2018), para. 24.



of the population of Pyongyang was found to be disabled. Persons with disabilities more often lived in cities (64 percent) than in rural areas (35.4 percent).<sup>662</sup> North Korea added disability-related survey items to its 2008 Population Census, such as the severity of disabilities, age, sex, and population distribution of the disabled by region (rural area and city). North Korea's 2009 Population Census suggests that North Korea's population includes 519,573 people with visual difficulty (2.4 percent), 374,452 with hearing difficulty (1.73 percent), 537,496 with mobile difficulty (2.48 percent), and 334,852 with cognitive difficulty (1.54 percent). Responses to this Population Census were grouped into four categories of difficulties according to survey responses, and not on the basis of actual diagnosis of disabilities. Such data indicates that there are an estimated 1.96 million North Koreans with disabilities, representing 8.16 percent of the total population. What is noteworthy in the survey result is that the percentage of women (62 percent) far outnumbered that of men (32 percent).<sup>663</sup>

In addition, according to its 2009 Report submitted to the UN, North Korea conducted a screening survey in 2005. According to the same report, there were 3,639 children with handicapped mobility, including 2,176 boys and 1,463 girls.<sup>664</sup>

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662\_ *Yonhap News Agency*, 9 April 2006; *Yonhap News Agency*, 23 November 2006.

663\_ UN Doc. A/HRC/37/56/Add.1 (2018), para. 10.

664\_ The DPRK, "National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15 (A)," p. 20.

Table IV-6 Children with Disabilities by Age Group (Unit: %)

0~4 years	5~6 years	7~10 years	11~17 years	Total
11.6	11.2	30.2	47	100

In 2011, KFPD and the Central Bureau of Statistics conducted a second sample survey of persons with disabilities on 2,400 households in three provinces (South Pyeongan Province, South Hwanghae Province, and Gangwon Province).<sup>665</sup> Based on the results of that survey, North Korea claimed, in its report on the implementation of the Convention on the Rights of the Child, that the percentage of children with disabilities who are under the age of 15 is 0.9 percent.<sup>666</sup> Mun-chol Kim, Deputy Chairman of the KFPD's Central Committee, led the North Korean sports delegation to the 14th Paralympics, held in London (August 30~September 10, 2012) and partially disclosed the findings of the survey. The number of persons with disabilities in five major categories—sight, hearing, physical movement (limbs), mental abilities (including intelligence), or multiple disabilities—equaled 5.8 percent of the population.<sup>667</sup> According to the 2014 sample survey of persons with disabilities conducted in four provinces (South Hamgyeong Province, Gangwon Province, North Pyeongan

665\_ *Rodong Shinmun*, 30 September 2012.

666\_ UN Doc. CRC/C/PRK/5 (2016), para. 135.

667\_ *Yonhap News Agency*, 10 September 2012. North Korea also disclosed that 5.8% of its population were persons with disabilities in its report submitted to the UPR in 2014. National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council Resolution 16/21.

Province, and South Pyeongan Province), there are roughly 1.5 million people with disabilities, which account for 6.2 percent of the entire population. Among those persons with disabilities, women (55.1 percent) outnumbered men (44.9 percent).<sup>668</sup>

A relief group for North Korea, known as ‘Together-Hamheung,’ which has its headquarters in Germany, held its 7th Gathering of Deaf Persons in Pyongyang for five days starting August 7, 2015. According to this group, around 350,000 deaf persons were said to be registered.<sup>669</sup> As seen above, the size of the population with disabilities varies depending on the survey. The 2017 Multiple Indicator Cluster Survey included the UNICEF-Washington Group module on children with disabilities. North Korea’s 2018 Population Census is expected to incorporate the Washington Group disability statistics.

## B. Reality of the Rights of Persons with Disabilities

### (1) Training and Rehabilitation

Regarding training and rehabilitation, the CRPD stipulates that “States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical,

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668\_ UN Doc. A/HRC/37/56/Add.1 (2018), para. 10.

669\_ *Voice of America*, 13 August 2015.

mental, social and vocational ability, and full inclusion and participation in all aspects of life” (Article 26, paragraph 1). North Korea also stipulates, in its Law on the Protection of Persons with Disabilities, that “the State shall organize professional or comprehensive rehabilitation institutions for rehabilitation of persons with disabilities,” (Article 11) and that “health guidance institutions and institutions in charge and enterprises should guarantee production of assistance devices including alignment apparatus, motor tricycles, glasses and hearing aids, etc., in a planned manner” (Article 14).

Based on the Law on the Protection of Persons with Disabilities, North Korea has taken measures of its own towards the training and rehabilitation of persons with disabilities. First of all, with a focus on children with mental disabilities and disabilities related to their limbs, the Korean Rehabilitation Center for Children with Disabilities was established in Pyongyang, in March 2013, on a mission to conduct projects leading to the early detection and rehabilitation of disabilities.<sup>670</sup> On December 6, 2013, the Munsu Functional Recovery Center was founded in Pyongyang, offering comprehensive services for functional rehabilitation of people with disabilities. The Munsu Center is known to have served as North Korea’s hub for functional recovery at physical therapy

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670\_ *Rodong Shinmun*, 30 September 2012; *Korean Central News Agency*, 29 March 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 69. (In Korean)

departments for the treatment of the functionally impaired in provincial, city, and county hospitals.<sup>671</sup> Moreover, North Korea has constructed the Dongdaewon Gymnasium for the Disabled in Dongdaewon District, Pyongyang, for athletes with disabilities.<sup>672</sup>

In North Korea, there are reportedly many alignment apparatus manufacturing outlets, such as the Hamheung Alignment Apparatus Factory, Songrim Alignment Apparatus Factory, and Pyongyang Honored Veterans' Alignment Apparatus Repair Factory. The Hamheung factory is known to use polypropylene resin materials to manufacture various alignment apparatus, and the employees of each of these factories provide mobile on-site repair services.<sup>673</sup> There are also North Korean defectors who have testified to the operation of manufacturers of alignment apparatus in Hamheung, South Hamgyeong Province. However, it is said to be difficult for ordinary persons with disabilities to purchase items such as prosthetic legs and hands, etc., as they are expensive.<sup>674</sup> The reality of rehabilitation and training is assessed to be poor, because relevant systems, despite having already been introduced, are in their very initial stages due to the economic crisis.

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671\_ *Chosun Shinbo*, 17 December 2013; *Korean Central News Agency*, 16 December 2014.

672\_ *Tongil News*, 27 February 2016.

673\_ *Chosun Shinbo*, 23 May 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance*, p. 71. (In Korean); *Yonhap News Agency*, 3 December 2014.

674\_ NKHR2013000057 2013-03-19; NKHR2013000070 2013-04-02; NKHR2015000131 2015-09-22.

## (2) Adequate Living Standards and Employment

The CRPD stipulates that “States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability” (Article 28, paragraph 1).

North Korea also has policies regarding care for persons with disabilities, such as operating factories where they can work, so that persons with disability can maintain an appropriate standard of living. There are two classes of persons with disabilities in North Korea: “honored veterans,” who receive preferential treatment, and “general persons with disabilities.” Factories for each class are operated separately.<sup>675</sup> Factories for persons with disabilities are also operated in the form of “light workplaces.” Those suffering from nanocormia and polio engage in light works, such as carving seals and repairing clocks, bicycles, shoes, and TVs at local convenience service centers, while those with visual impairments earn money by playing guitar.<sup>676</sup> North Korea is

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675\_ *Daily NK*, 28 August 2012; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, pp. 71~72. (In Korean)

676\_ NKHR2012000026 2012-02-21; NKHR2015000036 2015-02-10; NKHR2017000007 2017-04-10.

also known to have provided job opportunities to persons with disabilities. For example, in 2007, North Korea opened the Botonggang Convenience Complex, equipped with a sewing shop, clock repair shop, hair salon, and beauty salon.<sup>677</sup> However, it seems that such factories for persons with disabilities have not operated properly since the mid-1990s, due to the lack of funds budgeted to them, and thus are not of any actual help to people living with disabilities.

**Table IV-7** Factory Operation for Honored Veterans

Testimonies	Testifier ID
The Nakrang honored veterans factory is in Nakrang district in Pyongyang. It serves as a nation-wide model.	NKHR2013000168 2013-09-17
There is a factory for blind honored veterans in Sinsang County, South Hamgyeong Province.	NKHR2014000016 2014-03-18
There is an honored veterans factory in Hyemyeong-dong in Hyesan, Yanggang Province. It is said that there are around 200~300 people working there.	NKHR2014000063 2014-06-03
There is an honored veterans factory in Yeonbong-dong in Hyesan, Yanggang Province. It is said that the factory is now producing bags.	NKHR2014000136 2014-09-23
The husband of the testifier worked at Heungnam honored veterans factory.	NKHR2014000157 2014-09-23
There is an honored veterans factory in Hyesan, Yanggang Province. It used to produce a variety of plates but now it does not produce anything.	NKHR2015000043 2015-02-24
There is a communications machinery factory operated by honored veterans in Gilju County, North Hamgyeong Province, and the factory also provides rations. However, the rations are not in normal amounts, but equal to roughly up to 6 months' worth to the maximum per year.	NKHR2015000053 2015-03-10

677\_Katharina Zellweger, "People with Disabilities in a Changing North Korea," p. 21.

Testimonies	Testifier ID
There are honored veterans factories in Yeonbong 1-dong, Yeondu-dong, Songbong-dong and Wiyeon-dong in Hyesan, Yanggang Province. Currently they are not in normal operation due to issues with electricity and raw materials.	NKHR2015000130 2015-09-22
There is a blind honored veterans factory in Hoeryeong, North Hamgyeong Province.	NKHR2016000099 2016-06-14
There was a honored veterans factory in Gapsan County, Yanggang Province, which had been in and out of operation.	NKHR2017000046 2017-07-03
There was a honored veterans factory in Gapsan County, Yanggang Province.	NKHR2017000050 2017-07-03

**Table IV-8** Factory Operation for General Persons with Disabilities

Testimonies	Testifier ID
The testifier heard from his/her aunt that there is a metal wood factory for blind persons in Suseong district, Cheongjin, North Hamgyeong Province in 2013, where the aunt worked as a cashier.	NKHR2014000144 2014-09-02
While there was a light workplace for people with disabilities in Rimyongsugu, Samjiyeon County in 2014, it was not in operation.	NKHR2016000030 2016-03-08
There are factories for visually-impaired persons in Suseong district, Cheongjin, North Hamgyeong Province.	NKHR2013000036 2013-02-19
There is a light-labor workplace for persons with disabilities in Seoncheon-dong, Hoeryeong, North Hamgyeong Province. Now it is not in normal operation.	NKHR2013000095 2013-05-14 NKHR2015000131 2015-03-22
Although there was a factory for persons with disabilities in Musan County, North Hamgyeong Province, the factory is currently not maintained due to a lack of equipment.	NKHR2013000116 2013-06-11
There are light workplaces for persons with hearing impairments and persons with physical disabilities.	NKHR2013000186 2013-09-17
There are factories for people with hearing, visual and physical disabilities in Samsu County, Yanggang Province.	NKHR2016000083 2016-05-31
There is a middle-sized factory for people with disabilities in Chukjeongdong, Pyongyang.	NKHR2016000170 2016-11-01
There were two light workplaces in Wonsan, South Hamgyong Province. However, no persons with disabilities actually work there. Those places were only used by merchants for sales purposes.	NKHR2017000007 2017-04-10



North Korean defectors testified that persons with disabilities do not benefit from any care or protection from the government, and that, in most cases, they live with the help of their families or by begging on the street. One defector who left North Korea 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.<sup>678</sup> It is said that only honored veterans are entitled to disability benefits or financial support from the government. General persons with disabilities have to purchase assistance devices or supplies on their own, as they do not receive any support from the State, while honored veterans supposedly receive livelihood support, including living supplies. However, government support for honored veterans also seems shaky. One defector testified that his/her father, an honored veteran, was given potato rations from the State during a potato harvest season, the portion of which differed every year.<sup>679</sup> Another defector who resided in Gapsan County, Yanggang Province spoke of having witnessed an honored veteran, who went blind during military service, being given preferential treatment, such as an apartment, telephone, and ration.<sup>680</sup> In 2012, a paraplegic honored veteran in Gilju County, North Hamgyeong Province

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678\_NKHR2017000028 2017-06-05.

679\_NKHR2017000018 2017-04-10.

680\_NKHR2017000046 2017-07-03.

was given an apartment and rations. However, it appears that the ration was insufficient to live on.<sup>681</sup>

Another North Korean defector from South Hamgyeong Province, testified that there are some cases in which schools ask students to give cash or supporting materials, including gloves or clothes, for honored veterans.<sup>682</sup> A North Korean defector from Hyesan, Yanggang Province, testified to having witnessed that the Hyesan ration center only provided rations to honored veterans, excluding general people (*inmin*), in 2015.<sup>683</sup> However, a North Korean defector from North Hamgyeong Province, whose father was an honored veteran, testified that the goods or subsidies actually provided were at an extremely perfunctory level.<sup>684</sup>

North Korean Law on the Protection of Persons with Disabilities, stipulates that “educational guidance institutions and the institutions in charge can organize and operate training institutions and vocational schools for masseuses, computer typists, painters and engineers in consideration of academic background, age, and level of disability of persons with disabilities” (Article 22).

In accordance with such provisions, North Korea implements policies to support the employment of persons with disabilities.

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681\_NKHR2017000050 2017-07-03.

682\_NKHR2016000135 2016-08-23.

683\_NKHR2016000041 2016-04-05.

684\_NKHR2016000046 2016-04-19.

On May 2, 2012, the Chosun Technical and Vocational Skills Class for the Disabled, a specialized class providing vocational training to persons with disabilities, opened in Pyongyang, to help persons with disabilities to participate more actively in social life. This is a one-year course designed for persons with physical disabilities, including the hearing-impaired and those without limbs.<sup>685</sup> Moreover, a U.K. 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 May 2, 2016.<sup>686</sup>

However, testimonies indicate that persons with disabilities are discriminated against in employment. One North Korean defector testified that the father of a friend could not become a teacher, but instead had become a librarian at a university because of his limp.<sup>687</sup>

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685\_ *Korean Central News Agency*, 2 May 2012; *Chosun Shinbo*, 9 May 2012; *Chosun Shinbo*, 23 May 2013; *Ablenews*, 9 August 2013; Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance*, p. 70. (In Korean)

686\_ *Voice of America*, 29 December 2015.

687\_ NKHR2014000009 2014-03-04.

## 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

In regard to freedom of residence, the CRPD stipulates that “Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement” (Article 19 (a)). The CRPD also stresses the integration of persons with disabilities into local communities, as “Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community” (Article 19 (b)).

A representative case of the violation of this freedom of residence and integration into local communities stipulated in the CRPD is the segregation for persons with nanocormia. A substantial number of North Korean defectors also testified that there are segregated areas for persons with nanocormia. One such area is Yeonha-li, Kimhyongjik County (formerly Huchang County).<sup>688</sup>

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688\_NKHR2015000074 2015-04-07; NKHR2015000106 2015-05-19; NKHR2016000083 2016-05-31.

However, in addition to such testimonies, other testimonies have claimed that he/she has witnessed people with nanocormia living in non-segregated areas with other residents. One North Korean defector from Rason, North Hamgyeong Province, testified to having witnessed a person with nanocormia and a person with spinal lesions in downtown Rason in 2016.<sup>689</sup> Given such testimony, 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. Meanwhile, some testimonies have stated that although they are discriminated, by for example segregation, persons with nanocormia maintain good standards of living.<sup>690</sup>

Table IV-9 Testimonies on the Segregation of Persons with Nanocormia

Testimonies	Testifier ID
The testifier witnessed persons with nanocormia weeding in Yeonha-li, Kimhyongjik County, Yanggang Province.	NKHR2013000011 2013-01-22
The testifier heard about a town of persons with nanocormia from a person who used to live there.	NKHR2013000047 2013-03-05
The testifier witnessed persons with nanocormia being segregated when he/she visited an aunt's house in Sanchang-gu, Kimhyongjik County, Yanggang Province.	NKHR2013000060 2013-04-02
It is said that there is a place that separately accommodates persons with nanocormia in Yonghwa-li, Sinpa County, Yanggang Province.	NKHR2013000074 2013-04-16

689\_NKHR2016000186 2016-12-13.

690\_NKHR2013000011 2013-01-22; NKHR2013000218 2013-11-26.

Testimonies	Testifier ID
It is said that Duji-li, Kimhyongjik County, Yanggang Province is a town for persons with nanocormia.	NKHR2013000117 2013-06-25
There was segregated accommodation and forced sterilization of persons with nanocormia.	NKHR2014000004 2014-02-18
The testifier heard that persons with nanocormia are segregated in residences and controlled so that they cannot have children.	NKHR2014000055 2014-05-20
The testifier witnessed persons with nanocormia in Yeon-dong, Kimhyongjik County, Yanggang Province. Persons with nanocormia could not live in general residential areas but lived separately in groups in remote mountain villages.	NKHR2014000076 2014-06-17
It is said that persons with disabilities were forced not to have children and live mainly in Huchang so that they do not spread to other areas.	NKHR2014000137 2014-09-12
North Korean defector in her 20s, who defected in 2015, witnessed a segregated area for persons with nanocormia in Huchang on her way back from the sideline field ( <i>bueopji</i> ) along with her uncle.	NKHR2017000131 2017-12-18

**Table IV-10** Testimonies that Persons with Nanocormia are Not Segregated

Testimonies	Testifier ID
The testifier said that in 1995 he/she went to school with two persons with nanocormia in Hoeryeong, North Hamgyeong Province.	NKHR2015000126 2015-09-08
The testifier witnessed a father and son with nanocormia farming in 7-ban, Imgang-li, Musan County, North Hamgyeong Province in 2010.	NKHR2013000165 2013-09-03
From the childhood up until the testifier defected from North Korea in 2015, there was a person with nanocormia living in Saneop-dong, Hoeryeong, North Hamgyeong Province.	NKHR2015000141 2015-10-06
North Korean defector in her 20s, who defected in 2017, heard about the existence of segregated areas in Huchang but witnessed a person with nanocormia in Hyesan. She thought it was a new change to allow those with nanocormia to live in non-segregated areas if they had relatives in those areas.	NKHR2017000022 2017-05-08
The testifier witnessed a person with nanocormia in Namyang-gu, Onsung, North Hamgyeong Province.	NKHR2013000100 2013-05-28
A great-aunt on the testifier's mother side was a person with nanocormia, but was not segregated.	NKHR2013000141 2013-07-23

Testimonies	Testifier ID
The testifier heard from her sister that there were persons with nanocormia living in Hyesan, Yanggang Province.	NKHR2013000218 2013-11-26
The testifier witnessed many persons with nanocormia selling CD-Rs, etc. in a marketplace ( <i>jangmadang</i> ) in Cheongjin, North Hamgyeong Province.	NKHR2014000100 2014-03-04
The testifier witnessed many persons with nanocormia.	NKHR2014000027 2014-04-01
There was a person with nanocormia in the same <i>inminban</i> as the testifier and he had a wife and children. There are many persons with nanocormia living in Hyesan, Yanggang Province.	NKHR2014000075 2014-06-17
The testifier witnessed a person with nanocormia (male) living in the same neighborhood as his/her aunt in Bocheon County, Yanggang Province.	NKHR2014000131 2014-08-26

The freedom of persons with disabilities to choose their area of residence is restricted in North Korea. According to North Korean defectors, North Korean authorities restrict residence by persons with disabilities in Pyongyang, which is often frequented by foreigners, due to its status as a special district, and also restrict residence in Nampo, Gaeseong, and Cheongjin. With exceptions granted to people with special skills, authorities control the residence of persons with disabilities under the pretext that they may leave an unpleasant impression on visiting foreigners.<sup>691</sup> One North Korean defector testified that he/she had a conversation when watching South Korean dramas that “It seems there are many persons with disabilities in South Korea, but why are there no persons with disabilities in Pyongyang?”<sup>692</sup>

691\_NKHR2014000078 2014-07-01.

692\_NKHR2015000176 2015-12-15.

## (2) Violation of Respect for Home and the Family

The CRPD stipulates that “The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized” (Article 23, paragraph 1 (a)). Moreover, it specifies, within respect for home and the family, that “the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children...are recognized” (Article 23, paragraph 1 (b)).

Inhumane discrimination and the most obvious human rights violations that infringe upon family rights is the sterilization of pregnant persons with nanocormia. Many North Korean defectors have testified to this practice. Complaints and protests have been raised regarding this issue in recent years, and many persons with nanocormia actually have their own children. One North Korean defector testified that he/she heard that persons with nanocormia protested against discrimination in 2000, in Kimhyongjik County, Yanggang Province.<sup>693</sup> There exists a need for a follow-up investigation to find out whether forced sterilization of persons with nanocormia has been performed in the past, and if it has, whether this practice continues to this day.

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693\_NKHR2013000117 2013-06-25.



**Table IV-11 Sterilization of Persons with Nanocormia**

Testimonies	Testifier ID
People with Nanocormia in Onsung, North Hamgyeong Province, were forcibly sterilized in 2014.	NKHR2015000171 2015-12-01
A North Korean defector testified that he was a consulting physician at the hereditary department of a provincial hospital. He enforced a sterilization plan as instructed by the Party after conducting a survey on little people. Persons with nanocormia are called “the subjects of No. 71 measures,” because Kim Il Sung had sent all persons with nanocormia to collective camps in 1971. In North Korea, it seems that people below 130cm in height are defined as little people. In recent years, persons with nanocormia know they are subject to sterilization shots, so they refuse and even file petitions if doctors try to give them shots. But these petitions are dismissed because sterilization was the Party’s policy. Those with nanocormia with lower mental abilities were lured into sterilization shots, after being told that the shots would “help them grow.”	NKHR2012000072 2012-04-26
Persons with nanocormia are said to be segregated and forcibly sterilized.	NKHR2012000073 2012-05-08
Persons with nanocormia was forced into sterilization, but in reality many persons with nanocormia have children.	NKHR2013000117 2013-06-25
	NKHR2013000200 2013-11-12

### (3) Mobility

Regarding the mobility of individuals, the CRPD stipulates that “States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities” (Article 20). After signing the CRPD, North Korea established an “Assistance Fund for Persons with Disabilities” on November 21, 2013, and revised the Law on the Protection of Persons with Disabilities in a way that reflected the accessibility stipulated in Article 9 of the CRPD, updating provisions with an emphasis on making buildings and facilities accessible to persons

with disabilities.<sup>694</sup>

North Korea created spaces for persons with disabilities in the rest rooms at Sunan International Airport as part of airport remodeling. Other than such special facilities, North Korea has failed to take measures that guarantee the mobility of persons with disabilities due to its economic hardship facing the nation. A Special Rapporteur on the rights of persons with disabilities visited North Korea in May 2017 and confirmed that persons with disabilities find it hard to access even new public buildings, such as the Science and Technology Center, the Pyongyang Sunan International Airport (arrivals hall), and Pyongyang Elementary Academy.<sup>695</sup> In addition, persons with disabilities seem to have difficulties in their daily lives due to the restriction of accessibility to residential facilities and public transportation facilities. North Korea reported to the Special Rapporteur on the rights of persons with disabilities that since May 2017, it has provided a free taxi service in a bid to improve accessibility for persons with disabilities, at the guidance of the State Construction Committee operated under the Ministry of State Construction Control.<sup>696</sup> The Special Rapporteur, however, found that North Korea does not meet the most recent standard for accessibility and welcomed North

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694\_ *Chosun Shinba*, 6 December 2013; *Yonhap News Agency*, 6 December 2013.

695\_ UN Doc. A/HRC/37/56/Add.1 (2018), para. 45.

696\_ *Ibid.*, para. 46.

Korea’s request for technical cooperation regarding the relevant international standards.<sup>697</sup>

## D. Raising Awareness on Persons with Disabilities

The CRPD stipulates that the state parties shall “promote positive perceptions and greater social awareness towards persons with disabilities” (Article 8, paragraph 2, (a), ii). North Korea is also engaged in activities to improve public awareness about persons with disabilities, based on the Law on the Protection of Persons with Disabilities. The Special Rapporteur on the rights of persons with disabilities pointed out, in a report after visiting North Korea, that there is a stigma against having a disability and that there is discrimination toward persons with disabilities in North Korea. Specifically, there is a perception that they are in need of support and that they are not capable of making contributions to society.<sup>698</sup> The Special Rapporteur also found that improper language citing persons with disabilities is used in North Korean laws and recommended that this language be revised.<sup>699</sup> In addition, the Special Rapporteur found it to be

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697\_ *Ibid.*

698\_ *Ibid.*, paras. 39-44.

699\_ *Ibid.*, paras. 26-28. Article 172 and 229 (the mute, the deaf) of the North Korean Criminal Procedure Law and Article 49 (not-able person) of Civil Procedure Law, Article 78 (the disabled) of Socialist Labor Law, Article 13 (those who lost ability to work) of the Public Health Law, Article 49 (partially-able person, not-able person) of Civil Procedure Law, Article 66 (insane person) of the North Korean Socialist Constitution.

problematic that those with cognitive, psychological, and social disorders have restricted legal rights, including the right to vote, and the right to designate their guardians. The Special Rapporteur, therefore, urged the judiciary to conduct a comprehensive review so as to comply with Article 4 of the CRPD.<sup>700</sup> In general, North Korea does not allow persons with disabilities to receive education or service in separate facilities. This prevents persons with disabilities from having access to facilities or services that are equal to those used by persons without disabilities.<sup>701</sup>

First, North Korean authorities have designated June 18 as the “Day of Persons with Disabilities,” since 2011, in accordance with Article 49 of the Law on the Protection of Persons with Disabilities, and host celebratory events.<sup>702</sup> Also, since 2010, North Korea has held “Joint Celebrations on the Occasion of the International Day of Persons with Disabilities” every year, hosted by the Central Committee of the Federation, to celebrate the International Day of People with Disabilities in Pyongyang on December 3.<sup>703</sup>

North Korea also sponsors sporting events in which persons with and without disabilities jointly participate in promoting

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<sup>700</sup> *Ibid.*

<sup>701</sup> *Ibid.*, para. 42.

<sup>702</sup> *Chosun Shinbo*, 24 June 2014.

<sup>703</sup> Kyu-chang Lee *et al.*, *Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance*, p. 72. (In Korean); *Chosun Shinbo*, 7 December 2013.

public interest in disability issues. With the establishment of the State Athletic Guidance Committee (November 2012), it attempts to raise public attention to sporting events involving persons with disabilities. Table tennis matches for those with and without disabilities have recently been held on a regular basis, and the number of participants in those matches has been rising.<sup>704</sup>

## E. Cooperation with the International Community

North Korea has pursued cooperation with South Korea and the international community to support persons with disabilities.

First, there has been inter-Korean cooperation regarding persons with disabilities. As part of the inter-Korean exchange and assistance project for persons with disabilities, an inter-Korean seminar on scientific rehabilitation of persons with disabilities was held for the first time at the Yanggakdo Hotel in Pyongyang on December 19, 2006. The seminar included a discussion of research results on rehabilitative treatment and special education, etc., which was attended by a delegation from Daegu University (South Korea) and a delegation from Chosun Red Cross Hospital.<sup>705</sup> In addition, in May 2007, the Botonggang Convenience Complex was built and opened on Red Avenue, Botonggang District,

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704\_ Kyu-chang Lee *et al.*, *Ibid.*, p. 72.

705\_ *Yonhap News Agency*, 22 December 2006.

Pyongyang, with the support of South Korea's Lighthouse Foundation. It is the first self-reliant rehabilitation center for persons with disabilities, and is jointly operated with the KFPD.<sup>706</sup>

Second, cooperation with international NGOs is also taking place. Green Tree International is seeking to build the Daedonggang Rehabilitation Center for the Disabled in Pyongyang, which will offer medical support and training on rehabilitative skills for people with disabilities, as well as educational programs for athletes and artists with disabilities.<sup>707</sup> Humanity & Inclusion also teaches therapeutic skills to physical therapists at the Pyongyang-based Munsu Functional Recovery Center, the Korean Rehabilitation Center for Children with Disabilities, and elsewhere.<sup>708</sup> In April 2016, a private relief group called, Together-Hamheung, headquartered in Germany, opened the first kindergarten for children with hearing disabilities in North Korea in Moranbong District, Pyongyang, with support from the Catholic organization and donors. The kindergarten has around 10 classrooms and can accommodate around 40 children.<sup>709</sup>

Third, exchange projects on persons with disabilities are also carried out with the international community. The Central Committee of the KFPD entered into a memorandum of understanding

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706\_ OOO, KINU Advisory meeting, 29 June 2012. Name is not disclosed upon request.

707\_ See, Green Tree International, <[www.greentreekorea.org](http://www.greentreekorea.org)>.

708\_ See, Humanity & Inclusion, <[www.handicap-international.org](http://www.handicap-international.org)>.

709\_ *Nocut News*, 1 July 2016.

(MOU) with the World Federation of the Deafblind (hereinafter WFDB) on February 9, 2011, through which the Blind Association of Korea (launched in March 2014) and the Deaf Association of Korea (launched in December 2013) are working on projects to join the World Federation.<sup>710</sup> On November 7, 2014, through the offices of the Finnish Association of the Deaf, six North Korean delegates, including three persons with hearing impairment, went to Finland and paid a courtesy visit to Ms. Sirpa Paatero, Minister of Foreign Trade and Development.<sup>711</sup> In addition, a concert for students with disabilities was held in the U.K. and France from February 20 to March 2, 2015.<sup>712</sup> 18 persons with hearing impairment from Japan, Singapore, and the Netherlands also visited North Korea from August 8 to 12, 2014.<sup>713</sup> An official from the International Paralympic Committee, headquartered in Germany, visited Pyongyang from May 13 to 16, 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.<sup>714</sup>

Fourth, persons with disabilities have participated in international

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710\_ *Chosun Shinbo*, 24 June 2014.

711\_ *Voice of America*, 8 November 2014.

712\_ *Chosun Shinbo*, 27 August 2014; *MK News*, 17 September 2014; *The Asia Economy Daily*, 6 February 2015.

713\_ *Chosun Shinbo*, 27 August 2014.

714\_ *Voice of America*, 7 June 2016.

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 November 22~24, 2013. It also has 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 and linguistic disabilities, visited Australia for the second time, after their first visit in December 2014, to compete in a friendly match with the Australian team.<sup>715</sup>

## F. Evaluation

North Korea has declared to both domestic and international audiences that it will perform the duties stipulated in the CRPD by ratifying the Convention on November 23, 2016. In particular, it has defined persons with disabilities as targets for particular protection, and has responded to the issue of the disabilities with forward-looking policies. Although North Korea is making some

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<sup>715</sup> *Voice of America*, 19 November 2016.



efforts to improve awareness of persons with disabilities, there still seems to remain a deep-rooted negative perception in North Korean society that persons with disabilities are unable to make social contributions and are simply subjects of support. In addition, providing education and services to persons with disabilities in separate facilities could increase social discrimination against them. Honored veterans are found to receive partial benefits, but those with disabilities, whose disabilities were caused by industrial accidents or other accidents, rather than by military service, do not seem to be given adequate levels of protection and supporting measures. Moreover, suspicion over practices that violate the right to integration in local communities, and the right to family, has yet to be resolved. Such practices include the segregation and sterilization of those with nanocornia. Moreover, while efforts toward rehabilitation are also being made through honored veterans' factories and factories for general persons with disabilities, these are assessed as ineffective due to the economic hardship facing North Korea. While the authorities emphasize the need to care for persons with disabilities, it seems that they do not invest significant resources toward this need.



White Paper on Human Rights  
in North Korea 2018



## Part V

### Major Issues

1. Political Prison Camps
  2. Corruption
  3. Overseas Defectors
  4. Overseas Workers
  5. Separated Families, Abductees and Korean War POWs
-

# 1

## Political Prison Camps

### A. Overview of Political Prison Camps (*Kwanliso*)

Although North Korea denies their existence, there are political prison camps, called *kwanliso*, in North Korea. Given that these prison camps are not official detention facilities and operate through arbitrary practices, inherent in them are factors that violate human rights. Five such camps have been identified: No. 14 *Kwanliso* in Gaecheon, No. 15 *Kwanliso* in Yodeok, No. 16 *Kwanliso* in Myeonggan, No. 18 *Kwanliso* in Gaecheon, and No. 25 *Kwanliso* in Cheongjin.<sup>716</sup> No. 14 *Kwanliso* in Gaecheon is located in Dongchanggol, Jamsang-li, Chang-dong, Gaecheon, South Pyeongan Province. No. 15 *Kwanliso* in Yodeok is located

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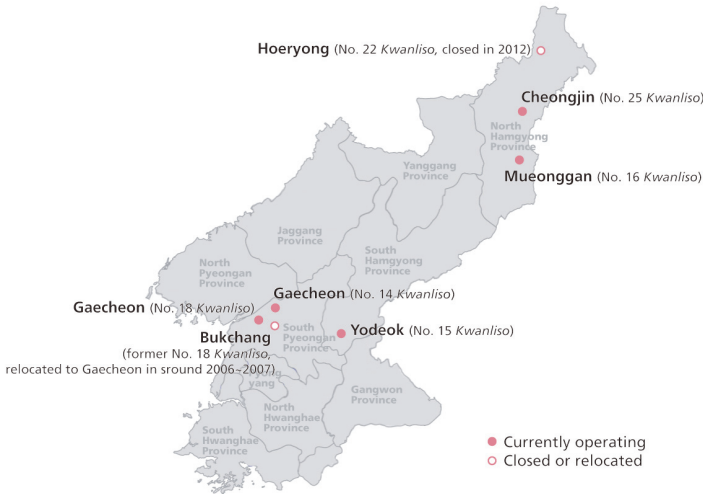
<sup>716</sup> Although previously, six political prison camps had been in operation, No. 22 *Kwanliso*, located in Naksæng-li, Haengyoung-li, and Namseok-li in Hoeryeong, North Hamgyeong Province, closed around 2012, according to defector testimonies. In the 2015 survey, several individuals also testified about the closedown of No. 22 *Kwanliso* in Hoeryeong. NKHR2015000023 2015-01-27; NKHR2015000025 2015-01-27; NKHR2015000026 2015-01-27; NKHR2015000031 2015-02-10; NKHR2015000129 2015-09-22; NKHR2015000135 2015-09-22; NKHR2015000163 2015-12-01.

in the 5 lis of Daesuk-li, Ipseok-li, Gueup-li, Yongpyeong-li, and Pyeongjeon-li, in vast areas accounting for one-third of Yodeok County. No. 16 *Kwanliso* in Myeonggan is located in Jungpyeong-dong, Gari-dong, and Buhwa-li in Myeonggan County, North Hamgyeong Province. While known by the old name of Myeonggan, it is also called Hwaseong *Kwanliso*. No. 18 *Kwanliso*, in Gacheon, is located in Dongrim-li, Gacheon, South Pyeongan Province. It has been found that sometime between 2006 to 2007, the former No. 18 *Kwanliso* in Bukchang, located in Sepo-dong, Sampo-dong, and Sinheung-li, was dramatically downsized and moved to Dongrim-li, Gacheon, South Pyeongan Province. No. 25 *Kwanliso* in Cheongjin is located in Suseong-dong, Songpyeong district, North Hamgyeong Province. While No. 25 *Kwanliso* in Cheongjin is also called ‘Suseong *Kyohwaso*,’ it is actually a political prison camp accommodating political criminals. There have also been testimonies that senior officials, including heads of provincial party MPS and chairmen of provincial People’s Committees, have been seen in No. 25 *Kwanliso* in Cheongjin.<sup>717</sup>

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717\_NKHR2014000010 2014-03-04; NKHR2014000056 2014-05-20.

Figure V-1 Location of Political Prison Camps



In 2013, KINU estimated that there were between 80,000 and 120,000 political criminals imprisoned in the five political prison camps, based on defector testimonies and evaluation of satellite photos.<sup>718</sup> The downsizing/relocation of Bukchang *Kwanliso* from 2006 to 2007, and the shutdown of Hoeryeong *Kwanliso* around 2012, also support these estimates. Defector testimonies also support the belief that since the 1990s, while the number of new prisoners has not been large, the accident mortality rate is high due to poor work environments inside coal mines. However, this reduction in the number and size of the political prison camps

718\_Keum-soon Lee *et al.*, *Political Prison Camps in North Korea*, pp. 19-21. (In Korean)

cannot be interpreted as an indication of a change in the North Korean authorities' views and policies on political prison camps. What is important is that North Korea's system of political prison camps, which segregates groups that are regarded as hostile and potentially threatening to the regime, still remains in place under Kim Jong Un.<sup>719</sup>

North Korea's political prison camps can be classified according to their types, their methods of operation, and their management entity: some take the form of a town and others the form of a prison camp; some have both total control zones and revolutionary zones, while others have only total control zones; in some, only political criminals are imprisoned, while in others, criminals are imprisoned together with their families; and some are managed by the MSS, while others are managed by the MPS.<sup>720</sup>

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719\_ *Ibid.*, p. 21.

720\_ *Ibid.*, pp. 11~16 for more details.

**Table V-1** Management and Operation of Political Prison Camps

	No. 14 <i>Kwanliso</i> in Gaecheon	No. 15 <i>Kwanliso</i> in Yodeok	No. 16 <i>Kwanliso</i> In Myeonggan	No. 18 <i>Kwanliso</i> in Gaecheon (former Bukchang <i>Kwanliso</i> )	No. 25 <i>Kwanliso</i> in Cheongjin
Type	Town	Town	Town	Town	Detention facility
Division of zones	Total control zone	Revolutionary zone Total control zone	Total control zone	Immigrant (No division of zones)	Prison camp ( <i>kyohwaso</i> )
Possibility of release into society	Impossible	Impossible, possible	Impossible	Impossible, possible	Impossible, possible
Accompanying family	Accompanying families	Criminals only/ accompanying families	Accompanying families	Criminals only/ accompanying families	Criminals only
Management entity	MSS	MSS	MSS	MPS	MSS

## B. Imprisonment of Political Criminals

While there is no internationally established definition of “political crime,” such crimes are, in general, classified into 1) “absolute political crime,” such as crimes committed against the state, high treason, and espionage; and 2) “relative political crime,” in which acts of general crime, including murder, arson, and theft, are combined with absolute political criminal acts.<sup>721</sup>

Surveys carried out to date suggest that North Korean authorities imprison people in political prison camps mostly for engaging in absolute political crimes, such as criticizing the North Korean

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721\_ *Ibid.*, p. 9.



regime or insulting the *Suryong*, attempting escape to South Korea, and contacting South Koreans or making favorable comments about South Korea. In particular, there seems to be a widespread perception that once one has committed crimes related to South Korea, one would wind up in one of the political prison camps.

Regarding the purge of Ri Yong-ho and Jang Sung-taek, the 2017 surveys suggest that figures close to them were sent to political prison camps. One North Korean defector testified that an uncle was imprisoned in a political prison camp in 2014, because he had been involved in the Jang Sung-taek case.<sup>722</sup> Such testimony supports the media reports at home and abroad that after the purge of Jang Sung-taek, people close to him were sent to political prison camps on a massive scale.<sup>723</sup> Another testimony also stated that a broker in charge of helping North Koreans defect to South Korea was imprisoned in a political prison camp.<sup>724</sup> One North Korean defector testified that an uncle, who worked as a broker aiding North Korean defectors, was sent to a political prison camp in 2015.<sup>725</sup> Another North Korean defector testified to having heard that a neighbor had been imprisoned in a political prison camp for smuggling goods from China, and had been

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722\_NKHR2017000082 2017-09-25.

723\_ *Yonhap News*, 7 April 2014.

724\_NKHR2017000099 2017-04-10; NKHR2017000103 2017-10-23.

725\_NKHR2017000099 2017-10-23

searching for separated family members in South Korea when caught through phone detection equipment in November 2014.<sup>726</sup> It is said that the MPS officer in charge mentioned in a People’s meeting that the person had gone to a political prison camp, and that “not even the law would forgive those who have relations with South Korea.”<sup>727</sup> In addition, there was a testimony that a co-worker’s mother had been caught while talking on the phone with her son in South Korea in the summer of 2013.<sup>728</sup>

In other words, political criminals seem to be subject to punishment based on guilt by association, through which not only the criminal, but also his/her family members, and in some cases, other relatives, get punished. It is said that generally, guilt by association applies to immediate families. One defector testified to having heard that when a woman and her mother were caught in the process of defecting to South Korea, not only them two but also her grandmother were sent to a political prison camp.<sup>729</sup> One testimony claimed that when a spouse is accused as a political criminal, one may avoid being sent to a political prison camp by divorcing the accused spouse.<sup>730</sup> Several people have testified that the number of times in which a whole family had been

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726\_NKHR2015000136 2015-09-22.

727\_Above testimony.

728\_NKHR2015000085 2014-04-21.

729\_NKHR2017000038 2017-06-05

730\_NKHR2013000154 2013-08-20.

imprisoned in a political prison camp had decreased, since North Korea found it hard to house all those people, due to an increasing number of North Koreans defecting to South Korea. This change in policy contrasts with the past, when family members were often sent to prison camps after a member of their family defected.<sup>731</sup> In addition, several people testified that even when whole families were imprisoned through guilt by association, a child was released from the political prison camp and that when one family who attempted to defect to South Korea became imprisoned in the political prison camp, children were exempted from imprisonment.<sup>732</sup> One North Korean defector testified to having heard that an entire family had been caught in their attempt to defect to South Korea. They were forcibly repatriated, and were sent to a political prison camp, and that two minors (ages 14 and 7) were released from the camp.<sup>733</sup>

It appears suspects do not receive due legal process when they are arrested and taken to political prison camps. One North Korean defector testified that imprisonment in political prison camps is decided exclusively by the MSS without trials.<sup>734</sup> Because political criminal suspects are imprisoned at political prison camps in such ways, it is not easy for the general population to know what

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731\_NKHR2015000028 2015-02-10.; NKHR2017000067 2017-08-28

732\_NKHR2015000015 2015-01-27; NKHR2015000030 2015-02-10.

733\_NKHR2016000171 2016-11-01.

734\_Above testimony.

has happened to their family members, and whether they have been imprisoned in political prison camps.

In addition, numerous testimonies have been consistently collected about cases of imprisonment for reasons of religious activities, such as attending church service. A North Korean defector testified that one neighbor was sent to a political prison camp after a Bible was found in his/her house in December 2015.<sup>735</sup> The scope of reasons for imprisonment seems to have increased with recent cases, because now, even general criminals who have not committed or been accused of political crimes are being imprisoned in political prison camps. Another North Korean defector testified that his/her neighbor had been caught while attempting to steal and sell rail sleepers, and ended up in a political prison camp in 2013.<sup>736</sup>

## C. Overview of Prison Life

### (1) Extrajudicial, Summary, or Arbitrary Execution

According to defector testimonies collected to date, executions are carried out by MSS agents, who do so without following any legal procedures. Reasons for execution include violation of rules or disobedience to orders at political prison camps. Defectors

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735\_NKHR2017000012 2017-04-10

736\_NKHR2017000074 2017-08-28.

have testified that such executions are mostly carried out in public, but sometimes carried out in secret.

## (2) Forced Labor

It appears prisoners in political prison camps are forced into hard labor. The type of labor differs by political prison camp, but it has been testified that at the former No. 18 *Kwanliso* in Bukchang, prisoners were mostly put to work at a coal mine, as farming was impossible due to the area's geological characteristics.<sup>737</sup> Work units at No. 15 *Kwanliso* in Yodeok were forced to take part in industrial, agricultural, and other types of work.<sup>738</sup> As labor at coal mines is done according to "production plans," if one fails to fulfill the daily workload quota by the end of the normal work day, he/she must continue working until the quota is met.<sup>739</sup> Prisoners are mobilized for labor even on weekends, without rest. Hye-suk Kim, a woman who was imprisoned at the former No. 18 *Kwanliso* in Bukchang, testified that she was mobilized on off days to work in the houses of MSS agents in charge of coal mines, or to work for MPS officers, plowing fields, planting potatoes, and weeding, or carrying coal to the warehouse.<sup>740</sup> There have

737\_North Korean defector ○○○, 14 September 2012, interviewed in Seoul; North Korean defector ○○○, 12 October 2012, interviewed in Seoul.

738\_North Korean defector ○○○, 27 September 2012, interviewed in Seoul.

739\_North Korean defector ○○○, 14 September 2012, interviewed in Seoul.

740\_Hye-suk Kim, *A Prison Camp Created in Tears* (Seoul: Sidajeongshin, 2011), p. 38. (In Korean)

also been cases in which forced labor resulted in death. One North Korean defector testified that he/she worked in the former No. 18 *Kwanliso* in Bukchang and around ten people died each year at that camp.<sup>741</sup>

### (3) Inhumane Treatment

Violence and mistreatment appear to be widespread in political prison camps. A North Korean defector testified that in the former No. 18 *Kwanliso* in Bukchang, the vice mine captain who was in charge of the coal mine shift kicked him and struck him with a bat when he failed to come up with the required amount of coal. In addition, the MPS officer in charge of the coal mine also beat him.<sup>742</sup>

Prisoners also appear to suffer from poor nutrition, poor sanitation, and lack of health care in the political prison camps. Hye-suk Kim, while imprisoned at the former No. 18 *Kwanliso* in Bukchang, testified that her seven family members were given only 8kg of Annam rice per month.<sup>743</sup> Since there was no way to get more rice, they had no choice but to go out and climb hills and mountains to pick wild greens to fill their hungry stomachs, and, even when off duty, all families had to collect edible greens from the mountain and store them for food.<sup>744</sup> A North Korean

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741\_NKHR2013000126 2013-07-09.

742\_Above testimony.

743\_Hye-suk Kim, *A Prison Camp Created in Tears*, pp. 73-76. (In Korean).

744\_*Ibid.*, pp. 73-76.

defector testified that in the former No. 18 *Kwanliso* in Bukchang, his/her father died from chronic sickness and malnutrition, and his/her two younger siblings died from malnutrition and sickness, respectively.<sup>745</sup> Moreover, when the testifier's leg was injured, medical staff took only an x-ray of his injured leg, and told him his leg should be amputated at Yongjong Hospital in the former No. 18 *Kwanliso* in Bukchang in April 2004. No other medical treatment was offered.<sup>746</sup>

#### (4) Restrictions on Family Life

According to defector testimonies collected to date, one cannot live with one's parents, siblings, or even spouse in the total control zones. Moreover, in revolutionary zones, marriage and childbirth are generally prohibited. One testimony claimed that husbands and wives were assigned to opposite work shifts to prevent them from having sex.

## D. Evaluation

Although there were not many related testimonies in the 2017 survey, cases of detention in political prison camps for attempting to go to South Korea have continuously been found. In particular,

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745\_NKHR2013000126 2013-07-09.

746\_Above testimony.

given that aiding defection or calling family members in South Korea is reason enough to be sent to political prison camps, it appears even if one does not attempt to defect, all actions relating to defection are considered political crimes. However, as the number of defectors dramatically increased, testimonies have claimed that it has become difficult to send entire defector families to political prison camps. Rather, policy has shifted to prevent defection. In addition, based on existing testimonies that even when an entire family is sent to a political prison camp, the children are allowed to leave, it appears there is, at times, some level of compassion.

That political criminal suspects are imprisoned after arrest without due legal process, and that their families are left in the dark regarding their whereabouts or whether they are alive or dead, constitutes an infringement on the right not to be tortured or to receive inhumane treatment (Article 7 of the ICCPR), the right to liberty and security of person (Article 9 of the ICCPR), and the right to a fair trial (Article 14 of the ICCPR). Meanwhile, the recent survey does not contain any testimonies on the actual life of prisoners in political prison camps. However, if one assumes that the situation remains essentially unchanged for prisoners, it appears their various rights and freedoms recognized by the ICCPR are being infringed upon. More specifically, summary execution of prisoners and death caused by inhumane treatment constitute infringement of the right to life (Article 6 of the ICCPR),



while serious exploitation of prisoners for labor constitutes an infringement of the right not to be forced into labor (Article 8 of the ICCPR). The violence, mistreatment, and poor nutrition, sanitation, and health care that prisoners receive constitute violations of the right to humane treatment in detention (Article 10 of the ICCPR), and, in serious cases, may also constitute infringement of the right not to be tortured or to receive inhumane treatment (Article 7 of the ICCPR). In addition, restrictions on family life at political prison camps also infringe on the right to form a family and be protected by society and the State (Article 23 of the ICCPR). It can be concluded that political prison camps in North Korea form the most comprehensive and definitive version of the violation of human rights.

# 2

## Corruption

### A. Overview of Corruption in North Korean Society

Corruption is prevalent in North Korean society to such an extent that it is part of daily life, without distinction between central, provincial, and lower levels. Since the economic crisis of the 1990s, the provision of rations to the general population has technically been suspended, and the planned economy has been operating in a distorted way. Against this backdrop, the North Korean people have sought ways to survive through the markets, and the unlawful and anti-socialist practice of abnormally pursuing private interest has spread rapidly in North Korea.<sup>747</sup>

North Korea punishes bribery through its Criminal Law and Administrative Penalty Law. North Korea has increased the punishment for crimes concerning large bribes from three years to five years in prison when its Criminal Law was revised in 2015.

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<sup>747</sup> Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, p. 3. (In Korean)

At that time, North Korea also added a provision on additional punishment for serious cases.

Table V-2 Change in North Korean Criminal Law on Crimes of Bribery

2012 Criminal Law	Article 230 (Crime of Bribery) Those who received large amounts of bribes shall receive one year or less of labor training punishment. Those who received especially large amounts of bribes shall receive three years or less of correctional labor punishment.
2015 Criminal Law	Article 230 (Crime of Bribery) Those who received large amounts of bribes shall receive one year or less of labor training punishment. Those who received especially large amounts of bribes shall receive five years or less of correctional labor punishment. In serious cases, five years or more and ten years or less of correctional labor punishment is applied.

Article 163 of the Administrative Penalty Law states that those who receive or offer bribes, or who engage in brokerage of bribes, may be subject to admonitions, stern warnings, three months or less of unpaid labor and re-educational labor, and, in serious cases, three months or more of unpaid labor, re-educational labor, or demotion, dismissal, or loss of employment. However, in spite of such legal restrictions, acts of corruption, including bribery, have become even more prevalent in North Korean society. Also, in the 2017 survey, many people testified about bribery in the investigation or preliminary examination process and in detention facilities, including prison camps (*kyohwaso*), which shows that there is serious corruption within North Korean judicial institutions and bureaucratic society. Bribery is also a general practice in the daily lives of North Koreans, for example, in issuing travel

permits, buying and selling houses, and being assigned to jobs.

## B. Corruption in Resident Control and Punishment Process

### (1) Corruption in Crackdowns

North Korean authorities' control over the residents has been consistent, although the degree has varied depending on the time period. This control most often takes place in economic and market activities, and is mostly aimed at preventing the relaxation of social order due to marketization. Meanwhile, as control of and punishment for anti-socialist activities, as defined by North Korean authorities, is strengthened, the practice of offering bribes to avoid punishment has become ever more widespread. In the 2017 survey, many people testified about cases in which those who were caught using mobile phones, watching recorded videos, and owning electronic products such as memory sticks, were able to avoid punishment or receive only light punishment by paying bribes.

Table V-3 Cases of Bribery in Crackdown

Testimonies	Testifier ID
In 2013, a man in his 20s residing in Hyesan, Yanggang Province, was caught by Group 109 while watching American films and Korean dramas at home but avoided punishment by paying a bribe of 1,000 Chinese yuan.	NKHR2015000027 2015-02-10
In April 2014, a man in his 30s residing in Hyesan, Yanggang Province, was arrested for making phone calls to a relative in China, after a cousin of his former wife informed on him, but he was released after paying a bribe to the MSS.	NKHR2015000070 2015-04-07
The testifier was caught while watching an American film with Korean subtitles in 2015, but avoided punishment by paying a bribe of 50 dollars.	NKHR2017000084 2017-09-25
In July 2015, a woman in her 40s, residing in Hyesan, Yanggang Province, was caught using a mobile phone and avoided punishment by paying 1,500 Chinese yuan to an MSS agent.	NKHR2016000139 2016-08-23
In August 2016, a woman in her 60s, residing in Rason Special City, North Hamgyeong Province, was caught owning an electronic memory device, when her house was searched by the MPS, but avoided punishment after paying a bribe (100 Chinese yuan).	BHGR2016000186 2016-12-13

Crackdowns on mobile phones are mostly carried out by the Anti-socialist group (*bisageuruppa*).<sup>748</sup> Those who are caught usually receive labor training punishment, but the level of punishment and amount of bribes that are paid varies by the source and content of the mobile phone calls.<sup>749</sup> One North Korean defector testified that in 2013, the required bribe was around 5,000~6,000 Chinese yuan for relatively minor violations related to mobile phones, while around 20,000 Chinese yuan was required

748\_NKHR2016000048 2016-04-19.

749\_NKHR2016000092 2016-06-14.

for serious violations.<sup>750</sup> It is said, however, that in general, it is difficult even for security agents to excuse people from punishment, even when offered bribes, for serious violations like those involving phone calls to South Korea.<sup>751</sup> However, there has also been a testimony that a large bribe paid to security agents has allowed people to avoid punishment in such cases.<sup>752</sup> One testifier said that his/her mother was arrested for illegally using a mobile phone in the process of smuggling money to South Korea, but was able to be released by paying a bribe of 10,000 Chinese yuan.<sup>753</sup> In some cases, security agents demand money during a crackdown. There have also been cases in which there is a prearranged agreement with a security agent that if one is caught making an international call intended to receive money from relatives or acquaintances, the case will be settled by paying a bribe.<sup>754</sup> One woman, who resided in Kimjongsuk County, Yanggang Province, in 2015, testified that her husband was arrested and detained after a crackdown on mobile phones, but was released by paying a bribe of 5,000 Chinese yuan.<sup>755</sup> One testifier who experienced a crackdown in Pyeongseong on 2014 gave a testimony that a mobile phone, once caught, are mostly confiscated and in order to

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750\_NKHR2015000031 2015-02-10.

751\_NKHR2012000139 2012-07-10.

752\_NKHR2012000015 2012-02-07.

753\_NKHR2017000111 2017-11-20.

754\_NKHR2015000123 2015-09-08.

755\_NKHR2017000022 2017-05-08.

retrieve it, one must pay around 500,000 North Korean won.<sup>756</sup>

Broadcast materials and recordings are handled by a specialized crackdown institution (the anti-socialist group/*geuruppa* 109), which is composed of one MSS agent, one League of Socialist Working Youth agent, and one MPS agent. A North Korean defector testified that while more North Korean people are watching regulated broadcast materials and recordings, the crackdowns still continue, and when caught, 1,000 Chinese yuan is needed to escape punishment.<sup>757</sup> Another North Korean defector testified more specifically, that those caught watching Korean films or listening to foreign music had to pay bribes of 5,000 Chinese yuan per South Korean film, 2,000 Chinese yuan per American film, and 50 Chinese yuan per song, and that those who are not exempted from punishment may be subject to open trials on anti-Socialist charges.<sup>758</sup> One testifier, who had been sent to a labor training camp (*rodongdanryundae*) in 2016, testified that he/she witnessed a prisoner detained in a training camp for two months and released by offering bribes, although one year of correctional labor punishment is the usual sentence for getting caught on charges of watching South Korean movies and dramas.<sup>759</sup>

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756\_NKHR2017000033 2017-07-03.

757\_NHKR2016000092 2016-06-14.

758\_NHHR2016000192 2016-12-27.

759\_NKHR2017000095 2017-10-23.

## (2) Corruption in the Investigation Process

Many cases of corruption have been observed which involve bribes being paid to avoid punishment or reduce a prison term during the investigation process (investigation and preliminary examination stage) after a case is set. In some cases, the preliminary examination officers reduce the applicable punishment in return for a bribe during the preliminary examination process before trials. For the same violation, preliminary examination officers sometimes fabricate details to reduce the penalty. For example, this can include details about defectors, such as the frequency and purpose of border-crossings, and the suspect's activities in China, so that the suspect can receive the minimum penalty. In extreme cases, officers can fabricate the time of arrest and the duration of detention. Even for cases related to smuggling and trafficking, they can complete documents in ways so that the suspect can avoid the most severe punishment, such as by reducing the volume of trafficked items.<sup>760</sup> One North Korean defector who was investigated in 2010 by the inspection division of the MPS town office in Onsung County, North Hamgyeong Province testified that depending on how much money is given to the preliminary examination officer in charge, the documents can be revised.<sup>761</sup>

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760\_Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, p. 95. (In Korean)

761\_NKHR2016000102 2016-06-28.



Some preliminary examination officers who were paid bribes did not forward the relevant files up the chain of command. For example, there was a case in which the parents of a forcibly-repatriated defector bribed an investigator and obtained a diagnosis of mental illness, and he/she was released during the process of the investigation.<sup>762</sup> Although very rare, there was a testimony which stated that those who paid bribes were prioritized for release when directions were given to carry out pardons on special occasions, such as the founding day of the Party.<sup>763</sup> In some cases, people bribe the agents during the investigation stage and are released after completing a self-criticism form.<sup>764</sup> However, if the timing of the arrest is not favorable, such as during central Party inspections or when the offense is related to activities subject to special crackdowns, then, even with a bribe, avoiding punishment or fabricating documents may be difficult.<sup>765</sup>

There have also been cases where people avoided punishment and were released on bail for illnesses or were given a reduced punishment by offering a bribe when detained at MSS detention centers (*guryujang*). For example, the mother of a North Korean defector was detained at the detention center in Onsung, North

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762\_NKHR2011000155 2011-07-05.

763\_NKHR2011000186 2011-08-16.

764\_NKHR2011000197 2011-06-06.

765\_Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in North Korea*, pp. 96-97. (In Korean)

Hamgyeong Province, because she had engaged in private financing in North Korea in 2013. But she was asked to give two EVD players, and was released on bail for illness after paying 3,500 Chinese yuan and submitting the EVD players.<sup>766</sup> There is another example in which the father of a North Korean defector was detained at a detention center in Musan County, North Hamgyeong Province in late October 2014, for using a mobile phone. He was released after 25 days because a brother in South Korea sent three million South Korean won, and the testifier as well as his/her sister in China sent 6,000 Chinese yuan and 4,000 Chinese yuan, respectively. The testifier said that the crackdown and punishment seemed to have become more strict, given that getting his/her father out of trouble cost a significant amount of money, even though the mother understood such business well and maintained good relations with the MSS agents.<sup>767</sup>

Even at detention centers where visitors are not allowed in principle, visits are permitted when bribes with cigarettes and cash, etc., are offered. One North Korean testified that visits were not allowed during inspections, but were possible when bribes of 100 Chinese yuan were paid per visit or when 200 Chinese yuan were paid per week for a visit every other day.<sup>768</sup> As such, even

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766\_NHHR2015000096 2015-05-12.

767\_NKHR2015000046 2015-02-24.

768\_NKHR2015000149 2015-10-20.

to send food to family members in detention centers during the preliminary examination period, the families outside the prison must bribe the guards, the preliminary examination MPS officers, or at least someone who knows the MPS officers well.

### (3) Corruption in Trials

Representative cases of corruption during the trial stage involve bribing judges to give favorable judgments and bail or probation. People frequently have received reduced punishments by paying bribes to the chief judge, or to other judges and prosecutors in the trial process. In these cases, people have been released for social education or put on probation. In 2012, an elder brother of a North Korean defector was put on trial for drug (*bingdu*)-related charges, but bribed the judge and prosecutor before the trial and was told that “the trial is only a formality.” The elder brother was initially sentenced to one year and six months of correctional labor punishment. The bribe resulted in him being able to avoid being sent to a prison camp entirely, and he was instead released on bail for illness.<sup>769</sup> Another defector testified that his/her mother was subject to a trial in 2014 after being caught using a mobile phone and that, in the process of investigation, preliminary examination, and trials, she was exempted from the sentence by paying 100 Chinese yuan to the chief judge, giving items valued at around

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769\_NKHR2015000043 2015-02-24.

400 Chinese yuan to other judges, and offering 500 Chinese yuan to the prosecutors as bribes. However, her accomplice, who did not pay bribes, was sent to a prison camp.<sup>770</sup> One testifier, who was tried for human trafficking in 2015, testified that his/her sentence was reduced from the expected two years of correctional labor punishment to one year of labor training punishment by bribing the judge. The testifier stated that he/she was released on bail for reasons of illness.<sup>771</sup>

People are mostly informed of the term of imprisonment during the interrogation process prior to the trial. One testimony stated that the chief judge informs people of ways to reduce this imprisonment through bribery. A testifier who was put on trial in a court in Hoeryeong, North Hamgyeong Province, for illegal border-crossing in 2012, was supposed to be sentenced to five years of correctional labor punishment, because he/she stayed in China for three years or longer. However, he/she instead was sentenced to two years and six months, based on the consideration of the fact that he/she sent condolence money to the central bank when Kim Jong Il died (contributed to the *Geumsusan* project), and paid 1,000 Chinese yuan to the chief judge.<sup>772</sup> One testifier was accused of being involved in South Korea after he/she lent a

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770\_NKHR2016000078 2016-05-31.

771\_NKHR2017000126 2017-12-18.

772\_NKHR2015000123 2015-09-08.

mobile phone and was caught. He/she testified to having been sentenced to six months of labor training punishment by bribing 1,000 Chinese yuan to then chief judge of the Yanggang Province.<sup>773</sup>

The practice of bribery in North Korean society actually burdens most residents. It is said that bribes, albeit small ones, should be paid to all the related people, instead of just one person.<sup>774</sup> Meanwhile, there are other cases in which people gather money for bribery through other illegal means. One testimony stated that the brother-in-law of a North Korean defector was sentenced to three years of correctional labor punishment in his first trial, as he had been caught engaging in the business of making phone calls to South Korea, but his sentence was reduced to one year and six months after he paid bribes in the final trial. Meanwhile, the sister of the testifier engaged in human trafficking (sending people to China in cooperation with the border defense unit) to make money for the bribes.<sup>775</sup>

#### (4) Corruption in the Execution of Sentences

There have also been cases in which, after sentencing is done, people receive a reduced penalty in return for a bribe, being sent to labor training camps instead of prison camps, or released on

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773\_ NKHR2017000058 2017-07-31.

774\_ NKHR2015000043 2015-02-24.

775\_ NKHR2015000164 2015-12-01.

bail for illness. As one example, the nephew or niece of a testifier, who was sentenced to three years and six months of correctional labor punishment because the family's plans to defect had been overheard through wiretaps, was imprisoned at a labor training camp instead of a prison camp because of bribery.<sup>776</sup> Another North Korean defector, who was detained at a detention center in Bocheon County, Yanggang Province, after being investigated at the prosecutor's office for smuggling scrap iron in December 2013, was sentenced to limited-term correctional labor punishment after a trial, but his/her transfer to a prison camp was delayed because the family had sent bribe money. The defector testified to having had an appendectomy at an external hospital and to having been released on bail for sequela of appendectomy.<sup>777</sup> One testifier said that when he/she was detained at an MSS detention center in 2015 for four to five months, the testifier was sentenced to one year of labor training punishment but was exempted after offering a bribe. However, this testifier added that although he/she was exempted from the sentence, he/she had had to stay at home from 2015 to 2017.<sup>778</sup>

With the increasing pace of marketization, practices of bribery have also expanded, along with an increased control by authorities

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776\_NKHR2015000014 2015-01-27.

777\_NKHR2015000149 2015-02-24.

778\_NKHR2017000135 2017-12-18.

of market activities and economic life. In such cases, one's sentence may be reduced through an offer of a bribe in the process of the execution of sentences. One testifier from Hoeryong, North Hamgyeong Province testified that his/her mother was imprisoned at a labor training camp, both in 2015 and 2016, on charges of operating a diner at her house, and that her sentence was reduced through bribery of 400 and 100 Chinese yuan, respectively.<sup>779</sup>

The basic rights of convicted prisoners, including the right to access to family, also seem to depend on bribery. One North Korean defector, who was imprisoned at Jeongeori *Kyohwaso* in 2012, testified that while the rule is to allow one visit every three months, it is possible to make this one visit per month by giving a bribe (one pack of cigarettes) to the agent in charge of visitation.<sup>780</sup> Another defector who was imprisoned in the Jeongeori *Kyohwaso* from 2013 to 2015, testified that visitors are not allowed at such camps if one does not have money. However, one would be allowed to visit for a long time, and the convicted prisoner could eat the food brought by the visitor, only when money or goods asked for by agents at the prison camps, including the MPS officers, has been offered.<sup>781</sup>

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779\_NKHR2017000080 2017-09-25.

780\_NKHR2015000123 2015-09-08.

781\_NKHR2017000080 2017-09-22.

## C. Corruption Related to the Issuance of Travel Permits

North Korea maintains a travel permit system that controls people's movement. People need to apply for travel permits at enterprises, and they can receive travel permits only when they receive inspection tickets from both an MSS agent and MPS officer.<sup>782</sup> It seems that bribery is the general practice when one wishes to expedite the issuance of a travel permit in North Korea. In particular, while it is difficult to obtain a travel permit to go to Pyongyang, Kaesong, or the border regions, one can obtain a permit for "districts requiring permit numbers" through offering a substantial cash bribe.<sup>783</sup> One North Korean defector, who resided in Yanggang Province, testified that she received a travel permit to visit her husband's family in South Pyeongan Province in 2014, and that while it varies by region, one can receive a travel permit, even in one day, by paying a bribe of around 100 Chinese yuan in cash and cigarettes. It takes ten days or more to receive such a permit without offering a bribe.<sup>784</sup> Another North Korean defector, who received a travel permit to travel from Yanggang Province to Cheongjin, North Hamgyeong Province, in March 2015, testified that he/she received a travel permit after paying 20

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782\_NKHR2016000056 2016-05-03.

783\_NKHR2015000017 2015-01-27.

784\_NKHR2016000097 2016-06-14.



North Korean won as a bribe.<sup>785</sup> One North Korean defector who obtained travel permits to the border region through bribery in 2015 testified that people give bribes to the Section 2 Office of the MPS city/county branch and that two packs of cigarettes were required to travel to Pyongyang or the Rason district. According to this testifier, an additional bribe to the Section 2 Office of the MPS city/county branch in the travel destination would buy an extension of the permitted period of travel.<sup>786</sup> At the same time, there is also a case in which a travel permit was not issued even though a bribe was paid. One North Korean defector, who said that she had a record of being caught river-crossing with her husband in 2015, testified that she applied for a travel permit to visit her parents, but the permit was not granted.<sup>787</sup>

## D. Corruption Related to House Sales and Registration

As housing is managed as state property in North Korea, it is assigned according to the job location. It is illegal for individuals to engage in house sales. However, the economic crisis has led the central rationing system to become ineffective. As such, private exchanges take place in the realm of housing usage.<sup>788</sup> North

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785\_NKHR2016000171 2016-11-01.

786\_NKHR2015000142 2015-10-06.

787\_NKHR2016000164 2016-11-01.

788\_Soo-am Kim *et al.*, *The Correlation between Corruption and Human Rights in*

Korean people pay bribes to relevant institution agents, or to those involved in crackdowns, to avoid crackdowns related to movement or residence or to expedite the process of issuance even when there is a legitimate reason.<sup>789</sup> One North Korean defector who sold a house in May 2013 testified that currently, housing sales are possible without permits for housing use, and that one only needs to pay bribes to agents in charge of housing management during inspections.<sup>790</sup> Another defector who sold a house and bought another single-story house in 2011 testified that while house sales are illegal, because houses belong to the State, he/she received a permit to use the house after paying 4,000 Chinese yuan to the housing agent of the city management division of the city's People's Committee.<sup>791</sup> One testifier who sold a house in Hyesan, Yanggang Province in 2015, said that he/she had given 100 Chinese yuan to agents in charge of housing management, but that this is not compulsory.<sup>792</sup> Meanwhile, bribery is also frequent in the process of moving-in notifications after the transaction has taken place. One North Korean defector who sold a house in 2015 testified that one can move to the border region by giving 2,000~3,000 Chinese yuan to the head of the MPS

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*North Korea*, p. 111. (In Korean)

789\_ *Ibid.*

790\_NKHR2015000122 2015-09-08.

791\_NKHR2015000140 2015-10-06.

792\_NKHR2017000011 2017-04-10.

city/county branch.<sup>793</sup>

## E. Corruption Related to Job Assignments and Overseas Dispatch

Bribery relating to job assignment is very common in North Korean society. Several people have testified that they paid bribes in order to be assigned to comfortable enterprises or not to go to work. Meanwhile, it also seems that there are cases in which bribes are requested to avoid discrimination at an assigned workplace based on one's background. One North Korean defector testified that he/she was discriminated against because of a missing family member while working in the instigation group of a paper factory. To appease the situation, the testifier submitted a carton of cigarettes every month for one and a half years.<sup>794</sup> There seem to be many cases in which bribery is offered to avoid group allocation. According to one testifier, people are group-allocated mostly to construction sites, military, and farms, and a bribe of roughly 200 Chinese yuan is required to avoid such dispatchment.<sup>795</sup> One testifier who had worked in an enterprise of about 80 workers up until November 2016 said that he/she had offered 200 kg of beans to the enterprise for one year, and in return was allowed to

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793\_NKHR2015000142 2015-10-06.

794\_NKHR2015000167 2015-12-01.

795\_NKHR2017000062 2017-07-31.

attend the Life Review Session (*saenghwalchonghwa*) just once a month and receive assignments.<sup>796</sup>

Bribery plays an important role in North Korean authorities' decision to dispatch workers overseas. The selection or location of dispatch is also reportedly decided through bribery. Most overseas workers are known to receive low wages and to hand over a substantial part of those wages to North Korean authorities as part of a planned quota or as loyalty money. Nonetheless, North Koreans wish to be dispatched overseas because they can receive higher wages there than they would receive while assigned to jobs in North Korea, and can accumulate a certain level of wealth through private contracts. The actual amount paid in bribes in the selection process is substantial. It is said that the amount required to be dispatched to Russia is the highest, as North Koreans preferred Russia to hotter regions such as the Middle East.

## F. Evaluation

In the 2017 survey, corruption, including bribery, was found to be prevalent in North Korean society. The majority of North Korean defectors say that many challenges can be resolved through the use of money, or other material incentives, in North Korean society. Although background (*songbun*) is still an important

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796\_NKHR2017000110 2017-11-20.

factor in determining whether one can be accepted for employment as a senior official or accepted as a student in one of the central colleges, it is noteworthy that what used to mainly be decided by background, including whether one can become a Party member or enter a general college, can now be handled through bribery. North Korean residents use the term “business” to describe bribery. This indicates that the people consider the practice of bribery normal and do not perceive using bribery to handle certain issues as being negative. Meanwhile, it may be more difficult to raise awareness of universal human rights if there is an overwhelming perception that bribery is acceptable as long as it leads to the betterment of one’s life. Moreover, such practices prevent the fair application of standards in punishment and may serve to aggravate the violation of human rights of the North Korean people.

# 3

## Overseas Defectors

### A. Size of the Overseas Defector Population and Background

The ICCPR stipulates that “everyone shall be free to leave any country, including his own” (Article 12, Paragraph 2). Although a large number of North Koreans who fled the country are believed to be residing illegally in other countries, such as China and Russia, it is impossible to collect accurate data on the exact number and details of individual conditions, due to defectors’ insecure status, which prevents them from openly asking for help. Many North Koreans use the Duman River region as a defection route, because it is easier to cross there than at other geographic points. However, there are a variety of other ways to flee, such as escaping the workplace when legitimately assigned to jobs abroad, or defecting to a third country after overstaying an authorized visit to relatives.

## (1) Tightening Control to Block Defection and Decrease in the Number of Defectors Living in China

Since the late 2000s, the number of defectors living in China has dropped dramatically. It appears the reasons include more stringent border defense and control, continued forced repatriation, fewer new defectors due to the increasing cost of defection, increases in the number of legal visitors in China with an increase in the issuance of border-crossing cards, improved economic conditions in North Korea including the reinvigoration of marketplaces, and increased resettlements of North Koreans in South Korea or other third countries. Since 2009, the MSS has reviewed emergency measures in place to prevent defection. Since then, it has strengthened surveillance and identification of ideological trends in families and relatives of defectors, ideological education, inspection of travel permits and bed-checks in border regions, and inspection of border guard commands. Moreover, North Korean authorities have increased the severity of punishment of residents using cell phones in the border regions. North Korea, in a revision to its Criminal Law in 2015, established the category “crimes on illegal international communications” (Article 222), stating that “those who are engaged in illegal international communications shall be subject to up to one year of labor training punishment,” and “those whose crimes are considered to be heavier shall be subject to up to five years of correctional labor punishment.” This

is the same sentence as that for existing “crimes of illegal border-crossing” (Article 221), which suggests that illegal international phone calls are considered to be as heavy a crime as illegal border-crossing.

During the mourning period following Kim Jong Il’s death on December 17, 2011, defection was considered to be a war crime, and the movement of people was tightly controlled. Every family along the border region was required to take turns standing guard.<sup>797</sup> In addition, barbed wire fences and surveillance cameras were installed, camouflaged traps set up under barbed wire fences,<sup>798</sup> and noise makers hung on barbed wire fences to assist in detection<sup>799</sup> of defectors along the major defection routes, such as Hoeryeong, Musan County, and Onsung County, North Hamgyeong Province. One defector testified that in 2014, each middle school student was assigned to bring in five standard sized nail boards in Hoeryeong, North Hamgyeong Province (to be used in border closure).<sup>800</sup> Meanwhile, it has been found that rations and food assistance has been partially resumed in order to discourage defection. In an effort to prevent re-defection, local Party secretaries seem to be held jointly responsible for defection attempts.<sup>801</sup> Economic

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797\_ NKHR2014000020 2014-03-18.

798\_ NKHR2014000050 2014-05-13.

799\_ NKHR2012000213 2012-10-16.

800\_ NKHR2014000050 2014-05-13.

801\_ NKHR2014000207 2014-12-16.



support is also provided, and there is close surveillance of their individual activities.<sup>802</sup>

As Hyesan, Yanggang Province, became a new defection route, authorities have implemented various measures to prevent defections in the area. Electronic walls have been installed and activities to detect phone have been strengthened. As a result, it became very difficult for brokers to contact potential defectors. Moreover, a barbed wired fence was installed along 12km of the border region in Hyesan. Although the fence was only connected with horizontal wires as of June 2015, vertical wires are expected to be installed in the future.<sup>803</sup> Two-storied posts have also been installed.<sup>804</sup> One North Korean defector testified that he/she attempted to defect in 2014, but gave up because of very tight border controls in Hyesan. The testifier instead defected in June 2015.<sup>805</sup>

In January 2014, a proclamation from Kim Jong Un was announced, stating that anyone caught talking to defectors or brokers over mobile phones in border areas would not be handled in their area of residence but would be transferred to the MSS provincial bureau.<sup>806</sup> This change in policy may have been a

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802\_ NKHR2012000140 2012-07-10; NKHR2013000019 2013-02-05.

803\_ NKHR2015000130 2015-09-22.

804\_ NKHR2015000136 2015-09-22.

805\_ NKHR2015000130 2015-09-22.

806\_ NKHR2014000040 2014-04-29; NKHR2014000037 2014-04-15.

move to curtail the practice of North Korean defectors avoiding punishment by bribing personnel in their area of residence. In January 2014, training sessions on this issue were held for individual people's unit (*inminban*) in Hoeryeong, North Hamgyeong Province. The participants were told, "The border areas will be transformed into politically stable zones; families with relatives in China and South Korea will be expelled to South Hamgyeong Province and Gangwon Province. Cases of making phone calls or crossing the border will be dealt with by the MSS."<sup>807</sup> The proclamation is known to include a plan to demolish private houses close to border areas. This plan, however, has not been fully implemented, as forced deportation of the families of defectors might backfire, instead triggering a mass exodus of these families.<sup>808</sup>

The substantial decrease in the number of defection seems to be attributed to the announcement of a severe warning. Specifically, three generations of that family would be wiped out (punished) if any family member defected, or defectors would be executed on-site. Such warnings regarding shootings were made not only during the mourning period for Kim Jong Il, but also during the special vigilance period when the guidelines were communicated.<sup>809</sup>

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807\_NKHR2014000050 2014-05-13.

808\_NKHR2014000166 2014-10-07; NKHR2014000165 2014-10-07; NKHR2014000136 2014-09-02.

809\_NKHR2014000024 2014-04-01; NKHR2014000129 2014-08-29; NKHR2014000131 2014-08-26; NKHR2014000175 2014-10-21.

Testimonies stated that, since Kim Jong Un took power, real ammunition had been provided to guards with an order that border-crossers may be shot to death.<sup>810</sup> Many testifiers have stated that guns were actually used during defection attempts. In contrast, others have testified that guns are only used as threats to prevent defection, and that the guards cannot actually shoot people.<sup>811</sup>

Table V-4 Testimonies on the Use of Guns During Defection Attempts

Testimonies	Testifier ID
In April 2013, a 37-year-old man was caught while illegally crossing the river in Deoksan, Samjiyeon County, Yanggang Province. There were prior warnings from the border defense unit. The man, even though he did not resist, was shot to death.	NKHR2013000231 2013-12-24
On August 15, 2013, a group of 12 men and women crossed the river to collect blueberries in China. The border security guards shot at them, and a man in his 40s, who was from Bocheon County, Yanggang Province, was injured. It is unclear whether the guards fired live or blank ammunition.	NKHR2014000055 2014-05-20
In July or August 2014, two men were caught during a crackdown in Samjiyeon County, Yanggang Province, after voluntarily returning to North Korea. One was shot in the arm and the other was killed on the spot after the defense unit opened fire.	NKHR2015000084 2015-04-21

With tightening measures to block defection, fees paid to brokers and border security guards have increased.<sup>812</sup> Border

810\_NKHR2014000131 2014-08-26; NKHR2016000028 2016-03-08.

811\_NKHR2015000122 2015-09-08.

812\_○○ Yoon, "Current Status and Prospect of Defectors in China," Closed Advisory Meeting of KINU (2 May 2012); NKHR2014000037 2014-04-15.

guards in Onsung County, North Hamgyeong Province, where there are frequent defections from North Korea, have been instructed that anyone who has accepted money from defectors would not be penalized as long as they reported it afterwards.<sup>813</sup> As the number of brokers and soldiers who received money and reported it subsequently increased, some defectors began to investigate the border control situation alone and defect without the brokers' help. As the risk of getting caught in the process of defection increased, the number of people trying to enter China to earn money dropped significantly. However, there was also a testimony that the excessively harsh instruction to crack down on defections by Kim Jong Un actually backfired and increased the number of defections.<sup>814</sup>

## (2) Defector Attempts to Migrate Globally

In addition to China, defectors appear to be attempting to move to Russia, other CIS countries, Mongolia, and Southeast Asia, or live in illegal settlement areas of Chinese people, including Korean-Chinese and Han Chinese. With the support of private organizations and volunteer activists, defectors have been seeking asylum and safe havens around the world, in countries including

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813\_NKHR2013000133 2013-07-23; NKHR2014000050 2014-05-13; NKHR2014000118 2014-08-12.

814\_NKHR2016000165 2016-11-01.

Thailand, Japan, Canada, Australia, the United States, EU member states, and Israel. According to the UNHCR, as of the end of 2016, there are 1,422 North Korean defectors around the globe with refugee status.<sup>815</sup>

**Table V-5** Number of Overseas Defectors with Refugee Status

Year	2009	2010	2011	2012	2013	2014	2015	2016
Number (persons)	881	917	1,052	1,110	1,166	1,282	1,103	1,422

Source: Compiled based on the annual Global Trends of the UNHCR

Since 2004, the number of North Korean refugees illegally entering Thailand in hopes of going to South Korea or the United States has risen constantly. As a result, there have been many cases of group arrests of North Koreans illegally entering Thailand. Furthermore, as the period at detention facilities of immigration offices grows longer, some refugees have begun to stage hunger strikes to protest their detainment, which has substantially reduced the time for entry procedures. At one point, there had been a rapid increase in North Koreans who had applied for political asylum (refugee status) to EU member states. However, many of these individuals were found to be Chinese, including people of Korean-Chinese descent disguised as North Korean defectors, or North Korean defectors who had already settled in South Korea. For that reason, the procedure for the review and recognition of

815\_ "Global Trends: Forced Displacement in 2016, Annex Table 2," UNHCR, ([www.unhcr.org](http://www.unhcr.org)).

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.<sup>816</sup> For a North Korean citizen to cross the border and apply for political asylum within the EU or another Western country, a large amount of money is needed. With very few exceptions, it seems very difficult for any North Korean defector to file for asylum in a Western country. South Korea has revised its Enforcement Decree to the Act on the Protection and Settlement Support of Residents Escaping from the North in 2009. The revision allows the South Korean government to suspend or terminate protection and settlement support for any North Korean who has obtained South Korean nationality but applies for political asylum in a third country afterwards by concealing their newly acquired South Korean nationality.

## B. Reality of Defectors Staying Overseas

As defections have occurred since the mid-1990s, the residential status of North Koreans in China appear to have changed significantly. At the initial stages, most North Koreans quickly returned to North Korea after getting help from their relatives in China, who tried their best to protect them. However, as the food

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<sup>816</sup> Dong-ho Han *et al.*, *An Analysis on Policy Environment for North Korean Human Rights* (Seoul: KINU, 2017), p. 216. (In Korean)

crisis worsened in North Korea, even those without relatives in China began to cross the border in a blind attempt to survive.

As the food shortage continued for a sustained period of time, more North Korean women went to China to earn money, and the number of them who did not return to North Korea but instead settled in China began to increase. Not only those women who were single, but also those who were married with children, ended up living with Chinese men in order to continue their hidden life in China. In such cases, although some women married voluntarily after being introduced to Chinese men,<sup>817</sup> most were sold against their will and forced into marriage.<sup>818</sup> In such cases, they sometimes escaped to other regions, as they could not endure the inhumane conditions of being in a forced marriage and poverty. But it has been found that most of them remained married for fear of forced repatriation, without hope. Since most North Korean women were traded in the form of merchandise, they were usually under the constant watchful eyes of the families and neighbors of their husbands. One North Korean defector testified that she could not set a foot outside the house without her husband, since her Chinese husband always locked her in whenever he went outside.<sup>819</sup> The reality is that any North Korean woman who illegally crosses

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817\_NKHR2013000008 2013-01-08 and 37 cases; NKHR201400083 2014-07-01 and 47 cases; NKHR2017000014 2017-04-10 and 8 cases.

818\_NKHR2013000019 2013-02-05 and 66 cases; NKHR2014000086 2014-07-01 and 90 cases; NKHR2017000025 2017-05-08 and 11 cases.

819\_NKHR2017000094 2017-10-23.

the river into China could not find ways to stay in China other than living with a Chinese man. Consequently, it seems that once they realized the danger of arrest and other unavoidable realities, most North Korean women accepted that they had no other choice but to live with a Chinese man. There have been cases in which some defectors were able to obtain resident permits (*hokou*) after prolonged stays in China.<sup>820</sup> Also, some gave birth to babies with their Chinese husbands.<sup>821</sup> It has also been found that some children born to female North Korean defectors received Chinese resident permits.<sup>822</sup> In rural Han Chinese villages, no forced repatriation is known to have taken place, except when North Korean defectors are involved in serious problems and are thus reported to local authorities.<sup>823</sup> One North Korean testified that she was forced to marry a Chinese farmer after defecting from North Korea in 2014. She said that after writing down her personal details while being interrogated, she was told that the Chinese policy was that she would not get caught as long as she stayed out of trouble.<sup>824</sup> One testifier suggested that in some regions, such as Hebei Province, it was relatively easier than in

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820\_NKHR2013000128 2013-07-09 and 6 cases; NKHR2014000192 2014-11-18 and 3 cases; NKHR2017000046 2017-07-03.

821\_NKHR2013000036 2013-02-19 and 37 cases; NKHR2014000171 2014-10-07 and 85 cases; NKHR2017000065 2017-07-31 and 5 cases.

822\_NKHR2013000036 2013-02-19 and 24 cases; NKHR2014000053 2014-05-13 and 53 cases; NKHR2017000014 2017-04-10 and 10 cases.

823\_NKHR2014000114 2014-08-12.

824\_NKHR2017000137 2017-12-18.



other regions to obtain resident permits through bribery. However, since 2013, it has apparently become difficult to forge resident permits in China.<sup>825</sup>

As more North Koreans have stayed in China for extended periods of time, their way of life has changed. Unlike in earlier years, North Koreans are living more in the homes of Chinese people, including Han Chinese, than in the homes of relatives or Korean-Chinese. As they adapt to living in China, some people have developed their own ways of living, learning the Chinese language, becoming employed, and becoming involved in market activities.<sup>826</sup> Also, although only very rarely, some female North Korean defectors have entered South Korea with the South Korean men with whom they resided in China. Some North Korean women in China go to South Korea through brokers after they find out about settlement support grants offered by the South Korean government through the Korean-Chinese men they live with. In such cases, the men typically travel to South Korea first to find jobs, learn about the support grants, and later advise their North Korean partners to come to South Korea. There are also continuous cases of North Korean defectors who obtained Chinese passports with forged resident permits, came to Jeju Island (South Korea), where no visa is required, and declared their

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825\_NKHR2014000066 2014-06-03.

826\_NKHR2017000064 2017-07-31.

identity as North Korean defectors. However, it seems that a substantial number of female defectors continue to live in Han Chinese farming villages in China, as there is little information on South Korea.

## C. Punishment of Defectors

### (1) Punishment Provisions

The North Korean Criminal Law divides charges for defection into two crimes: illegal border-crossing and treason against the fatherland. It prescribes one year or less of labor training punishment and five years or less of correctional labor punishment for illegal border-crossing (Article 221). It also stipulates that “citizens that commit treason against the fatherland, including those who flee to other countries, surrender or defect or turn over state secrets, shall be subject to five years or more of correctional labor punishment. Those who flee, surrender or defect to other countries, betray the fatherland or commit the treasonous action of handing over secrets of the fatherland are subject to five years or less of correctional labor training, and in serious cases, to unlimited-term correctional labor punishment or the death penalty and confiscation of the entire property” (Article 63). In addition, any North Korean citizen violating North Korean Immigration Law is subject to fines and an administrative penalty banning him or her from overseas travel, and, in serious cases, a criminal penalty may be

imposed (Article 55).

In addition to North Korean Criminal Law, the terms of punishment for defection are dictated by the People's Security Enforcement Law and the Administrative Penalty Law. Article 30 of the People's Security Enforcement Law stipulates that the People's Security Agency shall check for and handle violations of the travel order and the order regarding street wandering behavior. Article 57 of the law states that violators may be directly fined by security agents. These provisions are not intended to punish defections directly, but are utilized to prevent people from moving towards the border regions. Article 185 of the Administrative Penalty Law stipulates that anyone violating an order of border exit/entry shall receive a warning, a serious warning, be subject to confiscation, or be subject to three months or less of unpaid labor or re-educational labor. Article 194 prescribes that those who violate travel orders and engage in illegal exit/entry of restricted areas shall also receive a warning, a serious warning, fines, or three months or less of unpaid labor or re-educational labor, while in serious cases, they shall be subject to three months or more of unpaid labor, labor education, demotion, dismissal, and discharge.

## (2) Reality of Punishment

### (A) Investigation and Transfer

North Koreans caught in China are deported to periphery military units along the border, then to the MSS of the repatriation area for background investigation personal identity checks. They are then sent back to the authorities in their area of residence. Depending on the case, deportees are sent to their respective regional institution (MPS) via the labor training camp (*rodongdanryundae*) in the repatriated area, or to provincial holding centers (*jipkyulso*). In other cases, they are sent directly to their respective regional institution. The punishment procedure after repatriation differs depending on the initial detention facility to which deportees are sent. If the initial detention facility is at or near areas of detainee's residence, the level of punishment is determined more quickly. However, if the detainee's hometown is far away from the MSS in the border region, the period of detention is extended, because the MPS officers from the detainee's hometown have to travel to the border area detention facility in person to sign the detainee out. Other factors that affect the extended detention include the risk of escape during transfer, securing of the means of transfer, and lack of means to contact the families.

Those who are repatriated are investigated at a first-level detention facility for punishment. The MSS detention centers (*guryujang*) in repatriation areas are mostly in Onsung, Musan

County, and Hoeryeong, North Hamgyeong Province, Sinuiju, North Pyeongan Province, and Hyesan, Yanggang Province. Here, they must be strip searched, have their belonging checked and undergo a sanitary inspection (for AIDS) before they are detained. Although men and women are known to be detained separately, there are cases in which they are detained together, depending on the number of people being repatriated.

Article 37 of the Law on the Protection and Promotion of the Rights of Women prohibits any inspection of female bodies. However, it has been revealed that inspectors thoroughly examine forcibly repatriated female defectors by forcing them to squat and stand up repeatedly, conducting strip searches, and checking their uteri.<sup>827</sup> Such examination is intended to expose money earned in China that can then be confiscated. One North Korean testified that she went through such uterus examination conducted by a female soldier during her time of detention at the MSS detention centers in ○○ city in 2016, and said that it was very painful and was extremely ashamed.<sup>828</sup> There seem to be a significant number of cases in which forcibly repatriated defectors offer bribes to reduce the terms of their sentence or be exempted from penalties during the process of interrogation.<sup>829</sup> A North Korean

827\_NKHR2017000014 2017-04-10; NKHR2017000045 2017-07-03; NKHR2017000046 2017-07-03; NKHR2017000119 2017-11-20.

828\_NKHR2017000045 2017-07-03.

829\_NKHR2017000057 2017-07-31; NKHR2017000058 2017-07-31; NKHR2017000098 2017-10-23; NKHR2017000103 2017-10-23; NKHR2017000121 2017-11-20;

defector who was caught in an attempt to defect in 2016, testified that she was released, subject only to educational measures, after bribing the MSS intelligence chief of ○○ city, ○○ Province with 5,000 Chinese Yuan.<sup>830</sup> Cases have also been found in which the defector bribed “law enforcement workers” to forge the contents of their interrogation documents and therefore avoid punishment. Another North Korean defector who was forcibly repatriated from China in 2015 testified that by bribing prosecutors, judges, and lawyers, he/she was able to forge the length of time she stayed in China. By reducing her time in China, he/she was able to reduce the sentence.<sup>831</sup> As such, it seems there is a widespread practice of avoiding punishment via bribery, even among those who are caught in their attempts to defect. One testifier noted that only those without money are subject to punishment.<sup>832</sup>

The MSS offices located in border areas verify personal information, home address, time and frequency of river-crossing, activities after the river-crossing (whether there was contact with South Koreans or Christians, any travel to South Korea, connections involving human trafficking, and possession or watching of pornography or South Korean videos). After these MSS

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NKHR2017000128; 2017-12-18.

830\_NKHR2017000057 2017-07-31.

831\_NKHR2017000005 2017-04-10.

832\_NKHR2017000026 2017-05-08.

interrogations, the deportees are sent either to the MPS detention center or to the provincial holding centers in the border areas.

Under North Korean criminal procedures, there should be a preliminary examination in which prosecutors establish the facts of any crime and indict or exonerate the suspect. During the preliminary examination, prosecutors ask repatriated people to describe in detail the purpose of their border-crossing and activities in China. During this phase, investigators use beatings, abusive language, and threats to induce people to report on the activities of other repatriated defectors.

### (B) Imposition of Punishment

With the increase in punishment for defectors following the start of the Kim Jong Un regime,<sup>833</sup> it has been found that they are sentenced more to correctional labor punishment than to labor training camps or receive labor training punishment.<sup>834</sup> According to testimonies, until 2013, those who were repatriated to North Korea for the first time were sentenced to around six months in labor training camps, while those repatriated for the second time were sentenced to correctional labor punishment. However, testifiers also indicate that since 2014, all defectors are sentenced to correctional labor punishment, regardless of the number of times

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833\_NKHR2017000001 2017-04-10; NKHR2017000002 2017-04-10; NKHR2017000067 2017-08-28.

834\_NKHR2012000151 2012-07-24.

they have defected.<sup>835</sup> The term of correctional labor punishment is three to five years, with the term varying according to the number of defections and the length of the defector's stay in China.<sup>836</sup> In particular, testifiers noted that those whose period of illegal border-crossing is over three months are subject to aggravated punishment, since those cases are classified as "heavy crime," dictated in Paragraph 2 of crimes of illegal border exit/entry. One North Korean defector who was repatriated after defecting to China in 2015 testified to having been convicted of a "heavy crime," and was subject to such punishment, since the period of illegal border-crossing was over three months.<sup>837</sup> However, it is said that for cases of simple defection, one could offer a bribe to have one's sentence reduced to labor training punishment.<sup>838</sup> Most people sentenced to correctional labor punishment for charges of illegal border-crossing are imprisoned at Jeongeori *Kyohwaso* in North Hamgyeong Province and Gaecheon *Kyohwaso* in South Pyeongan Province.<sup>839</sup> It has been found that around 70 percent of convicted prisoners at Jeongeori *Kyohwaso* are imprisoned for charges of illegal border-crossing.<sup>840</sup> Many testifiers said that

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835\_ NKHR2015000084 2015-04-21; NKHR2015000092 2015-05-12;

836\_ NKHR2015000023 2015-01-27; NKHR2015000035 2015-02-10; NKHR2015000080 2015-04-21.

837\_ NKHR2017000005 2017-04-10.

838\_ NKHR2015000031 2015-02-10.

839\_ Dong-ho Han *et al.*, *Prison Camps in North Korea*, pp. 10-12. (In Korean)

840\_ *Ibid.*, p. 14.



those who attempt to escape to South Korea are punished as political criminals.<sup>841</sup>

The overall punishment of forcibly repatriated defectors has been recently reinforced. In the case of defection to China, while in the past, defectors had been educated for a period that matched their period of stay in China, the punishment has recently been increased so that the defectors are sentenced to prison terms that are twice as long as their length of time in China.<sup>842</sup> During the Kim Jong Il era, there were cases in which defectors received only educational measures instead of criminal punishment if they voluntarily returned after crossing the river.<sup>843</sup> A testifier who defected from North Korea twice, in 2007 and 2014, said that he/she was not punished based on voluntary return in 2007 under Kim Jong Il. In 2014, however, the testifier was harshly investigated without being forgiven even though the testifier turned himself or herself in.<sup>844</sup> In the case of forcible repatriation when the defector was clearly headed to South Korea and did not pay bribes, the defector was sent to a political prison camp (*kwanliso*), which is the heaviest punishment.

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841\_NKHR2015000031 2015-02-10; NKHR2017000007 2017-04-10; NKHR2017000039 2017-06-05; NKHR2017000111 2017-11-20; NKHR2017000112 2017-11-29; NKHR2017000130 2017-12-18.

842\_NKHR2016000072 2016-05-17.

843\_NKHR2016000131 2016-06-09.

844\_NKHR2016000148 2016-09-06.

Table V-6 Cases of Punishment for Defectors

Testimonies	Testifier ID
In 2013, the testifier was sentenced in Dancheon, South Hamgyeong Province, to three years of correctional labor punishment for charges of illegal border-crossing but was released in one year and six months through bribery.	NKHR2015000092 2015-05-12
In 2013, the testifier's grandmother was caught in her attempt to defect. At that time the punishment was not as severe as the present, so she was subject to two months of labor training camp due to her old age.	NKHR2017000007 2017-04-10
In August 2013, the testifier returned voluntarily to Daehongdan County, Yanggang Province, and turned himself or herself in. He/she was sentenced to two months at a labor training camp ( <i>rodongdanryundae</i> ).	NKHR2015000045 2015-02-24
In October 2013, the testifier was arrested while illegally crossing the river in Daehongdan County, Yanggang Province, and was imprisoned for two months at a labor training camp.	NKHR2014000141 2014-09-02
The testifier was repatriated from China and imprisoned at a holding center in Yanggang Province in November 2013. While the testifier was imprisoned, he/she was released on bail for illness and re-defected after two months.	NKHR2014000074 2014-06-17
In 2014, a woman was sentenced to three years of correctional labor punishment and was released after serving the term in Hyesan, Yanggang Province.	NKHR2015000072 2015-04-07
A testifier defected from Musan County, North Hamgyeong Province to China in January 2014, stayed in China for about one month, and was forcibly repatriated. The testifier would have been released after receiving educational measures if this had happened in the past, but this time the defector was subject to seven months of labor training punishment due to the increased severity of punishment for defection.	NKHR2017000093 2017-10-23

### (C) Punishment of Defectors' Families

Since Kim Jong Un came to power, surveillance and punishment of defectors have been tightened, along with surveillance and punishment of defectors' families. It seems that there are cases in

which the entire family is either expelled or is sent to political prison camps.<sup>845</sup> One North Korean testified based on what the testifier heard, that when one mother and daughter were caught in their attempt to defect to South Korea in 2014, the entire family, including the mother and daughter, was imprisoned at a political prison camp.<sup>846</sup> Many testifiers, however, have stated that the number of actual punishment or expelling of defector's families has dropped recently due to the overwhelming number of defectors.<sup>847</sup> Another North Korean defector testified that she had been under MSS monitoring after her husband defected in 2015, but was not subject to actual punishment or sanctions.<sup>848</sup> In addition, a different defector testified that families of defectors are rarely punished since there is a defector in one out of every two households.<sup>849</sup> In fact, in the 2017 survey, there was not a single case in which families had been punished or expelled for the defection of another family member.

However, the survey did find cases in which, if the majority of a family defected, the remaining family members would be sentenced to labor training punishment for the 'possession of a

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845\_NKHR2017000038 2017-06-05; NKHR2017000039 2017-06-05; NKHR2017000072 2017-08-28.

846\_NKHR2017000039 2017-06-05.

847\_NKHR2014000050 2014-05-13; NKHR2017000077 2017-08-28; NKHR2017000085 2017-09-25; NKHR2017000092 2017-09-25.

848\_NKHR2017000092 2017-09-25.

849\_Above testimony.

mobile phone.<sup>850</sup> Moreover, when it is confirmed that South Korean family members have had contact with North Korean family members, such as through phone calls, the remaining family members are forcibly deported.<sup>851</sup> There were also cases where a forcibly-repatriated defector's family member was discharged from the military under the pretext of 'crime of poor family environment.'<sup>852</sup> There are other cases in which defector families have been punished for receiving remittances from abroad.<sup>853</sup> Given the multifaceted manner in which surveillance and sanctions are enforced on the families of defectors, there has been an increasing number of cases in which someone who initially did not think of defection eventually decided to defect out of frustration after continuous persecutions.<sup>854</sup> North Korean defectors have testified that he/she did not intend to defect at first, but decided to do so in 2016, since he/she was subject to constant surveillance after the defection of the mother and was interrogated by an authority whenever the testifier went thereafter.<sup>855</sup>

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850\_NKHR2013000104 2013-05-28.

851\_NKHR2013000179 2013-10-01.

852\_NKHR2013000098 2013-05-14.

853\_NKHR2013000218 2013-11-26.

854\_NKHR2017000001 2017-04-10; NKHR2017000054 2017-07-31.

855\_NKHR2017000054 2017-07-31.

Table V-7 Cases of Punishment for Defector Families

Testimonies	Testifier ID
In July 2013, a family (two males who were neighbors) was sentenced to three months at a labor training camp due to illegal border-crossing in Musan County, North Hamgyeong Province.	NKHR2014000205 2014-12-02
In 2014, the testifier who was a military officer was discharged due to defection of the testifier's sister in Hyesan, Yanggang Province.	NKHR2015000072 2015-04-07
After the testifier's husband defected in January 2014, she had been subject to phone taps and lived under around the clock surveillance.	NKHR2017000055 2017-07-31
In June 2014, there was a missing person in a family from Hyesan, Yanggang Province, and the testifier's younger brother was subsequently put under surveillance.	NKHR2014000209 2014-12-16
The testifier's neighbor's father, mother, and younger brother were forcibly deported because their daughter defected to South Korea in the summer of 2014.	NKHR2017000072 2017-08-28
The testifier was caught during a check on a travel permit in 2016 on his/her way to see a grandmother who lived in Hoeryeong, North Hamgyeong Province. Interrogators discovered that the testifier's mother had defected, and the testifier was detained for a month on a charge of attempting to defect.	NKHR2017000054 2017-07-31

## D. Human Trafficking

International laws and national laws prohibit human trafficking, stressing its inhumane nature. A substantial number of human rights organizations engage in monitoring human trafficking, and have launched international promotional campaigns to root it out. According to the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organized Crime in 2000 (hereinafter, the Protocol on Human Trafficking),

Part I

Part II

Part III

Part IV

Part V  
Major Issues

human trafficking means “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” In the provision, the meaning of exploitation is very important, and includes “the exploitation of prostitution of others or other forms of sexual exploitation, forced labor and services, slavery or practices similar to slavery and removal of organs.” The main difference between human trafficking and human smuggling is that traffickers continue to exploit people on an ongoing basis after the illegal border-crossing has concluded.<sup>856</sup>

### (1) Organized Human Trafficking

As the number of illegal border-crossing rapidly increased, organized rings of human traffickers began to appear, earning profit by trafficking North Korean defectors. There were many incidents in which these ring members sought to capture North Koreans around train stations or marketplaces in China for sale. There are many stages to this form of human trafficking and involves many people. There were people who lured women

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856\_Norma Kang Muico, “An Absence of Choice: The Sexual Exploitation of North Korean Women in China,” (Anti-Slavery International, 2005), p. 3.

across the river from North Korea and people who received women on the Chinese side. There were brokers who hid the women at certain places and lead the exchange of these women. In this process, the cost of such transaction increases at every stage. As organized human trafficking began to occur, the practice of selling North Koreans spread to inner areas of China's three northeastern provinces, which are far away from the border. In most cases, North Korean women become subjects for human trafficking, but North Korean men have also been traded to remote areas of China where there was a dire need for labor.

With increasing attention on cases of human rights violation caused by human trafficking in China, Chinese authorities have launched a massive roundup campaign targeting human trafficking rings. Subsequently, the number of organized human trafficking cases has been significantly reduced. However, as North Koreans stay in China for longer periods of time, some illegal North Korean residents become involved in the trafficking of fellow North Koreans. For example, there seem to be cases in which some North Korean women living with a Korean-Chinese or a Chinese man engaged in human trafficking make money by handing over North Korean women to Chinese men or to an entertainment establishment. The brokers, who include people of Korean-Chinese descent, trade the female defectors to Chinese men, telling each women that she can contact the broker again if she does not like the man or has difficulties in living with him. If the female

defector contacts the broker, she is moved to another area, through which the broker reaps the profit.

Human trafficking is illegal in China, and, if detected, those involved are fined. Since those involved in human trafficking pocket money in the process of transferring women, they become the subject of vigilance once others around them learn of their human trafficking activities. It has been reported that the border patrol battalions conduct intensive investigations on North Korean defectors arrested in China, focusing on human trafficking and narcotics trade.

## (2) Human Rights of Women Victims

With China's industrialization, many women in rural areas began to move to cities or foreign countries such as South Korea to make more money. As a result, there was an increased demand for marriage partners or women as a subject for fulfilling sexual desire. Due to such demand for North Korean women in China, they are often traded as live-in partners for Chinese men. It seems that most North Korean women were taken to Chinese men without knowing to whom they had been sold. However, even if they know that they will be subject to human trafficking, some North Korean women ask for help in river-crossing to cover the cost of crossing the border.<sup>857</sup> Furthermore, cases have been

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857\_NKHR2014000066 2014-06-03.



identified where some decided to be sold voluntarily because they realized that human trafficking is the only way to escape North Korea due to a tightened control on defection since Kim Jong Un came to power.<sup>858</sup> One North Korean defector who defected in 2015 testified that being sold to China through traffickers was the only way to defect and even in such circumstances, many North Korean women find it difficult because it is hard to hire a broker.<sup>859</sup>

When a North Korean woman is forcibly married to a Chinese man, the marriage sometimes lasts for a long period. However, it appears there are a significant number of cases where the woman often flees to another region when the marriage encounters trouble due to sexual abuse, violence, gambling or drinking by the husband. When a husband desires the relationship with the North Korean woman to continue, he usually assumes various expenses, such as buying a resident permit for the woman and providing financial help to her and her family. Even if a North Korean woman was able to cross the border without the help of a broker, she is more likely to voluntarily live with a Chinese man because she has no other option if she wants to live in China. Such cases also appear to be no different from the situation of women in forced marriages. Unable to speak Chinese, it is impossible for her to work at any public place or a restaurant. Thus, they come to

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858\_NKHR2017000033 2017-06-15; NKHR2017000094 2017-10-23.

859\_NKHR2017000094 2017-10-23.

realize that there is no choice but to have a de facto relationship with a Chinese man to avoid security checks. In one case, a North Korean woman managed to run away after being trafficked into a forced marriage only to find herself in a relationship with a Chinese man again because it was the only way for her to survive in China.<sup>860</sup>

In other cases, North Korean women traded in China are forced to provide sexual services at karaoke bars and adult entertainment establishments.<sup>861</sup> There are situations where, in order to prevent them from fleeing, the business owners withhold their pay or brokers snatched their pay. One North Korean woman testified that she was lured by a broker in 2014 and sold to a brothel in China and that the broker took all her pay stating that he will get her a identity card and a house with that money.<sup>862</sup> It has also been also identified that there is an increasing number of organizations operating pornographic computer chatting businesses in China, using female North Korean defectors.<sup>863</sup> It is said that with the recent increase in demand for human trafficking in China, there have been more cases where Chinese smugglers become also involved in human trafficking.<sup>864</sup>

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860\_NKHR2017000065 2017-07-31.

861\_NKHR2014000183 2014-11-04; NKHR2017000066 2017-08-28.

862\_NKHR2017000066 2017-08-28.

863\_NKHR2013000138 2013-07-23; NKHR2015000125 2015-09-08.

864\_NKHR2015000170 2015-12-01.

Meanwhile it has become more difficult to find human trafficking partners in North Korea as the crackdown against them has strengthened. Many testimonies were collected that human traffickers are subject to public execution or imprisonment at political prison camps.<sup>865</sup> There were also testimonies that while human trafficking is still active in Hoeryeong and Musan County, North Hamgyeong Province, it has decreased substantially in Onsung County due to the tightened crackdown.<sup>866</sup> The problem, however, is that not only human traffickers but also female victims are subject to punishment.<sup>867</sup> One North Korean defector testified that she was trafficked into China in 2011 and forcibly repatriated to North Korea in 2016 and that she was able to have her sentence reduced through bribery in the trial process even though over two years of stay in China is subject to correctional labor punishment.<sup>868</sup>

## E. Evaluation

The forced repatriation of defectors involves many human rights issues. Given that the issue of entering and exiting a country

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865\_ NKHR2017000009 2017-04-10; NKHR2017000010 2017-04-10; NKHR2017000067 2017-08-28; NKHR2017000103 2017-10-23; NKHR2017000113 2017-11-20; NKHR2017000134 2017-12-18.

866\_ NKHR2015000171 2015-12-01.

867\_ NKHR2017000011 2017-04-10; NKHR2017000014 2017-04-10; NKHR2017000035 2017-06-05; NKHR2017000134 2017-12-18.

868\_ NKHR2017000014 2017-04-10.

is at the discretion of that country, it cannot be said that North Korea's punishment of acts involving violation of border regulations based on its Immigration Law and Criminal Law is illegal in itself. However, after repatriation, there is serious infringement on the right to not be tortured or receive inhumane treatment (Article 7 of the ICCPR) and the right to humane treatment in detention (Article 10 of the ICCPR) during the investigation and trial processes at holding centers, detention centers, labor training camps and prison camps (*kyohwaso*). Those who attempt to go to South Korea or contact Christians in China are publicly executed or imprisoned at political prison camps (*kwanliso*), constituting a violation of the right to life (Article 6 of the ICCPR) and the right to a fair trial (Article 14 of the ICCPR). The abortions forced on female defectors who are impregnated in China and the trafficking of North Korean women also constitute violations of the right to not receive inhumane treatment (Article 7 of the ICCPR) and the right to liberty and security of person (Article 9 of the ICCPR).

Approximately since the beginning of the Kim Jong Un regime, border control and crackdowns on defection have continuously strengthened. Consequently, there is concern that the infringement on the human rights of the North Korean people who are caught defecting or forcibly repatriated may become more serious. It is assessed that the success rate of re-defection has decreased dramatically. To resolve the defector issue, the North Korean regime ultimately needs to be changed. In addition, the North

Korean judicial, trial, and correctional systems should be improved to comply with international standards. Moreover, it should be communicated to China that the forced repatriation of defectors is unjust. Furthermore, provisions prohibiting forced repatriation stipulated in Article 33 of the Convention relating to the Status of Refugees and Article 3 of the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment should be continuously invoked.

# 4

## Overseas Workers

North Korea has dispatched workers to countries such as China and Russia. The number of dispatched workers is estimated to be at 50,000 to 100,000 although the accurate number is difficult to grasp.<sup>869</sup> North Korea has dispatched workers on a massive scale to earn foreign currency. The money coming into North Korea through their overseas dispatched workers is estimated to be around hundreds of millions dollars per year. Subsequently, the United Nations adopted a series of resolutions sanctioning North Korea for their nuclear and missile tests. As part of these measures, UN member states have been prohibited from receiving new North Korean workers from August 2017. Through this resolution, existing workers were sent back to North Korea within two years. The number of North Korean overseas workers is projected to decrease inevitably in the future.

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<sup>869</sup> The National Intelligence Service reported at the National Assembly Intelligence Committee on 2015 that the number of North Korean workers working overseas was 58,000. "In spite of risks of being favorable to capitalism, North Korea sent 80,000 workers on a mission to earn foreign currency," *JoongAng Ilbo*, 10 November 2015.

Issues have been raised with regard to North Korea's practice of sending its workers overseas given that workers are used as a means of earning foreign currency and that their human rights are not properly protected in the process. The current human rights situation of North Korean overseas workers will be analyzed below based on defector testimonies.

## A. Discriminatory Selection Process

Every individual has the right to work, allowing him/her to live in dignity. The right to work contributes to the survival of both the individual and to that of his/her family, forms an inseparable and inherent part of human dignity, and is essential to realizing other human rights.<sup>870</sup> Article 6, paragraph 1 of the ICESCR stipulates that States Parties shall “recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.” As a State Party to the ICESCR, North Korea has a duty to protect the rights prescribed in the Covenant. However, as labor is fundamentally assigned according to the State labor supply plan in North Korea, workers' freedom to choose jobs is inherently restricted.<sup>871</sup>

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870\_UN CESCR, General Comment, No. 18 (2005), para. 1.

871\_Seong-jae Yoo, “Studies on the North Korean Socialist Labor Law,” *2009 Report on Studies of the Legislation of South and North Korea (II)*, (2009), p. 4. (In Korean)

Even for overseas workers who voluntarily apply for dispatch, the freedom to choose their jobs is restricted. Although dispatching overseas is considered to be a good money-making opportunity,<sup>872</sup> there is a tendency that such opportunity mostly comes to those with a good background (*songbun*) and with money who can afford to offer a bribe.

In general, one needs to have a good background to be dispatched overseas.<sup>873</sup> In general, family background checks examine up to third cousins<sup>874</sup> as well as the wives' family background in the case of married men.<sup>875</sup> One also needs to be a Party member to be dispatched overseas.<sup>876</sup> Although there were also testimonies that one does not need to be a Party member,<sup>877</sup> most testifiers said that Party members are most often selected.<sup>878</sup> Moreover, in many cases, their work places prior to dispatch had been in Pyongyang. In this respect, it appears that those who are middle class or above in terms of class or financial capabilities, are given the opportunity to be dispatched abroad.

It seems that bribery is a decisive factor in the selection process.

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872\_NKHR20170000007 2017-04-10.

873\_There are also testimonies that those who were dispatched as loggers in Russia in the 1980s were dispatched because of their unfavorable family background. NKHR2014000122 2014-08-12.

874\_NKHR2013000196 2013-10-29.

875\_NKHR2014000020 2014-03-18.

876\_NKHR2014000112 2014-08-12.

877\_NKHR2013000196 2013-10-29.

878\_NKHR2014000080 2014-07-01.



One North Korean defector who was dispatched to Kuwait from 2006 to 2008, testified that he/she bribed 1.5 million North Korean won (before the currency reform), and that such “business” takes at least one year as one needs to give bribes to each organization including the enterprise manager and the Physical Examination Office in Pyongyang.<sup>879</sup> Another defector who was dispatched to construction sites in the UAE in 2010 and Russia in 2013, explained that general workers need to pay at least 200~300 dollars to the Senior Officers Section to be dispatched even though the testifier was able to be dispatched without a bribe through connections with a senior agent of enterprises.<sup>880</sup> A defector who left North Korea in 2017 testified that unmarried women usually work at restaurants or work by entertaining guests in China as it is difficult to make a living back home. The testifier found out that a bribery of 150 to 300 dollars is required when he/she tried to send her daughter for such jobs.<sup>881</sup>

As such, prevalent bribery and corruption in the selection process for overseas workers deprive people from fair opportunity to seek a livelihood by working overseas. In particular, the qualifications based on background and party membership in the selection process violate the right to equality, which prohibits all

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879\_NKHR2015000144 2015-10-06.

880\_NKHR2016000163 2016-11-01.

881\_NKHR2017000073 2017-08-28.

kinds of discrimination based on social background, birth, property or class. Thus, the freedom to choose jobs is not guaranteed in practical terms due to such requirements. Moreover, various factors are considered in the selection process to prevent flight by the dispatched workers. These include whether he/she has close family members in North Korea. Such requirements also serve as obstacles to choosing jobs based on fair opportunity according to one's abilities.

## B. Excessive Working Hours

It appears that overseas North Korean workers work longer hours. At construction sites, North Korean enterprises sign subcontracts aimed at the completion of a construction project, and it is the North Korean enterprise, not the local company, that directly manages the work sites of North Korean workers who belong to the enterprises. In these cases, work frequently proceeds at an excessive pace, in many cases, violating local labor regulations. One North Korean defector who worked for a North Korean enterprise that had a contract with a Russian company, testified that he/she had to work whenever there was daylight, without pre-decided working hours. This meant that on some occasions, work continued until 3 or 4 am on “white nights.”<sup>882</sup> One North

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882\_NKHR2014000202 2014-12-02.

Korean defector who was dispatched to the construction site of a royal palace in the UAE from December 2012 to August 2013 testified that while workers from other countries went inside and rested when the temperature peaked, North Korean workers had to continue working with an average of around 16 hours of work a day.<sup>883</sup> Another testifier who was dispatched as a construction worker to St. Petersburg, Russia in 2013 testified that he/she worked 15~16 hours a day.<sup>884</sup>

Meanwhile, North Korean workers sometimes face situations where they are not only exposed to excessive working hours, but also have to do “personal contract work” to earn the required amount to be paid to the State. This infringes upon the basic rights of workers to safe and healthy working conditions. One North Korean defector who was dispatched to Kuwait from 2006 to 2008 testified that the testifier used money earned through personal contract work to submit part of the required amount to be paid to the State because the monthly salary he/she received from the Kuwait company was not enough to fulfill North Korea’s required amount.<sup>885</sup>

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883\_NKHR2013000196 2013-10-29.

884\_NKHR2014000112 2014-08-12.

885\_NKHR2015000144 2015-10-06.

### C. Excessive Imposition of Payments to the State and Wage Exploitation by Middle Managers

As described above, it appears that while overseas North Korean workers suffer from excessive labor in poor working environments, they do not seem to receive proper levels of payment corresponding to their work. Two factors appear to explain this discrepancy.

First, it is possible that North Korean workers are given relatively lower wages than those from other countries. One North Korean defector who was dispatched to a construction site in Russia from 2014 to 2015 said that the wage of North Korean workers was the lowest at around 75 percent that of fellow workers from Tajikistan, Ukraine, and Chechnya.<sup>886</sup>

Second, and more important, is the fact that North Korean workers overseas are required to pay an excessive amount of their wages to the State. North Korean workers usually belong not to a local company but to North Korean enterprises that sign a contract of labor supply with a local company. Therefore, North Korean enterprise, not the local company, pays the North Korean workers what remains of their wages<sup>887</sup> after deducting payments submitted

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886\_ North Korean defector ○○○, 12 October 2016, interviewed in Seoul.

887\_ There are also testimonies that workers received their wages directly from a local company. Even in such cases, however, they must submit a substantial part of the received wages as loyalty payments, payments to the Party, and the State planned quota. North Korean defector ○○○, who was dispatched to a construction

to the North Korean authorities, tax, and social security fees.

However, since labor-related contracts are mostly concluded between the North Korean site manager and the local company, a majority of North Korean overseas workers do not know the ratio of their actual wage and the required payment to the State. The size of the required payment to the State can be approximated by analyzing testimonies of some North Korean workers. It appears that a substantial part of the received wages are deducted in the name of the State planned quota.

One North Korean defector who was dispatched to a construction site in Russia testified that he/she had to pay 800~850 dollars per month to the enterprise. The testifier said that as the value of the ruble declined due to the Russian financial crisis in 2013, there were cases where it was not possible to meet the State planned quota when remitting money after exchanging the wages to dollars.<sup>888</sup> Another defector who was dispatched as a construction worker to the UAE from December 2012 to August 2013 testified that he/she was paid 400~500 US dollars per month, including labor payment and commuting expenses. The testifier said that after deducting the amount submitted to the North Korean authorities based on various pretexts, he/she had

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site in Sakhalin Island, Russia from 2006 to August 2013, testified that the testifier earned 60,000~70,000 rubles on average a month and submitted 25,000 of them to the State a month until 2013.(NKHR2015000001 2015-01-13)

888\_NKHR2016000163 2016-11-01.

around 100~200 US dollars left per month.<sup>889</sup> There was a testimony that 60 percent of workers' salaries was taken by the State and only 40 percent was given to the workers themselves. Even among the remaining 40 percent, 10 percent of the wages was spent on giving presents to the central authority as well as administrative expenses.<sup>890</sup> Another North Korean defector testified that overseas North Korean workers are actually left with very little money since a significant portion of their remaining wages are deducted in the name of accommodations, food expenses, loyal foreign currency payments (which is a certain amount paid as an expression of loyalty to the Party), convenient services fees, and publication fees on top of the State planned quota and insurance fees.<sup>891</sup> Workers sometimes raise complaints about this practice but enterprise's managers justify the practice citing that North Korean workers are dispatched as a means to secure funding paid to the Party, not to gain personal profits.<sup>892</sup>

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889\_NKHR2013000196 2013-10-29.

890\_NKHR2017000063 2017-07-31.

891\_NKHR2014000136 2014-09-02.

892\_NKHR2014000112 2014-08-12.

Table V-8 Testimonies Regarding Excessive State Planned Quota

Testimonies	Testifier ID
A North Korean defector who was dispatched to Russia from 2004 to 2007, testified that 80 percent of the wage is taken by the State directly, and the testifier received only 20 percent.	NKHR2014000168 2014-10-07
A North Korean defector who was dispatched to Kuwait from 2006 to 2008, testified that while the Kuwaiti company paid salaries, 60 percent was taken by the State and only 40 percent was given to the workers.	NKHR2014000144 2015-10-06
A North Korean defector who was dispatched to Qatar from 2007 to August 2013, testified that only 10 percent of the wages was given to the testifier.	NKHR2013000167 2013-09-17
A North Korean defector who was dispatched to Russia in 2013, testified that the monthly salary was around 1,500 US dollars, from which 950 US dollars went to the company head, the head of the working group, the Party secretary and towards the State Party fund.	NKHR2014000112 2014-08-12

As such, part of the money deducted in the name of the State planned fund seems to be exploited by middle managers and senior officials, and are not paid to the State. One North Korean defector testified that a greater part of the wages go to middle officials than to the State.<sup>893</sup> One North Korean defector who defected in 2017 testified that at times, he/she was given less than 30 percent of monthly payment since middle officials conspired and took much of his/her remaining salary. The testifier believed that because of such wage exploitation, being dispatched overseas is not as lucrative as it used to be.<sup>894</sup>

893\_NKHR2015000158 2015-11-17.

894\_NKHR2017000134 2017-12-18.

Meanwhile, there appeared to be many cases where the local companies employing North Korean workers delay their payment.<sup>895</sup> One North Korean defector who was dispatched to a construction site in Russia from 2011 to 2015 testified that when he/she was not paid for six months, the North Korean company he/she belonged to did not appropriately respond to the situation.<sup>896</sup>

## D. Monitoring and Control by North Korean Authorities

Workers dispatched from North Korea live under the management of the North Korean enterprise signed to the local company. The local North Korean enterprises provide workers with interpreting services, accommodations, and management services. Most overseas North Korean workers live in groups in areas close to the work sites. Their living conditions are mostly identified to be poor. One North Korean defector who was dispatched as a construction worker to St. Petersburg, Russia in 2013 testified that containers and bedding are provided for sleeping, with one container divided into three sections with about 10 people in one section. The testifier said that the sanitary conditions were very poor with shared bathrooms used by hundreds of people, and he/she could not wash clothes or take any

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895\_ North Korean defector ○○○, 29 September 2016, interviewed in Seoul.

896\_ North Korean defector ○○○, 10 October 2016, interviewed in Seoul.



break.<sup>897</sup> Cases where the workers live in dormitories provided by the local companies have also been identified.<sup>898</sup> Depending on the work site, there are also cases where workers live and eat in temporary accommodations at the work site.<sup>899</sup> Indeed, given the characteristics of the work sites, one cannot conclude that those forms of living indicate that group life is forced upon, or arbitrary or illegal intervention is committed in individuals' housing. However, it is true that the space for personal activities is limited as people essentially move in work groups.

What is more worrisome regarding the breach of personal privacy is the daily life surveillance and mutual surveillance system by officials dispatched from the North Korean authority. North Korean authorities also operate a centralized and controlled regime at overseas workplaces. Specifically, North Korean authorities apparently send around one Party Secretary and one MSS agent who are assigned to manage overseas workers.<sup>900</sup> Given the testimonies of North Korean defectors who were dispatched to Russia and Kuwait, MSS agents are found to be dispatched in the official position of "Labor Safety Officer."<sup>901</sup>

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897\_NKHR2014000112 2014-08-12.

898\_North Korean defector ○○○, 6 October 2016, interviewed in Seoul.

899\_North Korean defector ○○○, 10 October 2016, interviewed in Seoul; North Korean defector ○○○, 12 October 2016, interviewed in Seoul, etc.

900\_North Korean defector ○○○, 29 September 2016, interviewed in Seoul.

901\_North Korean defector ○○○, 12 October 2016, interviewed in Seoul; North Korean defector ○○○, 30 October 2016, interviewed in Seoul.

North Korean overseas workers are actually under the surveillance of the dispatched MSS officers or their North Korean enterprise's managers. Overseas North Korean workers living in groups are obligated to participate in Life Review Session (*saenghwalchonghwa*) held at a dormitory of their enterprise.<sup>902</sup> It is said that those officers and managers inspect workers' belongings two to three times a week and that one is not allowed to possess mobile phones.<sup>903</sup> Those who engage in deviant behavior can be punished or forcibly repatriated to North Korea. Listening to South Korean radio or watching South Korean TV were punished most severely.<sup>904</sup> One North Korean defector who was dispatched to Sakhalin Island, Russia from 2006 to 2013 testified that workers might be punished when caught watching South Korean TV but can be exempted from punishment by offering a bribe to the agents and filling out self-criticism forms as the goal of the dispatched MSS staff was also to earn money.<sup>905</sup>

Workers dispatched overseas are known to be discouraged from going outside the work sites alone.<sup>906</sup> One North Korean defector who was dispatched to a construction site in Russia from 2012 to 2014 testified that they had to move in groups and around

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902\_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)

903\_NKHR2013000196 2013-10-29.

904\_NKHR2015000068 2015-04-07.

905\_NKHR2015000001 2015-01-13.

906\_North Korean defector ○○○, 4 October 2016, interviewed in Seoul.

ten to fifteen people moved together.<sup>907</sup> Another North Korean defector who was dispatched to a construction site in Russia from 2006 to 2013 testified that when going outside, they needed to move in groups of three or more.<sup>908</sup> Another defector who was dispatched as a soldier to the construction site of a royal palace in the UAE testified that he/she had to receive the approval of the head of the workplace and Vice Secretary of the County People's Committee to go outside, and could not go outside alone.<sup>909</sup> North Korean workers are prohibited from contacting outside people, with only the on-site manager and interpreters having the right to do so.<sup>910</sup> However, there have also been testimonies that the testifier moved alone in some cases or with the supervisor's approval.<sup>911</sup> Some testimonies revealed that such limitations on personal outings are due to external factors such as linguistic barriers and the risks that may arise when going out alone.<sup>912</sup>

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907\_North Korean defector ○○○, 5 September 2016, interviewed in Seoul.

908\_NKHR2015000001 2015-01-13.

909\_NKHR2013000196 2013-10-29.

910\_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)

911\_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.

912\_North Korean defector ○○○, 6 October 2016, interviewed in Seoul.

## 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.”<sup>913</sup> The “penalty” in the provision includes deprivation of rights or privileges and is not limited to criminal penalties.<sup>914</sup>

Whether the labor of overseas North Korean workers constitutes “forced labor” can only be determined by examining several contexts in great detail. In terms of whether the labor is voluntary, which is the primary standard in establishing whether labor is forced, it is hard to regard the labor of overseas North Korean workers as labor that is forced under the threats of punishment and thus involuntarily provided. This is because testimonies suggest that most workers were dispatched overseas on a voluntary basis and that they gave bribes to be selected.<sup>915</sup> When asked about the motivation behind wanting to be dispatched abroad, North Korean defectors who were dispatched overseas answered that they had the expectation that they could earn money if they went overseas

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913\_Convention Concerning Forced or Compulsory Labour, No. 29 (1930), Article 2, paras. 1 and 2.

914\_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.

915\_NKHR2017000064 2017-07-31; NKHR2017000120 2017-11-20 .

regardless of the time of their dispatch even if it might be difficult.<sup>916</sup> When asked about having the autonomy to suspend or terminate work, it has been found that while requests to rest due to excessive labor are not accepted,<sup>917</sup> it is possible to end the dispatch period if the worker wants to return to North Korea for health reasons.<sup>918</sup> It seems that in some exceptional cases, it is possible to terminate the dispatch period even when it is not based on health reasons out of concern that continued dispatch may lead to deviant behavior.<sup>919</sup> Given such context, it appears they were not necessarily forced into overseas dispatch and then into subsequent work after being dispatched.

However, the International Labour Organization (hereinafter ILO) views that even such voluntary dispatch and work can also be regarded as “forced labor” because of several factors in the later processes including debt bondage, withholding of wages, retention of identity documents, and abuse of vulnerability, etc.<sup>920</sup>

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916\_ North Korean defector ○○○, 4 October 2016, interviewed in Seoul; North Korean defector ○○○, 7 October 2016, interviewed in Seoul; North Korean defector ○○○, 23 October 2016, interviewed in Seoul, etc.

917\_ “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.

918\_ North Korean defector ○○○, 29 September 2016, interviewed in Seoul; North Korean defector ○○○, 7 October 2016, interviewed in Seoul.

919\_ North Korean defector ○○○, 5 September 2016, interviewed in Seoul.

920\_ ILO, “Indicators of Forced Labour, Special Action Programme to Combat Forced Labour,” 2012, (<[www.ilo.org/forcelabour](http://www.ilo.org/forcelabour)>). The ILO presented eleven indicators of forced labor that include not only labor that is forced under coercion or the threat of penalty, which is derived from the definition of forced labor, but also other indicators that can be regarded as potentially involving forced labor. These include

As described above, overseas North Korean workers live in groups with external contact prohibited, and their identity documents (including passports, etc.) are retained by the manager dispatched from the North Korean authorities. As shown in <Table V-9>, it appears it is the Security Department (police), officer, and Party committee that confiscate identity documents. According to another testimony, it was the local company, not the North Korean authority, which confiscated the identity documents.<sup>921</sup>

**Table V-9** The Agent Confiscating Identity Documents

Testimonies	Testifier ID
"(Immediately after dispatch) We need to give it all to the Security Department."	North Korean defector 000, 4 October 2016, interviewed in Seoul.
"Our officer collected and took all of my identity documents and passport."	North Korean defector 000, 5 October 2016, interviewed in Seoul.
"When we were going, I carried my passport until I arrived at the destination. After that, the police took it all. They did not give it back. They took all the passports."	North Korean defector 000, 6 October 2016, interviewed in Seoul
"When we arrive, they give the passports back before we cross (the border), and after passing, they confiscate all of them. So, we cannot hold our passport more than five minutes because the Security Department and the police take them all."	North Korean defector 000, 17 October 2016, interviewed in Seoul
"We cannot carry it, and we have to give it to the Party committee when we are there."	North Korean defector 000, 12 October 2016, interviewed in Seoul.

1) abuse of vulnerability, 2) deception, 3) restriction of movement, 4) isolation, 5) physical and sexual violence, 6) intimidation and threats, 7) retention of identity documents, 8) withholding of wages, 9) debt bondage, 10) abusive working and living conditions, and 11) excessive overtime.

921\_North Korean defector 000, 10 October 2016, interviewed in Seoul; North Korean defector 000, 12 October 2016, interviewed in Seoul.

In addition, most North Korean workers start their overseas life with debts from flight costs and visa commissions. They are required to work for several months to repay the costs associated with their dispatch after they arrive. One North Korean defector who was dispatched as a construction worker to St. Petersburg, Russia in 2013 testified that he/she was paid around 1,500 US dollars per month, from which 950 dollars were taken by the company head, the head of the working group, and the Party secretary, as well as for the State Party fund. For the first year, he/she was effectively unpaid due to the additional deduction in the name of cost of airfare, residence, and other expenses.<sup>922</sup> Such circumstances might lead to their forced labor due to debts.

As such, North Korean managers' control over workers' lives, retention of identity documents, and the automatically-incurring debt from being dispatched, are factors that inevitably put workers in a situation where they have no choice but to work against their will even though they voluntarily applied to be dispatched overseas.

## F. Evaluation

In North Korea, being dispatched overseas is recognized as a money-making opportunity. As such, there is an increasing demand for being dispatched overseas. However, such opportunity

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922\_NKHR2014000112 2014-08-12.

tends to be given mostly to a selected few who have good family backgrounds and can afford to offer bribes. This discrimination leads to the violation of the right to equality in the selection process.

Dispatched workers, after having gone through the entire process, are faced with difficulties on the work site. First, there appears to be many cases where workers are subject to long hours of excessive labor. It has been confirmed that a substantial amount of their wages earned through such labor is submitted to the State as part of the State planned quota and that in some cases, part of the remaining wage is exploited by middle managers. Furthermore, workers during their entire period of dispatch are subject to live in groups under the surveillance and control of the North Korean authorities with their identity documents confiscated. Such way of living constitutes a violation of privacy. In addition, there have been cases that workers are subject to forced labor due to the debt incurred in the process of being dispatched. Involved countries, therefore, should make efforts to take more active actions for the improvement of such unfair treatment of overseas North Korean workers.



# 5

## Separated Families, Abductees and Korean War POWs

The issues surrounding separated families, abductees, and Korean War POWs are among the humanitarian issues subject to international humanitarian law. At the same time, they are human rights issues to which international human rights law apply. Therefore, it can be said that those are pressing issues that call for a resolution regardless of the ups and downs in inter-Korean relations. This chapter will examine the issues of separated families, abductees, and Korean War POWs and their human rights.

### A. Separated Families

#### (1) Current Status

“Separated families” refers to family members who are living separately in South and North Korea, including relatives up to

third cousins and current or former spouses.<sup>923</sup> Many Korean families have been forced to live separately since September 2, 1945 when General Douglas MacArthur, Supreme Commander of the Allied Powers, issued General Order No. 1, which divided the Korean Peninsula in half along the 38th Parallel Northern Latitude and American and Soviet Forces moved in to occupy South and North Korea, respectively. As the two sides agreed on a cease-fire for the Korean War in July 1953, establishing the Military Demarcation Line on the Korean Peninsula, the history of family separation has long continued to this date. There are various causes behind family separation depending on the situation of the time, including this division of the Korean Peninsula, voluntary defection to the South or North, abduction or joining the Korean Voluntary Army (hereinafter KVA) during the Korean War, repatriation to the North from Japan, the failure or inability to return after the armistice agreement, being kidnapped to North Korea, and defection from North Korea. The number of separated families in the South and the North differs depending on the timing of the survey, survey organization, and the criteria for separated families.

The 1959 simplified census, conducted by the Ministry of Internal Affairs, suggests that the number of North Koreans who

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923\_Article 2 of Act on Inter-Korean Confirmation of the Life or Death of Separated Families and Promotion of Exchange.

had come to South Korea was 731,666 at that time.<sup>924</sup> According to a population and housing census of Statistics Korea (South Korea) which has carried out a census every five years since its founding in 1990, the number of North Koreans who have come to South Korea has gradually decreased with 420,000 in 1990, 400,000 in 1995, and 350,000 in 2000. In the survey conducted in 2005, 720,000 people responded that they had a family in North Korea, and among them around 160,000 said that they themselves came from North Korea.<sup>925</sup>

The Ministry of Unification and the Korean Red Cross, along with the Committee of Five North Korean Provinces, have jointly established and operated an Integrated Information System for Separated Families. As of December 31, 2017, there were a total of 131,334 registered members of “separated families,” with 59,037 surviving and 72,307 deceased. With each year, the number of the deceased has rapidly increased and in 2016, the deceased outnumbered the survived for the first time. Furthermore, the surviving separated family population is growing more

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924\_Quoted in *the White Paper on the Korean Separated Families, The Korean Red Cross* (Seoul: The Korean Red Cross, 2016), The Ministry of Internal Affairs, *The 1st Population Census* (Seoul: The Ministry of Internal Affairs, 1959).

925\_In the 1990 survey, a question addressed to the respondents was whether they came from North Korea. In the 1995 and 2000 survey, a question was revised to whether they were born in North Korea. Results of each survey show no significant difference. Starting with the 2005 survey, a question of the place of birth was removed from a questionnaire. But at the request of the Unification Ministry, additional survey was carried out on whether they have a family in North Korea. The Korean Red Cross, *the White Paper on the Korean Separated Families* (Seoul: The Korean Red Cross, 2016).

elderly. For the first time in 2013, the proportion of those aged 80 or above exceeded 50 percent of the surviving separated family members. As of late 2017, that percentage has increased to as high as 61.7 percent. Those aged 70 or older represent as high as 85 percent.

**Table V-10 Registered Separated Family Members**

Year	Registered (persons)	Survivors (persons)	Deceased (persons)
2008	127,343	88,417	38,926
2009	128,028	85,905	42,123
2010	128,461	82,477	45,984
2011	128,668	78,892	49,996
2012	128,779	74,836	53,943
2013	129,264	71,480	57,784
2014	129,616	68,264	61,352
2015	130,808	65,674	65,134
2016	131,143	62,631	68,512
2017	131,344	59,037	72,307

Source: Separated Families Division, Ministry of Unification (as of 31 December 2017)

**Table V-11 Surviving Members of Separated Families**

Category	90 years or older	80~89 years old	70~79 years old	60~69 years old	59 years or younger	Total
Persons	11,183	25,266	13,761	5,093	3,734	59,037
Percent (%)	18.9	42.8	23.3	8.7	6.3	100

Source: Separated Families Division, Ministry of Unification (as of 31 December 2017)

**Table V-12** Surviving Members of Separated Families: Those Aged 80 or Above

Year	2012	2013	2014	2015	2016	2017
Survivors (persons)	74,836	71,480	68,264	65,674	62,631	59,037
80 years or older (persons)	34,225	37,769	37,717	37,442	37,259	36,499
Percent (%)	45.7	52.8	55.3	57.0	59.5	61.7

Source: Separated Families Division, Ministry of Unification (as of 31 December 2017)

**Table V-13** Current Status of Deceased Members of Separated Families

Category	90 years or older	80~89 years old	70~79 years old	60~69 years old	59 years or younger	Total
Persons	15,461	32,990	18,554	4,391	911	72,307
Percent (%)	21.4	45.6	25.7	6.1	1.2	100

Source: Separated Families Division, Ministry of Unification (as of 31 December 2017)

## (2) Human Rights Issues

### (A) Infringement on the Right to Family Unification

Separated families live without the knowledge of whether their family members are still alive, without opportunities to exchange letters or the freedom to meet their family members. In other words, their family right under international humanitarian law is infringed upon. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949 (Geneva Convention (IV)) specifically stipulates the protection of family rights.<sup>926</sup>

926\_ International Committee of the Red Cross, "Geneva Convention Relative to the Protection of Civilian Persons in Time of War," 12 August 1949.

**Table V-14** Provisions on Family Rights in the Geneva Convention (IV)

<p>Article 27, paragraph 1</p>	<p>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)</p>
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At the time of the Korean War in 1950, South and North Korea were not Parties to Geneva Convention (IV). South Korea signed the Convention on 16 August 1966, and North Korea signed the Convention on 27 August 1957. Soon after the outbreak of the Korean War, the President of the International Committee of the Red Cross (hereinafter ICRC) stated that both South and North Korea are entitled to the benefits of the Convention even if they are not signatories. On 5 July 1950, South Korean President Syng-man Rhee pledged that his government would observe all provisions of the Geneva Convention. On 13 July 1950, North Korea also sent an official letter to the UN Secretary General accepting the proposition of the ICRC. Consequently, Geneva Convention (IV) has had a legally binding effect on both South and North Korea since the Korean War.<sup>927</sup>

Moreover, the separated family members' right to family unification, recognized by international human rights laws, is being infringed upon. Among family rights, the right of a family

927\_Seong-ho Jhe, "A Study on Kidnapping Civilians on Time of War in International Humanitarian Law Perspective Especially Focused on North Korea Abduction of South Koreans During the Korean War," *Seoul International Law Study*, Vol. 1, No. 18 (2011), p. 200. (In Korean)

to live together is called “the right to family unification” or “the right to family reunification.” The UDHR and other international human rights treaties stipulate that men and women of full age have the right to marry and form a family, and the family is entitled to protection by the State.<sup>928</sup> Moreover, when family members increase with a birth of a child, and Article 9 of the CRC stipulates that a child shall not be separated from their parents against their will. The right to family unification derives from the right to marry and form a family, and the right of the child to not be separated from their parents.

Family rights and the right to family unification are also stipulated in the Constitution of both South and North Korea. The South Korean Constitution stipulates, “Marriage and family life shall be entered into and sustained on the basis of individual dignity and equality of sexes, and the State shall do everything in its power to achieve that goal” (Article 36, paragraph 1). The North Korean Constitution stipulates, “marriage and family shall be protected by the State. The State shall take deep interest in consolidating the family as the basic unit of social life” (Article 78).

To realize the right to family unification, the South Korean

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<sup>928</sup> Article 16, paragraph 3 of the UDHR; Article 17 and 23 of the ICCPR; Article 5 (d) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination; Article 12 of the ECPHRRF (European Convention); and Article 17, paragraph 2 of the ACHR (American Convention on Human Rights).

government has made efforts to resolve the issues surrounding separated families through inter-Korean Red Cross meetings and ministerial meetings, etc. As of 2017, there has been confirmation of survival or death in 7,970 cases (57,567 persons), 679 cases of letter exchanges (679 persons), 331 reunion meetings in South Korea (2,700 persons), 3,854 reunion meetings in North Korea (17,228 persons), and 557 on-screen meetings (3,748 persons).

**Table V-15 Exchanges between Separated Families at the State Level**  
(Unit: Cases/(Persons))

Year/ Category	Confirmation of Survival/Death	Letters Exchanged	Reunion Meetings in South Korea	Reunion Meetings in North Korea	On-screen Meetings
1985~2002	1,862 (12,005)	671 (671)	331 (2,700)	735 (2,817)	-
2003	963 (7,091)	8 (8)	-	598 (2,691)	-
2004	681 (5,007)	-	-	400 (1,926)	-
2005	962 (6,957)	-	-	397 (1,811)	199 (1,323)
2006	1,069 (8,314)	-	-	594 (2,683)	80 (553)
2007	1,196 (9,121)	-	-	388 (1,741)	278 (1,872)
2008	-	-	-	-	-
2009	302 (2,399)	-	-	195 (888)	-
2010	302 (2,176)	-	-	191 (886)	-
2011~2012	-	-	-	-	-
2013	316 (2,342)	-	-	-	-



Year/ Category	Confirmation of Survival/Death	Letters Exchanged	Reunion Meetings in South Korea	Reunion Meetings in North Korea	On-screen Meetings
2014	-	-	-	170 (813)	-
2015	317 (2,155)	-	-	186 (972)	-
2016-2017	-	-	-	-	-
Total	7,970 (57,567)	679 (679)	331 (2,700)	3,854 (17,228)	557 (3,748)

Source: Separated Families Division, Ministry of Unification (as of December 31, 2017)

In view of the urgency of the separated family issue, the South Korean government has been filming a series of “video letters” from South Korean families to be delivered to their family members in North Korea at a later date when inter-Korean exchanges re-open or even after the death of these individuals. From August 6 to September 28, 2012, the South Korean government has identified a total of 16,823 individuals who wished to participate in the video project. In 2012, 815 video messages from South Korean members of separated families were produced, followed by 2,007 in 2013, 1,202 in 2014, 10,003 in 2015, and 1,500 in 2017, totaling 19,540. The government is exploring ways to deliver these messages to the North in the future.<sup>929</sup>

In addition to government-level exchanges, the South Korean government has continuously provided support for separated family exchanges at the civilian level. Since the 1998 enactment

929\_Separated Families Division, Ministry of Unification (as of 31 December 2017).

of the “Guideline on Support of Expenses for Exchange of Separated Families,” the government has provided expenses necessary for the confirmation of life or death of separated families, family reunion, and exchange of letters. With a revision of the Guideline in 2017, the government has increased the amount of individual grants to 3 million Korean Won for confirmation of survival or death, to 6 million Korean Won in the event of a reunion, and to 800,000 Korean won for continued contact, such as exchange of letter. However, the number of separated family contacts at the civilian level has decreased in general due to frozen inter-Korean relations since Kim Jong Un took power. In 2017, the number of confirmation of survival or death was only 10, for exchange of letters 46, and for reunion of separated families 1 at the civilian level.

**Table V-16** Separated Family Exchanges at the Civilian Level

(Unit: Cases)

Year	Confirmation of Survival/Death	Letters Exchanged	Personal Meetings
1990	35	44	6
1991	127	193	11
1992	132	462	19
1993	221	948	12
1994	135	584	11
1995	104	571	17
1996	96	473	18
1997	164	772	61
1998	377	469	109
1999	481	637	200
2000	447	984	152
2001	208	579	170
2002	198	935	208
2003	388	961	283
2004	209	776	188
2005	276	843	95
2006	69	449	54
2007	74	413	55
2008	50	228	36
2009	35	61	23
2010	16	15	7
2011	3	21	4
2012	6	16	3
2013	9	22	3
2014	6	11	5
2015	4	5	1
2016	6	43	2
2017	10	46	1
<b>Total</b>	<b>3,886</b>	<b>11,582</b>	<b>1,755</b>

Source: Separated Families Division, Ministry of Unification (as of 31 December 2017)

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Part V  
Major Issues

## (B) Social Discrimination Against Families of Those Who Fled to South Korea

North Korean residents whose family members fled to South Korea face social discrimination. In particular, it appears that they cannot gain Party membership or join the military, and are discriminated against in college admissions and marriage. In addition, family members of those who went to South Korea are subject to constant surveillance by North Korean authorities. For example, one North Korean defector testified that since it was known through a program of finding separated families in South Korea that his/her paternal grandfather is still alive in South Korea, the testifier had been under a constant surveillance and been followed by the authorities for ten years, which had led him/her to defect in 2016.<sup>930</sup>

Discrimination based on the social class of families of those who fled to South Korea may constitute a violation of the ICCPR and the ICESCR. Article 2, paragraph 1 of the ICCPR and Article 2, paragraph 2 of the ICESCR prohibit any kind of discrimination.

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930\_NKHR2017000084 2017-09-25.

**Table V-17** Cases of Discrimination against Separated Families in North Korea

Testimonies	Testifier ID
The testifier's father was a Party member, but he could not become an MSS agent or join Party organizations, and the family was deported from Pyongyang when he/she was in elementary school. This was because his/her great-grandfather had fled to the South during the Korean War.	NKHR2013000127 2013-07-09
The testifier's brother could not join the Party or become a senior officer because his grandfather went missing during the Korean War.	NKHR2014000088 2014-07-15
The testifier's father was discriminated against in obtaining Party membership and senior officer positions since his grandfather's brother had fled to South Korea.	NKHR2014000099 2014-07-29
The testifier's father could not obtain Party membership as his/her grandfather had defected to South Korea.	NKHR2014000150 2014-09-23
The testifier could not join the military because his/her father had fled to South Korea during an overseas business trip in 1994.	NKHR2014000160 2014-10-07
The testifier was discriminated against in promotion as his grandfather had defected to South Korea during the Korean War.	NKHR2014000196 2014-12-02
The testifier had a bad family background as her husband's grandfather was a traitor and uncle was an overseas resident. Her husband joined the military but was not promoted. Moreover, as her grandfather was missing during the war and a cousin went to South Korea and had a press conference, all relatives were sent to prison camps.	NKHR2016000021 2016-01-26
The testifier's family background was bad with her father's family labeled a family of traitors and deported from Pyongyang in the 1960s. Her elder brother could join the military only after paying bribes and her son joined the military but could not enter the school for military officers.	NKHR2016000041 2016-04-05
The testifier had been under the surveillance of North Korean authorities and social discrimination all her life because her maternal grandfather fled to South Korea. She had no choice but to marry a guy who does not have a good family background because she was told that "birds of a feather flock together."	NKHR2017000032 2017-06-05

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### (3) Survey of the Current Situation

On March 25, 2009, South Korea enacted the Act on Confirmation of Life or Death and Promotion of Exchanges of Inter-Korean Separated Families (hereinafter the Inter-Korean Separated Families Act). The Act went into force on 26 September 2009, and stipulates that a survey be conducted to identify the current status and levels of exchange between the separated families (Article 6, paragraph 1). Accordingly, the Ministry of Unification and the Korean Red Cross conducted an extensive joint survey every five year on the current status of separated families. The first survey was carried out in 2011, followed by the second survey in 2016. The second survey identified the accurate personal data of 51,174 people who applied to find their separated family members so that more accurate information can be utilized in the event of future separated family exchanges. Among those applicants, 6,142 were selected and a survey was conducted regarding the situation of separated family exchanges and policy perception.

The Inter-Korean Separated Families Act was partially revised on 22 May 2013. Revisions included a new section on DNA testing to confirm family relationship between separated family members (Article 8, paragraph 2). To that end, from 2014 to 2017, the government had collected genetic samples of a total of 22,693 separated family members, such as blood, saliva, and hair. The genetic samples were initially collected and managed by a private

contractor. However, following security concerns, the government (Korea Centers for Disease Control and Prevention under the Ministry of Health and Welfare) decided to assume direct management of such samples.

#### (4) Special Cases in Family Relationships of Separated Families

The Act on Special Cases Concerning Family Relationships, Inheritance between Residents in South and North Korea (hereinafter the Inter-Korean Family Special Cases Act) was enacted on February 10, 2012. This law stipulates special cases of provision on marriage and inheritance property at the level of civil law with regard to human rights of the North Korean people. It stipulates that when bigamy occurs because a couple was separated by the border between South and North Korea, and consequently married another person, the later marriage cannot be revoked. However, exceptions are recognized when there is agreement from both spouses in the later marriage to revoke it (Article 6 and 7). Moreover, the law stipulates that North Koreans who acquired inherited or bequeathed property in South Korea shall appoint a South Korean estate administrator to be responsible for management of the North Korean's property in South Korea (Article 13). This provision is intended to effectively protect and manage such property and to limit the loss of North Koreans' property in South Korea to North Korea. If a North Korean who owns property in

South Korea intends to bring that property to North Korea to use directly or manage property, he/she shall obtain permission from the South Korean Minister of Justice (Article 19).

## B. Abductees

### (1) Current Status

#### (A) South Koreans Abducted during the Korean War

The exact number of South Koreans abducted by North Korea during the Korean War is unclear. The seven lists of abducted persons identified thus far show significant differences. It is only possible to make partial estimations of the number of abducted persons based on the followings: a list of abducted Seoul citizens revealed by the Statistics Bureau of South Korea's Ministry of Public Information (2,438) in 1950; a list of abducted persons during the Korean War published by the Statistics Bureau of South Korea's Ministry of Public Information in 1952 (82,959); a list of abducted persons by the Police Headquarters of the Ministry of Internal Affairs (17,532) in 1954; the Missing Civilians List compiled by the Korean Red Cross in 1956 (7,034); and the Missing Civilians List compiled by the Ministry of Defense in 1963 (11,700).<sup>931</sup> It is easier to confirm an abduction when the

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<sup>931</sup> In addition to these lists, there is a list of abducted persons during the Korean War (2,316) published by the Family Association for the Korean War Abducted



same names appear on different lists, but there are many others who are not listed on any of them. There are even some cases where the same person appears on a list of South Koreans abducted by North Korea and a list of defectors to the North (1952, Ministry of Public Information).

**Table V-18** Number of South Koreans Abducted during the Korean War

Category	Compiled by	Year	Number of Abductees	Existence of the list
List of victims from Seoul	Statistical Bureau, Ministry of Public Information	1950	2,438	○
List of persons abducted during the Korean War	Statistical Bureau, Ministry of Public Information	1952	82,959	○
Number of persons abducted during the Korean War	Police Headquarters of the Ministry of Internal Affairs	1952	(126,325)	×
List of persons abducted during the Korean War	Statistical Bureau, Ministry of Public Information	1953	(84,532)	×
List of persons abducted due to circumstances of the Korean War	Police Headquarters of the Ministry of Internal Affairs	1954	17,532	○
List of citizens registered as missing	Korean Red Cross /Statistical Bureau, Ministry of Public Information	1956	7,034	○
List of missing citizens	Ministry of Defense	1963	11,700 -	Vol. 1 ○ Vol. 2 ×

Source: The website of the Committee on Fact-Finding of Korean War Abductions and Restoration of the Reputation of the Victim, "Information Board - Current Status of South Koreans Abducted during the Korean War," <[http://www.abductions625.go.kr/home/dta/dta01/dta01\\_02.jsp](http://www.abductions625.go.kr/home/dta/dta01/dta01_02.jsp)>.

Persons, which was founded in September, 1951. The Association has compiled the list based on the registry of its members since the Second Battle of Seoul on September 28, 1950. Korean War Abductees' Family Union (KWAFU), "Korean War Abductee List-Abductees' Database," <<http://www.kwafu.org/korean/directory.php>>

Based on the lists available thus far, the Association of Families of Korean War Abducted Persons has analyzed a list of 96,013 abducted persons. The age distribution at the time of abduction can be seen in <Table V-19> below. An overwhelming majority (98.1 percent) of them were male.

**Table V-19** Age Distribution of South Koreans Abducted During the Korean War

Age	Number of Persons	Percent (%)
10 years old or younger	338	0.4
11~15 years old	376	0.4
16~20 years old	20,409	21.2
21~30 years old	51,436	53.6
31~40 years old	14,773	15.4
41~50 years old	5,456	5.7
51~60 years old	1,675	1.7
61 years or older	746	0.8
Age Unknown	804	0.8
<b>Total</b>	<b>96,013</b>	<b>100</b>

Source: Korean War Abductees Research Institute, *Source Book on Abduction to North Korea during the Korean War 2* (Seoul: Korean War Abductees Research Institute, 2009). (In Korean)

It has not been officially confirmed whether anyone forcibly abducted to the North during the Korean War has returned to South Korea. Although the number of South Koreans abducted during the Korean War is very large, none of them have been able to return on their own. The reasons are as follows. First, a large number of these abductees were killed as they did not cooperate with the North. Some of them also lost their lives in the process of wartime mobilization (e.g. military service and labor). Second, since the onset of the food shortage, a large number of North

Koreans came to South Korea, but none of the wartime abductees returned to the South, perhaps because most of them are in their senior years, or they may have chosen not to reveal to their North Korean family that they had been forcibly abducted during the war.

### (B) Post-War Abductees

A total of 3,835 persons have been abducted to North Korea since the cease-fire that ended the Korean War. Some of them have been held against their will in North Korea as a result of their utility, such as their physical condition and educational background.<sup>932</sup> Most post-war abductees were taken to North Korea in the mid-1950s to the 1970s. Some who had been detained in North Korea — Jeong-uk Kim (missionary) in 2013 and Guk-gi Kim (missionary) and Chun-gil Choi in 2014 — have still not returned to South Korea. 3,310 post-war abductees (86.5 percent) have been returned to South Korea after being held for six months to a year. Nine of them defected from North Korea and have returned to South Korea after 2000. As of the end of 2015, one of the nine returning abductees passed away, leaving eight currently living. As of late 2017, the total number of abducted South Koreans still detained in North Korea is estimated to be 516 individuals.

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932\_000 Lee who returned to South Korea after abduction to North Korea, testified that the 27 men in the crews of boats Bongsan No. 21 and No. 22 were transferred from Haeju to Pyongyang. They were interrogated to ascertain whether or not they were spies. In the process, they picked seven healthy and educated (10 years of education or higher) individuals, and gave them special training in Cheongjin. The North released the rest of the crew back to South Korea.

**Table V-20** Current Status of Post-War Abductees (estimated)  
(Unit: persons)

Category	Total	Fishermen	Staff of Korean Airlines	Soldiers /Policemen	Others		
					Domestic	Overseas	
Abducted to North Korea	3,835	3,729	50	30	6	20	
Returned	Repatriated	3,310	3,263	39	-	-	8
	Defected	9	9	-	-	-	-
Remaining in North Korea	516	457	11	30	6	12	

Source: Separated Families Division, Ministry of Unification (As of 31 December 2017)

**Table V-21** Number of Detained Abductees by Year  
(Unit: persons)

Year	Number of Persons Abducted	Cumulative Total	Year	Number of Persons Abducted	Cumulative Total
1955	10	10	1973	8	429
1957	2	12	1974	30	459
1958	23	35	1975	28	487
1962	4	39	1977	4	491
1964	16	55	1978	4	495
1965	20	75	1980	1	496
1966	19	94	1985	3	499
1967	52	146	1987	13	512
1968	133	279	1992	1	513
1969	20	299	1995	1	514
1970	36	335	1999	1	515
1971	20	355	2000	1	516
1972	66	421			

Source: Separated Families Division, Ministry of Unification (As of 31 December 2017).

**Table V-22** Current Status of Abducted Persons Who Have Returned to South Korea

Name	Date of Abduction	Occupation	Date of Return
○○ Lee	29 April 1970	Crew, the Bongsan No. 22 (fishing boat)	26 July 2000
○○ Jin	12 April 1967	Crew, the Cheondaeh No. 11	30 October 2001
○○ Kim	24 November 1973	Chief engineer, the Daeyounggho	23 June 2003
○○ Go	17 August 1975	Crew, the Chunwangho	12 July 2005
○○ Choi	17 August 1975	Crew, the Cheonwangho	16 January 2007
○○ Lee	17 August 1975	Crew, the Cheonwangho	10 September 2007
○○ Yoon	2 July 1968	Crew, the Geumyungho	9 January 2008
○○ Yoon	17 August 1975	Crew, the Cheonwangho	26 February 2009
○○ Jeon	28 December 1972	Crew, the Odaeyang No. 61	5 September 2013

Source: Separated Families Division, Ministry of Unification (As of 31 December 2017).

## (2) Human Rights Issues

### (A) Infringement on the Right to Family Unification

As with separated families, abductees also suffer from human rights issues in relation to family unification, letter exchanges, and personal meetings. In this regard, abductees and Korean War POWs are sometimes categorized as special separated families.

Since the inter-Korean summit in 2000, the South Korean government continuously raised issues of abductees and Korean War POWs to North Korea. North Korea, however, has never acknowledged the existence of South Korean abductees and

POWs, seeking to avoid drawing attention to these issues. In February and August of 2012, South Korea proposed a working-level inter-Korean Red Cross meeting at which it planned to discuss both separated families, POWs, and abducted South Koreans, a proposal that was only met by North Korea's refusal.<sup>933</sup> In August 2013, during the working-level Red Cross meetings on the reunion of separated families, South Korea also raised the issue of POWs and abducted South Koreans. However, they were excluded from the final Inter-Korean Red Cross Working-level Agreement adopted on August 23, 2013. At the 19th reunion for separated families held in February 2014 at Mt. Geumgang resorts, the only confirmation received was that two of the South Koreans abducted during the Korean War, whose whereabouts were requested by the South, were dead. In the 20th reunion for separated families held in October 2015, Geon-mok Jeong, who was abducted in the Odaeyangho (a South Korean trawler) incident in 1972, met his mother living in South Korea.<sup>934</sup> Between the 2000 inter-Korean summit and the end of 2016, the fate of only 112 South Korean abductees and POWs have been confirmed. During the same period, there were only 53 cases of family reunion.<sup>935</sup>

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933\_ Ministry of Unification, *2013 Unification White Paper* (Seoul: Ministry of Unification 2013), p. 135. (In Korean)

934\_ *Yonhap News Agency*, 24 October 2015.

935\_ Ministry of Unification, *2017 Unification White Paper* (Seoul: Ministry of Unification 2017), p. 126. (In Korean)

## (B) Forced Transfers and Detention

The abduction of civilians during the Korean War by North Korea constitutes a serious violation of Article 49 of Geneva Convention (IV), which prohibits forced transfer of civilians. At the time, this had already been an established norm under international customary law.<sup>936</sup> Moreover, the Geneva Convention (IV), on protection of civilians during wars, prohibits detention of civilians in principle (Article 79).

**Table V-23** Provisions on Forced Transfer and Detention in the Geneva Convention (IV)

Article 49	Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. (the rest is omitted)
Article 79	The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

## (C) Enforced Disappearances

The abduction of civilians by North Korean authorities is closely related to enforced disappearances. Enforced disappearance is a serious issue in that it violates various human rights at multiple levels. In other words, committing enforced disappearances in itself infringes upon the right of individuals. Moreover, the act

936\_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)

of enforced disappearance violates various civil, political, economic, social, and cultural rights due to the possibility of inhumane treatment, including torture and deprivation of the right to health and education.<sup>937</sup>

Since 1950, North Korea has systematically abducted nationals of other countries as part of State policy and refused their repatriation. The COI estimates that victims of enforced disappearances exceed far over 200,000 persons, including children.<sup>938</sup> It has been identified that the final approval of executing enforced disappearances is made by the Supreme Leader.<sup>939</sup> The majority of the enforced disappearances were carried out to exploit labor and technology for North Korean authorities, and some victims were deployed for espionage and terrorist activities. Women abducted from Europe, the Middle East and Asia were forcibly married to men from other countries.<sup>940</sup>

North Korea, however, has strongly denied the existence of these enforced disappearances. The “Korean Air Abductees’ Families Committee” (hereinafter “the Families Committee”) filed, with the UNHRC’s Working Group on Enforced or Involuntary

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937\_ 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 in p. 7. (In Korean)

938\_ UNHRC, “Report of Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea,” (2014), para. 6.

939\_ *Ibid.*, para. 67.

940\_ *Ibid.*



Disappearance (hereinafter WGEID), cases of abductees following the KAL incident who have not returned<sup>941</sup> including Won Hwang (17 June 2010), Dong-gi Lee (8 October 2010), and Jeongwoong Choi (8 November 2010).<sup>942</sup> The Families Committee also filed letters requesting confirmation of life or death and repatriation of “the 11 abductees from KAL who have not returned” with the Chosun Red Cross and head of the United Front Department on 10 March 2011. Upon request of the Families Committee, the Ministry of Unification sought to send the letters through Panmunjeom on the 30th of the same month, but were refused by North Korea.<sup>943</sup> Regarding this filing of the cases by the Families Committee, North Korea responded that “the cases of three people who have not returned do not constitute enforced disappearances” and “there is not a single case in North Korea which constitutes enforced or involuntary disappearances and detainment against their will.” Moreover, North Korea asserted

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941\_ In 1969, when an airplane operated by Korean Air was hijacked, 50 persons (4 flight attendants and 46 passengers) were abducted. North Korea returned only 39 passengers on 14 February 1970 but did not return 11 others (4 flight attendants and 7 passengers).

942\_ UNHRC’s Working Group on Enforced or Involuntary Disappearance (WGEID) was established by the resolution of the UN Commission on Human Rights (currently UN Human Rights Council). WGEID reviews the cases of disappearances, submitted by families of enforced disappearances or civil organizations, and notifies the suspected countries of the review results demanding that those countries report accurate investigation outcomes.

943\_ In-cheol Hwang, “The Past and Present Tragedy of Korean Air Abductees’ Families,” Citizens’ Alliance for North Korean Human Rights etc., “The 11th International Conference on North Korean Human Rights and Refugees,” 23 November 2011. (In Korean)

regarding the incident of Korean Air Lines hijacking in the Working Group on Enforced or Involuntary Disappearances meeting held in Geneva, Switzerland that “This is part of a scheme to fight with North Korea, driven by hostile powers,” responding that “It is impossible to confirm their life or death” to the request of the Families Committee for repatriation of abductees sent through the International Committee of the Red Cross in April 2011, and the request for confirmation of life or death by the South Korean government in June 2006.<sup>944</sup>

The 111th regular meeting of the WGEID was held in Seoul on February 2017. The WGEID usually hosts a regular meeting three times a year, among which one meeting may be held in a third-country depending on the situation. A WGEID report submitted to the UNHRC reveals that the WGEID had made a request to North Korea of releasing the information of a total of 73 cases of enforced disappearances between May 2016 and May 2017.<sup>945</sup> A concern was raised in the report indicating that North Korea is not only uncooperative in WGEID’s request for information release but also that it has accused the WGEID of engaging in political conspiracy against North Korea. The report proposed that the UN Security Council consider the referral of cases of North Korea’s enforced disappearances to the International

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944\_ *Yonhap News Agency*, 18 September 2012.

945\_ UNHRC, UN Doc. A/HRC/36/39, 13 July 2017.

Criminal Court (hereinafter ICC).<sup>946</sup>

Among the forcibly disappeared, some were abducted through physical force or persuasion with false information. There may be others who voluntarily moved to North Korea. In any cases, however, their right to leave North Korea were infringed upon. In that regard, they can be called the victims of enforced disappearances. Moreover, they were deprived of the right to freely move within North Korea and the right to not receive brutal, inhumane treatment. All those who were forcibly disappeared are put under strict surveillance and are refused opportunities for education or jobs.<sup>947</sup> In the 2014 resolutions on North Korean Human Rights adopted after publication of the COI report, the UNHRC criticized the organized abduction, refusal to repatriate, and enforced disappearances by North Korea,<sup>948</sup> and urged North Korean authorities to immediately allow those people to return home.<sup>949</sup> Since then, there have been numerous UNHRC resolutions on North Korean human rights expressing concern about enforced disappearances.<sup>950</sup>

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946\_ *Ibid.*, para. 74~75.

947\_ UN Doc. A/HRC/25/63 (2014), para. 68.

948\_ UN Doc. A/HRC/RES/25/25 (2014), para. 2(f).

949\_ *Ibid.*, para. 3(f).

950\_ 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 are used in broadcasts delivered to South Korea or in espionage training. Two Korean Airlines flight attendants, Kyung-Hee Sung and Kyung-sook Chung, have been used in broadcasts sent to South Korea, while other detainees are used as instructors for North Korean espionage agents sent to the South. According to testimonies of defectors who came to South Korea in 1993, about twenty unidentified abductees from South Korea are working as spy instructors at the “Center to Revolutionize South Korea” located in the Yongseong District of Pyongyang. This center replicates parts of South Korea and is designed to teach and train graduates of the Kim Jong Il Political Military College (renamed in 1992) on how to adjust to life in South Korea. The center is under the direct control of the Operations Division in Building No. 3 of the Central Party, which is responsible for training espionage agents to infiltrate the South. In addition, North Korea is training some of the abductees in anti-South Korea operations. According to the testimonies of a formerly kidnapped fisherman who defected from North Korea in June 2000, some of his colleagues were also engaged in anti-South Korea operations after undergoing a period of special training. The testifier himself admitted to having received espionage training.<sup>951</sup>

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951\_North Korean defector ○○○, 7 January 2004, interviewed in Seoul.

The remainder of the abducted, whom North Korea presumably did not find useful, were estimated to be detained in various political prison camps (*kwanliso*) for a certain period. Some of these abducted individuals from South Korea detained in political prison camps can be identified from the Amnesty International special report, entitled “New Information on Political Prisoners in North Korea” published in 1994. Included are the names of abducted individuals, who appear to have been detained in the now defunct prison camp at Seungho-ri until 1990. In January 1999, South Korea’s National Security Planning Agency also reported that 22 abducted South Korean individuals, including Jae-hwan Lee, were detained in a political prison camp.

### (3) Fact Finding on Abduction during the Korean War and Restoring the Honor of Abductees

In April 2004 and again in July 2008, the National Human Rights Commission of Korea called for the implementation of the recommendations set forth in the survey and the enactment of special legislation for abductee relief and compensation. On March 26, 2010, South Korea enacted and promulgated the Act on Discovering the Truth of Abduction during the Korean War and Restoring the Honor of Victims (6·25 Abductee Law in short). On 13 December 2010, the Committee on the Act on Discovering the Truth of Abduction during the Korean War and Restoring Honor of Victims (hereinafter “the Committee”) was officially launched.

Article 10 of the 6-25 Abductee Law stipulates that the Committee shall prepare a report on the discovery of the truth of abductions and report it to President and the National Assembly and release the report. As such, the Committee published a 480-page-long “Report on Discovering the Truth of Abduction during the Korean War” on August 2017.<sup>952</sup> The report contains the establishment of the Committee and its fact finding activities, the progress of abduction cases during the Korean War, analysis of abduction cases, and a legal review of abduction acts during the war along with 15 supplements that contain documents regarding abduction cases of the Korean War.

Meanwhile, the Committee constructed the National Memorial for Abductees during the Korean War as part of the efforts to discover the truth and restore the honor of the abductees. The groundbreaking ceremony of the memorial was held in *Imjingak* Pavilion on 20 October 2016. The memorial opened one year later in November 29, 2017.

The Committee received information on 5,505 abduction cases from 3 January 2011, to December 2015. Among them, the Committee evaluated 5,375 cases after excluding overlapping application and cases that have been withdrawn by the applicant. Out of those cases, 4,777 cases were evaluated as abductions. 138

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952\_ “Report on Discovering the Truth of Abduction during the Korean War,” 2017. (In Korean)

cases were decided as non-abductions and 460 cases were deemed be impossible to determine.

**Table V-24** Classification Status of 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 2017).

#### (4) Grants and Assistance for Post-War Abducted Victims to North Korea

On April 27, 2007, the Act on the Compensation and Assistance for Victims Abducted to North Korea since Conclusion of the Armistice Agreement (hereinafter referred to as the Post-War Abduction Victims Act) was enacted. Accordingly, when an abductee returns home, he/she will receive a government grant for re-settlement. The victims and their families are also entitled to compensation from the government. In accordance with Article 6 of the Act, the Committee on Compensation and Assistance for Victims Abducted to North Korea (hereinafter “the Committee”) was formed on November 30, 2007 to review and determine the grant amount and the scope of assistance and compensation. The Committee received a total of 451 requests up to December 2016. Through 49 meetings, the Committee recognized 428 cases and granted around 14.9 billion won in consolation payments.

**Table V-25** Application and Receipt of Consolation Payments for Returning Abductees  
(Unit : cases)

Category	2008	2009	2010	2013	2015	Total
Consolation Payment	232	99	97	0	1	429
Settlement and Housing Support	7	1	0	1	0	9
Compensation	0	8	4	1	0	13
<b>Total</b>	<b>239</b>	<b>108</b>	<b>101</b>	<b>2</b>	<b>1</b>	<b>451</b>

Source: Separated Families Division, Ministry of Unification (As of 31 December 2017).

**Table V-26** Decisions on Consolation Payments, etc. for Returning Abductees

Category	Number of Applications	Cases of Disbursement	Amount (1 million Korean won)
Consolation Payment	429	417	12,958
Settlement and Housing Support	9	9	1,773
Compensation	13	2	68
<b>Total</b>	<b>451</b>	<b>428</b>	<b>14,799</b>

Source: Separated Families Division, Ministry of Unification (As of 31 December 2017).

**Table V-27** Meetings of the Committee on Compensation and Assistance for People Abducted to North Korea

Category	2007	2008	2009	2010	2011	2013	2014	2015	2016	Total
Number of meetings	1	11	11	11	6	2	2	3	2	49

Source: Separated Families Division, Ministry of Unification (As of 31 December 2017).

## C. Korean War POWs

### (1) Current Status

The term “Korean Armed Forces prisoners” refers to those



members of the South Korean Armed Forces detained in enemy countries, unable to return to South Korea. The UN Command at the time of the armistice following the Korean War estimated that 82,000 members of the Korean Armed Forces were missing. However, only 8,343 POWs were returned during prisoner exchanges between April 1953 and January 1954. Accordingly, it is estimated that many more POWs remain detained in North Korea.<sup>953</sup>

The Ministry of Defense estimates that there were around 500 Korean War POWs living in North Korea as of the end of 2015, based on testimonies of returning Korean War POWs and defectors.<sup>954</sup> All Korean POWs who have not returned were classified as Killed in Action based on the Military Personnel Management Act that requires all persons Missing in Action (hereinafter referred to as MIAs) be re-classified as Killed in Action after a certain period has elapsed, so that their families may benefit from compensation and consolation payments. Starting with the late Lt. Chang-ho Cho, a former Korean War POW, who returned to South Korea in 1994, other POWs have continued to return. As of December 2017, a total of 80 Korean War POWs have returned home to South Korea with 430 members of their families surviving. An absolute majority of

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953\_Ministry of Defense, *2012 Defense White Paper* (Seoul: Ministry of Defense, 2012), p. 110. (In Korean)

954\_Ministry of Unification, *2016 Unification White Paper*, p. 110. (In Korean)

former POWs returning home came from North Hamgyeong Province, as they were found to have been forcibly assigned to work at coal mines there.

Since 2011, there have been no former POWs returning home to South Korea, seemingly because patrols and surveillance along the border regions have strengthened since Kim Jong Un came to power, and the POWs themselves have aged considerably, which makes it physically difficult for them to cross borders on their own.

**Table V-28** Status of Returning Korean War POWs by Year

(Unit: persons)

Year	Returning POWs	Cumulative Total	Year	Returning POWs	Cumulative Total
1994	1	1	2005	11	59
1997	1	2	2006	7	66
1998	4	6	2007	4	70
1999	2	8	2008	6	76
2000	9	17	2009	3	79
2001	6	23	2010	1	80
2002	6	29	2011~2017	-	80
2003	5	34	<b>Total</b>		<b>80</b>
2004	14	48			

Source: Ministry of Defense (As of 31 December 2017)

**Table V-29** Origin of POWs in North Korea (including the deceased)

Province/ Category	North Hamgyeong Province	South Hamgyeong Province	North Pyeongan Province	South Pyeongan Province	Yanggang Province	Jagang Province	North Hwanghae Province	South Hwanghae Province	Gangwon Province	Total
Number of persons	60	9	0	3	4	1	1	1	1	80
Percent (%)	75.0	11.25	0.0	3.75	5.0	1.25	1.25	1.25	1.25	100

Source: Ministry of Defense (As of 31 December 2017)

## (2) Human Rights Issues

### (A) Infringement on the Right to Family Unification

The human rights of Korean War POWs are infringed upon, as is the case for separated families and abductees, with regard to family unification, letter exchanges and personal meetings, etc. From the time when prisoner exchanges took place after the Korean War to the 1960s, the United Nations Command at Military Armistice Commission meetings repeatedly demanded return of the remaining South Korean POWs to South Korea. However, North Korea insisted that they had returned “all” South Korean POWs to the Neutral Nations Supervisory Commission, and that no South Korean POWs were forcibly detained in North Korea. North Korea’s position on this issue remains unchanged to this day.<sup>955</sup>

Korean War POW reunions should be carried out quickly for humanitarian reasons and to realize the right to family unification. As of late 2017, 51 of the 80 returned Korean War POWs had passed away. The 29 surviving returned Korean War POWs are in their 80s, with five of them aged 90 or above. There have been 52 Korean War POWs that were identified through a reunion event of separated families up until 2015, among which 18 Korean War POWs have met with their families.<sup>956</sup>

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955\_Ministry of Defense, *2012 Defense White Paper*, p. 110. (In Korean)

956\_Ministry of Defense, *2016 Defense White Paper*, p. 169. (In Korean)

**Table V-30** Status of Surviving POWs by Age

Age (years)/ Category	83	84	85	86	87	88	89	90	91	92	93	94	Total
Number of persons	1	1	3	8	2	7	2	2	0	1	1	1	29
Percent (%)	3.4	3.4	10.3	27.6	6.9	24.1	6.9	6.9	0.0	3.4	3.4	3.4	100

Source: Ministry of Defense (As of 31 December 2017)

**Table V-31** Age of POWs at the Time of Death

Age (years)/ Category	70 or younger	71~75	76~80	81~85	86 or older	Total
Number of persons	1	4	11	23	12	51
Percent (%)	2.0	7.8	21.6	45.1	23.5	100

Source: Ministry of Defense (As of 31 December 2017)

## (B) Forcible Detention

The Geneva Convention Relating to the Treatment of Prisoners of War of August 12, 1949 (Geneva Convention (III))<sup>957</sup> stipulates that prisoners of war must be released or returned without delay after the cessation of hostilities (Article 118). North Korea joined the Geneva Convention on 27 August 1957. Its denial of the existence of Korean War POWs and refusal to repatriate them violate Article 118 of Geneva Convention (III), which stipulates the release and return of prisoners of war. Even in customary international law, immediate release and return of

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957\_International Committee of the Red Cross, "Geneva Convention Relating to the Treatment of Prisoners of War," 12 August 1949.

prisoners of war is regarded as the duty of all states.<sup>958</sup> This was a norm that was established as customary international law at that time.<sup>959</sup>

### (C) Forced Labor

According to the testimonies of defectors and returned POWs, many POWs were forced to join the KPA during the Korean War. After the ceasefire between 1954 and 1956, they were group-assigned to coal mines, factories, and farm villages to participate in post-war rehabilitation projects. According to a U.S. Department of Defense document declassified on 12 April 2007, a “Report on the Transfer of Korean War POWs to the Soviet Region,”<sup>960</sup> several thousand South Korean POWs were transferred to Okhotsk and other Soviet Far Eastern ports between November 1951 and April 1952. They were then detained in Kholima detention center (*guryujang*) near Yakutsk.<sup>961</sup> The number of POWs transferred to the Chukchi Sea region was at least 12,000.

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958\_ International Committee of the Red Cross, *Customary International Humanitarian Law* (Cambridge: Cambridge University Press, 2005), p. 451; Buhm-suk Baek, “Enforced Disappearances by North Korea and the Crime against Humanity,” in *Abduction and Enforced Disappearances by North Korea*, eds. Center for North Korean Human Rights Research, p. 63. (In Korean)

959\_ UN Doc. A/HRC/25/CRP.1 (2014), para. 1143, footnote 1626.

960\_ 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.

961\_ *Yonhap News Agency*, 13 April 2007.

The report also mentioned that the death toll was high due to the difficult road and airfield construction work to which they were assigned. With regard to this issue, the Ministry of National Defense in South Korea announced on 18 December 2007 that it was unable to confirm or discover any evidence concerning the transfer of South Korean soldiers (POWs) into the Russian Far Eastern Province, even though it had conducted extensive interviews with the Pentagon personnel who wrote the report, the son of former Soviet Union general officer Seong-ho Kang who claimed that the South Korean POWs were transferred to the Soviet Union, around ten Korean Russian veterans who had participated in the Korean War, former POWs who returned to South Korea, and over 100 North Korean defectors in Russia, and visited Russian military labs, etc.

Most Korean War POWs are believed to have been assigned to coal mines in North and South Hamgyeong Provinces. At the time, North Korea was in great need of manpower at their coal mines, and ordinary North Koreans were reluctant to work there. It was also easy to control and conduct surveillance on those living in coal mine communities. According to a series of previous research conducted by KINU, many South Korean POWs were assigned to work and lived at coal mines that included Sanghwa Coal Mine in Onsung County, North Hamgyeong Province (Hwa-sik Ahn, Kwang-yoon Woo, ○○ Jang, Seung-ro Hong, In-kong Park, Sang-jin Kim, Sang-won Shin, ○○ Choi, Sam-sik

Ok, Myong-jo Bae, Bu-jae Baek, Won-mo Chung, and Bok-man Lee), Musan Coal Mine (Gap-do Lee, Young-ho Kang, and Hee-keun Lee), and Hakpo Coal Mine in Sechon County, Hoeryeong (Yong-yeon Jang, Tae-in Ryu, ○○ Oh, Jeung-ho Lee, and Soo-hwan Jeong). The POWs assigned to work as miners had to work 12-hour shifts with up to 1,100~1,200 of them estimated to be assigned to coal mines in North Hamgyeong Province during a certain period.<sup>962</sup>

It appears that after the Korean War, Korean War POWs were detained in No. 25 *Kwanliso* in Cheongjin. This *Kwanliso* was used as a POW camp after the War, and later transformed into a political prison camp.<sup>963</sup> Korean War POWs were given People's registration cards and released to society from political prison camps in June 1956, but most were assigned to coal mines in their previous political prison camp.

The forced labor of Korean War POWs violates both international humanitarian laws and international human rights laws. First of all, it violates Articles 13, 51, and 52 of Geneva Convention (III), which stipulates that prisoners of war must at all times be humanely treated (Article 13), and that they must be granted suitable working conditions (Article 51). Moreover, Geneva Convention (III) prohibits labor that is dangerous or harmful to the health of a

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962\_ *The Chosun Ilbo*, 30 April 2013.

963\_ North Korean defector ○○○, 27 September 2012, interviewed in Seoul.

prisoner of war (Article 52). The forced labor of Korean War POWs also violates Article 8, paragraph 3 of the ICCPR, which stipulates the prohibition against forced labor, and Article 10, paragraph 1 of the ICCPR, which stipulates humane treatment to everyone deprived of liberty.

**Table V-32** Provisions on Forced Labor in the Geneva Convention (III)

Article 13	Prisoners of war must at all times be humanely treated. Any unlawful act or commission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in their custody is prohibited and will be regarded as a serious breach of the present Convention. (The rest is omitted)
Article 51	Prisoners of war must be granted suitable working conditions, regarding accommodation, food, clothing and equipment. These conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work. (The rest is omitted)
Article 52	Unless it is voluntary, no prisoner of war may be employed on labor unhealthy or dangerous in nature. (The rest is omitted)

#### (D) Social Discrimination against Korean War POWs and their Families

Korean War POWs and their families face social discrimination in North Korea. It appears that they are constantly subjected to oppression and discrimination, in terms of their choice of jobs and residence, because of their background as former POWs. Since their personal background impacts the lives of their children, many POWs chose not to tell their children about their past. Notwithstanding that fact, children of former POWs are discriminated against in their careers, as well as in Party membership, and college admission.<sup>964</sup>



While there are testimonies of exceptional cases that even former POWs joined the Party or do not experience significant discrimination, discrimination against former POWs is identified to be a broad and continuous phenomenon that remains fixed in North Korean society. Social discrimination against Korean War POWs and their families or relatives may constitute violation of the ICCPR (Article 2, paragraph 1) and the ICESCR (Article 2, paragraph 2) which stipulate that discrimination is prohibited.

**Table V-33** Discrimination against Korean War POWs and their Families

Testimonies	Testifier ID
The testifier's uncle faced discrimination in job assignments on the grounds that his grandfather was a Korean War POW from South Korea.	NKHR2014000093 2014-07-15
The testifier's nephew was accepted into the No. 5 Department, but this was cancelled on the grounds that his grandfather was an exchanged POW.	NKHR2014000168 2014-10-07
The testifier's family background was very bad because the testifier's grandfather was a POW and other family members faced discrimination in joining the Party, being selected as a senior official and promotion.	NKHR2016000099 2016-06-14

### (3) Treatment and Support for Korean War POWs

The South Korean government has set standards and detailed rules about the treatment of and assistance for former POWs who have returned, and on 29 January 1999, enacted “The Act on Treatment of the Republic of Korea Armed Forces Prisoners of

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964\_NKHR2015000095 2015-05-12.

War.” It also enacted “The Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War” on 24 March 2006 in an effort to help resettle and assist returned POWs and their families. Based on “the Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War” and the Enforcement Decree to this Act, all returned POWs receive back pay, pensions, resettlement grants and housing assistance, based on their days served from the date they were taken prisoner, to the day they retired from active duty after returning to South Korea. If a POW died in North Korea, where he had been detained, his spouse or children, upon return to South Korea, receive special grants for POW families in addition to normal settlement assistance that North Korean defectors receive upon entry into South Korea.

The Ministry of Defense revised “the Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War” on 31 December 2008, and inserted a new section allowing “social adjustment education” for the returning POWs (Article 6-2). Since late 2008, the Ministry of Defense has conducted special reorientation programs for the returning POWs so they can quickly adjust to life in South Korea. They also receive professional education and psychiatric assistance offered by civilian organizations to gain the necessary skills and knowledge for their new lives.<sup>965</sup>

The Act on Repatriation, Treatment of the Republic of Korea

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965\_ Ministry of Defense, *2012 Defense White Paper*, p. 112. (In Korean)

Armed Forces Prisoners of War as revised on 22 March 2013, improved the level of assistance and support for POWs and their families. It also includes the following articles that cover the provisions given in their titles: Protection of ROKAF Prisoners of War and Family Members of ROKAF Prisoners of War from Places of Detention (Article 5-2); Support of Employment for Family Members of Prisoners of War from Places of Detention (Article 15-2), Support for Admission to Ancient Palaces, etc. (Article 15-3), and Respectful Treatment for ROKAF Prisoners (Article 15-4).

Table V-34 Residence of Returning POWs (including the deceased)

Region/ Category	Seoul	Incheon	Gyeonggi	Gangwon	Daejeon	S. Chung cheong	N. Chung cheong	Daegu	N. Gyeong sang
Persons	21	1	20	5	2	0	1	4	6
Percent (%)	26.3	1.3	25.0	6.3	2.5	0.0	1.3	5.0	7.5

Region/ Category	Busan	Ulsan	S. Gyeongsang	Gwangju	S. Jeolla	N. Jeolla	Jeju	Total
Persons	5	2	6	1	4	2	0	80
Percent (%)	6.3	2.5	7.5	1.3	5.0	2.5	0.0	100

Source: Ministry of Defense (As of 31 December 2017).

**Table V-35** Residence of Surviving POWs

Region/ Category	Seoul	Incheon	Gyeonggi	Gangwon	Daejeon	S. Chung cheong	N. Chung cheong	Daegu	N. Gyeong sang
Persons	7	0	11	3	0	0	0	2	0
Percent (%)	24.1	0.0	37.9	10.3	0.0	0.0	0.0	6.9	0.0

Region	Busan	Ulsan	S. Gyeongsang	Gwangju	S. Jeolla	N. Jeolla	Jeju	Total
Persons	1	1	1	0	3	0	0	29
Percent (%)	3.4	3.4	3.4	0.0	10.3	0.0	0.0	100

Source: Ministry of Defense (As of 31 December 2017)

## D. Evaluation

The issues of separated families, abductees, and Korean War POWs are humanitarian issues where international humanitarian laws apply and at the same time, have the characteristics of human rights issues where international human rights laws apply. As for separated families, their family rights are being infringed upon in violation of international humanitarian laws (Article 27 of Geneva Convention (IV)). Moreover, the right to family unification is being violated in terms of separated families, abductees and Korean War POWs, i.e. the right to not be subjected to arbitrary or unlawful interference (Article 17 of the ICCPR) and the right to form a family and be protected by society and the state (Article 23 of the ICCPR).

South Korea and North Korea held a reunion for separated families in October 2015 at Mt. Geumgang. At this event, a South

Korean fisherman abducted to North Korea was able to meet his mother. However, the two Koreas are not making significant progress in resolving the issues of separated families, abductees and Korean War POWs. To realize the right to family unification for these people, there is a need to confirm the survival or death of these groups on a massive scale, and a need for regular reunions and expansion of the size of those reunions.

The abduction of civilians during the Korean War and their detention by North Korea constitute violation of Article 49 and 79 of Geneva Convention (IV), which prohibit forced transfer and detention of civilians. Moreover, North Korea's denial of the existence of Korean War POWs and its refusal to repatriate them violate Article 118 of Geneva Convention (III), which stipulates the release and return of POWs. Furthermore, the forced labor of Korean War POWs violates the right to humane treatment (Article 13), the right to appropriate work conditions (Article 51) and the right to not be used for labor that is harmful to health or dangerous (Article 52) in Geneva Convention (III), the right to not be forced into labor (Article 8), and the right to receive humane treatment when deprived of liberty (Article 10) in the ICCPR. The social discrimination against families of those who had fled to South Korea, Korean War POWs and their families, may violate Article 2 of the ICESCR and Article 2 of the ICCPR, which stipulate that discrimination is prohibited. Meanwhile, it has been found that there is a substantial number of victims of enforced disappearances

among these abductees.

Also in the 2017 survey, there were very few testimonies on the specific realities and human rights violations of families of those who had fled to South Korea, or abductees and Korean War POWs and their families. To make progress in resolving these issues, they should be handled separately from the political situation between South Korea and North Korea.

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