



2013



# White Paper on Human Rights in North Korea

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Korea Institute for National Unification

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Human Rights in North Korea 2013**

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# Contents

<b>Executive Summary</b>	11
<b>I. The Purpose of Publication and Research Methods</b>	53
1. The Purpose of Publication	54
2. Research Methods	56
<b>II. International Human Rights Standards and Human Rights in North Korea</b>	61
1. International Human Rights Standards	62
2. North Korean Laws on Human Rights	68
<b>III. The Reality of Civil and Political Rights</b>	79
1. The Right to Life	80
2. The Right to Liberty and Security of Person	110
3. The Right to Due Process of the Law	170
4. The Right to Equality	206
5. Freedom of Residence, Movement and Travel	233
6. Freedom of Religion and Conscience	256
7. Freedom of Speech, the Press, Assembly and Association	287
8. The Right of Political Participation	300
<b>IV. The Reality of Economic, Social and Cultural Rights</b>	309
1. The Right to Food	310
2. The Right to Health	330
3. The Right to Work	349
4. The Right to Education	363
<b>V. The Reality of Human Rights of Vulnerable Groups</b>	377
1. Women	378
2. Children	417
3. Persons with Disabilities	438
<b>VI. The Reality of Human Rights of North Korean Escapees</b>	457
1. North Korean Escapees	458
<b>VII. Other Humanitarian Issues</b>	507
1. Separated Families	508
2. Abducted South Koreans in North Korea	520
3. Korean War POWs	541

# Tables Contents

<Table I-1>	Demographic Characteristics of Respondents from In-depth Interviews, 2012	58
<Table II-1>	Monitoring Mechanisms under the Six Core Human Rights Treaties	64
<Table II-2>	The Six Core Human Rights Treaties and North Korea	65
<Table II-3>	North Korea's Human Rights Laws	71
<Table II-4>	Streamlining Human Rights Laws since the 2009 Constitutional Revision	76
<Table III-1>	Crimes Subject to Capital Punishment in North Korea's Revised 2009 Penal Code	81
<Table III-2>	Rules for Capital Punishment in the Addendum to the Penal Code (General Crimes)	83
<Table III-3>	Number of Publicly Executed Persons according to Testifiers	105
<Table III-4>	Confinement Facilities	114
<Table III-5>	Types of Crimes and Corresponding Place of Detention	115
<Table III-6>	Forced Labor Punishments in North Korea	123
<Table III-7>	Status of Operation and Management of Political Prison Camps	152
<Table III-8>	The Reality of No. 14 Gaechon Prison Camp	154
<Table III-9>	International Human Rights Laws on Fair Trials	171
<Table III-10>	International Human Rights Norms against Discrimination	207
<Table III-11>	Levels of Discrimination based on Personal Background	211
<Table III-12>	Levels of Discrimination based on Background when hiring a Party Worker	213
<Table III-13>	Levels of Discrimination based on Personal Background when becoming a Party Member	214
<Table III-14>	Levels of Discrimination based on Personal Background at the time of Promotion ("development")	215
<Table III-15>	Levels of Discrimination based on Personal Background in College Admissions	216
<Table III-16>	Levels of Discrimination based on Personal Background at the time of Job Assignment	217
<Table III-17>	Levels of Discrimination based on Personal Background in terms of Marriage	218
<Table III-18>	Unlawful Incidents Involving Travel Permits	239
<Table III-19>	Cases of Forcible Expulsion	250
<Table III-20>	The Changes in Articles Related to Religion in the Socialist Constitution of North Korea	260
<Table III-21>	Testimonies on Religious Facilities	263
<Table III-22>	The Present Status of Religious Organization in North Korea	267
<Table III-23>	Comparison of Changes in Religious Terminology in North Korea	269

# Tables Contents

<Table III-24>	Testimony Related to Religious Persecution	272
<Table III-25>	Testimony Related to Punishment for Superstitious Behavior	276
<Table III-26>	Testimony Regarding the Ten Principles (for the Establishment of the One-Ideology System) and Lifestyle Review Meetings	284
<Table III-27>	Testimonies on Breaches of the Right to Vote	305
<Table IV-1>	Methods of Obtaining Grains	314
<Table IV-2>	Nutrition Levels as Perceived by Defectors	324
<Table IV-3>	The Law on the Public Health Article 10: Free Medical Services	336
<Table IV-4>	Defector' Answers to the Medicine Supply Situation in North Korea	338
<Table V-1>	Handicapped Children by Age	440
<Table VI-1>	Cases of People Killed During Defection	464
<Table VI-2>	Cases of Human Rights Abuse on Deported Women	485
<Table VI-3>	Punishments for Defections	492
<Table VI-4>	Punishments for Defector's Families	494
<Table VI-5>	Punishments for Human Trafficking	496
<Table VI-6>	Time-gap from Defection to Arrival in South Korea (in 2012)	500
<Table VI-7>	Motives of Defection (in 2012)	501
<Table VII-1>	Number of Registered Separated Families in Recent 5 Years	510
<Table VII-2>	Status of Surviving Separated Families (as of December 30, 2012)	510
<Table VII-3>	Status of Deceased Separated Families (as of December 30, 2012)	511
<Table VII-4>	Status of Officially-sanctioned Separated Family Meetings	514
<Table VII-5>	Civilian-level Separated Family Contacts in Recent 5 Years	515
<Table VII-6>	Statistics of Persons Abducted during the Korean War	521
<Table VII-7>	Age Distribution of Abducted Persons during the Korean War	522
<Table VII-8>	Status of Identification of Abducted Persons	526
<Table VII-9>	Status of Abducted Persons in the post-Korean War Period	527
<Table VII-10>	Number of Abductees by Year	527
<Table VII-11>	Abducted Persons who have Returned to South Korea	528
<Table VII-12>	List of Additionally Confirmed Abducted Persons	528
<Table VII-13>	List of Abducted Persons Reportedly Detained in Political Prison Camps (22 persons)	532
<Table VII-14>	Reunions of Post-war Abducted Persons (2010-2011)	534
<Table VII-15>	Status of Abduction Damage Application and Decision	535
<Table VII-16>	Status of Decisions on Consolation Payments for Abduction Victims	536
<Table VII-17>	Status of Returned Korean War POWs by Year	542
<Table VII-18>	Major Provisions in the 1949 Geneva Convention III	546
<Table VII-19>	Status of Reunion of former POWs (2010-2011)	548

# Figures Contents

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<Figure III-1>	Proclamation! The Ministry of People's Security (formerly People's Security Agency)	85
<Figure III-2>	The Supreme Court's Request for the Approval of Execution (1)	90
<Figure III-3>	The Supreme Court's Request for the Approval of Execution (2)	91
<Figure III-4>	Interior of a facility at the Jongori Correctional Center	116
<Figure III-5>	Operation of the Jongori Correctional Center	117
<Figure III-6>	Overall View of the Jongori Correctional Center	118
<Figure III-7>	Chongjin Short-term Labor Detention Facility	127
<Figure III-8>	Political Prison Camps	147
<Figure III-9>	Awareness among North Korean Residents of Their Right to Legal Representation	193
<Figure III-10>	The Role of Legal Counsel in North Korea	196

# List of Abbreviations

Abbreviations	Full Name / Korean
ACHR	American Convention on Human Rights / 미주인권협약
AI	Amnesty International / 국제앰네스티
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment / 고문방지협약
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women / 여성차별철폐협약
COI	Commission of Inquiry / 조사위원회
CRC	Convention on the Rights of the Child / 아동권리협약
DMZ	De-Militarized Zone / 비무장지대
DPRK	Democratic People's Republic of Korea / 북한
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms / 유럽인권협약
EU	European Union / 유럽연합
ICCPR	International Covenant on Civil and Political Rights / 시민적 및 정치적 권리에 관한 국제규약 (자유권규약)
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination / 인종차별철폐협약
ICESCR	International Covenant on Economic, Social and Cultural Rights / 경제적·사회적 및 문화적 권리에 관한 국제규약 (사회권규약)
ICNK	International Coalition to Stop Crimes against Humanity in North Korea / 북한반인도범죄철폐국제연대
ICRC	International Committee of the Red Cross / 국제적십자위원회
KAL	Korean Air Lines / 대한항공
KPW	North Korean Won / 북한 화폐단위(원)
KWP	Korean Worker's Party / 조선로동당
MIA	Missing in Action / 전시 행방불명
MPS	Ministry of People's Security / 인민보안부
NGO	Non-Governmental Organization / 비정부기구
OHCHR	Office of the High Commissioner for Human Rights / 유엔인권최고대표 사무소
POW	Prisoners of War / 전쟁포로
ROK	Republic of Korea / 대한민국
SPA	Supreme People's Assembly / 최고인민회의
SSA	State Security Agency / 국가안전보위부
UDHR	Universal Declaration of Human Rights / 세계인권선언
UN	United Nations / 유엔
UNFPA	United Nations Fund for Population Activities / 유엔인구기금
UNHCR	United Nations High Commissioner for Refugees / 유엔난민기구
UNICEF	United Nations Children's Fund / 유엔아동기금
UPR	Universal Periodic Review / 보편적 정례인권검토
WFP	World Food Programme / 세계식량계획
WGAD	Working Group on Arbitrary Detention / 자의적 구금에 관한 실무그룹
WGEID	Working Group on Enforced or Involuntary Disappearances / 강제적·비자발적 실종에 관한 실무그룹
WHO	World Health Organization / 세계보건기구

# Executive Summary

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## I. The Purpose of Publication and Research Methods

In December 1994, the Korea Institute for National Unification (KINU) based in Seoul, South Korea established the Center for North Korean Human Rights Studies for the purpose of scientific and systematic collection and management of data on North Korean human rights. Since 1996, the Center for North Korean Human Rights Studies has published the White Paper on Human Rights in North Korea on an annual basis. The purpose of this report is to enhance international and domestic concerns for the improvement of human rights situation in North Korea and to provide basic data and reliable information on related debate and activities at home and abroad.

This White Paper reports on human rights and humanitarian issues including human rights of North Korean citizens, defectors, South Korean Prisoners of War (POWs), abducted South Koreans held in North Korea, and separated families. Each chapter begins with a presentation of international human rights principles and standards, followed by a review and discussion of North Korean domestic laws and realities. Each chapter will conclude with a brief assessment of North Korea's human rights situation based on international human rights standards.

In an effort to address the limited availability of information on North Korea's domestic situation, this report used information obtained from in-depth interviews with North Korean defectors who recently came to South Korea. A total of 286 defectors who arrived in South Korea in 2012 were selected. The criterion was





based on preliminary questionnaires which was designed to reflect demographically meaningful characteristics and social backgrounds (location of hometowns, time and travel routes, experiences of detention, etc.). The results of the in-depth interviews are used throughout this report. Additional research was conducted when more detailed investigations were needed concerning specific human rights. In addition, this report utilized North Korean documents and United Nations reports, as well as other domestic and foreign papers, articles, and analyses on North Korean human rights.

## **II. International Human Rights Standards and Human Rights in North Korea**

### **1. International Human Rights Standards**


Historically, the international community viewed issues concerning individual citizens as a domestic issue. However, after the Holocaust perpetrated by the Nazis during World War II, the international community led by the United Nations, began a series of discussions on human rights at the global level. Since then, the international human rights regime has made remarkable progress in the latter half of the 20th Century. The 1948 Universal Declaration of Human Rights is now recognized as part of customary international law. Since then, the international community has adopted a large number of human rights treaties, including the two human rights covenants adopted in 1966 (on civil and political rights and on economic, social and cultural rights). As a result, the human rights issues today are no longer a domestic concern; “human rights” have now become a universal value and a common concern to the entire international community. Nations today freely and

voluntarily sign and ratify human rights treaties, thereby becoming a party bound by these terms. The party to these treaties not only have the obligation to respect human rights of individual citizens, but also protect their rights from infringement by third parties and to actively fulfill their human rights. Emphasis may vary in performing different duties, but they must apply equally in all cases of civil, political, economic, and social rights.

As a member of the international community, North Korea has agreed to a number of international human rights treaties. In 1981, North Korea signed two international human rights covenants (civil and social rights). North Korea has also signed the Convention on the Rights of the Child in 1990 and the CEDAW Convention in 2001. Subsequently, they have submitted regular progress reports on these treaties. Based on North Korea's collectivist world-view, more emphasis is placed on collective and social rights rather than civil and individual rights. Furthermore, North Korea, similar to all socialist states, place more emphasis on the primacy of state sovereignty rather than individual rights. Even though North Korea's performance has been unsatisfactory, they are making an effort to adjust their legal system to meet the international human rights standards. The international community is well aware of North Korea's domestic challenges. However, it is incumbent for the international community to uphold and promote standards of universal human rights and continue to pursue various methods to maintain a constructive dialogue with North Korea to improve their human rights situation.

## **2. North Korean Laws on Human Rights**

North Korea has enacted and implemented laws and regulations related to individual rights stipulated in the Universal Decla-



ration of Human Rights and international human rights treaties. In reality, the actual enforcement of these laws has not been accomplished. Due to the ongoing economic hardship, most laws and regulations concerning social security, medical treatment, and right to work are not executed. However, laws involving political and social controls, such as the Penal Code and Administrative Penalty Law, are strictly enforced. Due to North Korea's unique political system, instructions by the supreme leader are often treated more seriously and stringently executed. Most of the individual rights stipulated in the Universal Declaration of Human Rights and international human rights treaties are included in North Korean laws; however, freedom of press, freedom of peaceful assembly and association are not specified in any law because these rights are not granted given North Korea's unique political system.


Since the Constitutional revision in April 2009, North Korea has adopted additional human rights provisions and integrated them into other laws. In regards to civil and political rights, North Korea has strengthened provisions on the protection of their political system through revisions of the Penal Code and Administrative Penalty Law. In the field of economics, social and cultural rights, North Korea has integrated labor-related laws, such as the basic law on materials consumption, the Law on Labor Output, and the People's Economic Planning Law, as a part of their continuing effort to build a "strong and prosperous nation." North Korea has also enacted a series of laws designed to promote human rights to their citizens, such as the Maritime Legal Procedure Law, the Labor Protection law, the Environmental Districts Protection Law, the Forest Preservation Law, and the Mineral and Hot Springs Law. North Korea has also improved education laws by enacting new laws on middle and high school education. However, the integration of these laws related to individual human rights are less about the enhancement

of individual human rights, but rather, to ingrain citizens and train a new generation of workers to construct a “strong and prosperous nation.” For the protection of citizens in need of assistance, North Korea has enacted laws to guarantee gender equality and children’s rights. The Disabled Persons Protection Law and the Senior Citizens Protection Law. Establishing new laws is North Korea’s way of informing the outside world that they take foreign criticisms seriously.

### **III. The Reality of Civil and Political Rights**

#### **1. The Right to Life**

As a party to the ICCPR, North Korea has the obligation to respect, protect, and fulfill the citizens’ right to life. North Korea has established a unique form of law such as proclamations and Annex (ordinary crimes) to the Penal Code to broaden the scope of crimes subject to capital punishment. These amendments are a clear violation of “Article 6” of the civil and political convention (ICCPR), which prohibits arbitrary deprivation of life and mandates that sentence of death may be imposed only for the most serious crimes. Furthermore, in carrying out the death sentence in the form of public execution method is a serious breach of the right to die with inherent dignity of the human person. Deaths in detention facilities and political prison camps are also serious violations of the “right to life.” In addition, shooting and killing defectors on sight, forced abortions, and killing newborn babies are violations of right to life. Deaths resulting from starvation and deaths of newborn babies and their mothers are in violation to North Korea’s obligation to protect the right to life. The frequency of public executions have decreased in recent years compared to the Arduous



March period during the 1990s. However, North Korean defectors explained that North Korean authorities continue the practice of public executions even in the years after 2000. Many defectors attribute the decrease in the number of public executions to the replacement of public executions to secret executions.


North Korea seems to be responding to the sharp criticisms of the international community on the subject of public execution. However, even this small change appears to be reverting to earlier practices. Many North Korean defectors described an increase in public executions since 2007. According to the records, there were 125 cases of public executions in 2009, which was the highest number in recent years. In 2010, there were 76 recorded cases and in 2011, 85 recorded cases of public executions, illustrating an increasing trend. According to the in-depth interviews conducted in 2012 with 286 North Korean defectors, only six defectors accounted their knowledge and witness of public executions. However, the number of defectors who may be aware and have witnessed public executions may increase as KINU's investigation on this issue continues.

There are several contributing factors that may attribute to the increase in the frequency of public executions: 1) the addition of Annex (ordinary crimes) to the Penal Code in 2007, 2) the revision of the Penal Code in 2009, 3) the appointment of Kim Jong-un as the official leader of North Korea in September of 2010, and 4) changes in leadership with Kim Jong-un. It is important to examine whether Kim Jong-un will continue and even expand the practice of public executions to protect his regime and as a tool to enforce politics of terror or whether he will replace public executions with other methods such as secret executions or life term correctional penalty in an effort to cultivate affinity with the citizens of North Korea and in response to the criticisms of the international community.

Until the end of 2010, public executions were imposed on charges of serious social misbehavior and corruption related crimes, but starting in 2011, more cases were based on charges of narcotics use (meth or ice). Interviews of North Korean defectors conducted in 2011 confirm cases of public executions. These executions were based on charges of double murder of a security agent and a State Security agent which took place in Hoeryeong City in 2010. North Korean defectors who were interviewed in 2012, confirmed two public executions, indicating that these executions had significant repercussions in the North Korean society. The first incident of public execution took place in 2010 in Chongjin City, North Hamgyoung Province, based on charges for stealing rice at the request of South Korean National Intelligence Agency. The second was in 2011, in Sunchon County, North Pyongan Province, on similar charges. Another public execution took place in 2009 in Hyesan City, Yanggang Province, on charges of human trafficking against a “river-crossing broker,” who helped a voluntary defector cross the border.

## **2. The Right to Liberty and Security of Person**

The internationally guaranteed “right to liberty and security of person” is also prescribed in North Korea’s Constitution, Penal Code, and Criminal Procedure Law. However, this fundamental right is rarely enforced. More specific and detailed regulations are desirable to address prohibition of forced labor, slave labor, torture under detention, and humane treatment of suspects and inmates. Forced labor in correctional centers is permitted in principal and viewed as an exception under international law. (“Article 8, Paragraph 3(b)” of ICCPR) However, forced labor in North Korea takes place under harsh, unsanitary conditions that many inmates end up losing



their life, which exceeds a tolerable level of forced labor; therefore must end. Human rights abuses inside North Korean detention facilities continue to persist today in the form of forced labor, torture, degrading mistreatment, poor nutrition and lack of medical care. In addition, interviews of North Korean defectors conducted in 2012 revealed multiple cases of forced abortions inside North Korean detention facilities until 2011.

Even though North Korean authorities deny their existence, as many as six political prison camps across North Korea are in operation. However, based on defector testimonies, it appears that during the 2009-2010 period, the No. 22 management center in Hoeryeong, North Hamgyoung Province, started a transfer and relocation process which concluded with the closing of the facility in May of 2012. The reason for the relocation of this camp was presumably due to the proximity to the border and its existence exposed to the international community. The inmates held at the No. 22 facility were divided into three other camps: No. 16 Myonggan Center, No.14 Gaecheon Center, and No. 15 Yoduck Center. Furthermore, in 2012, Bukchang Center, located in Shinhungri and Sampo-dong, Bukchang County, North Pyongan Province, was significantly downsized and relocated to Donglimri, Gaecheon in South Pyongan Province. The No. 18 Center's jurisdiction was dissolved in stages and changed to a general facility. Detainees from No. 18 were transferred to the Gaecheon region during 2006-2007. In 2009, the South Korean Government estimated that as many as 19,000 inmates were detained at No. 18 Center; however, this number was updated in 2012 to be in the range of 2,000-5,000.

In the past, an estimate on the total number of inmates held in political prison camps was approximately 150,000-200,000. In 2013, KINU provided a new estimate based on satellite images and defector testimonies. The new estimation was approximately


80,000-120,000 political prisoners held in five prison camps throughout North Korea. This estimate is also supported by the closing of Hoeryeong management center and downsizing and relocation of Bukchang Center. In addition, many North Korean defectors confirmed a decrease in the number of inmates since the 1990s while the death rate inside the camp was high due to intolerable working conditions at coal mines. Considering the harsh circumstances, the decrease in the number of inmates are the result of natural reduction rather than changes in policy. North Korea is still operating political prison camps as an important tool for regime maintenance; therefore the international community must continue to maintain their close watch.

The extreme conditions of the political prison camps violate human rights laws on multiple levels, including the right to liberty and security of person. In addition, this violation amounts to crimes against humanity under International Criminal Law. Furthermore, North Korea is in violation of their obligation to respect and ensure civil and political rights of the citizens prescribed in ICCPR, including the right to be free from arbitrary detention without due process of the law (“Article 9, Paragraph 1”), forced labor (“Article 8”) and torture (“Article 7”), as well as the right to a fair trial (“Article 9, Paragraph 4”) and humane treatment (“Article 10”).

### **3. The Right to Due Process of the Law**

North Korea’s court system is based on the Constitution and Court Composition Law; but the citizens are not given the right to a fair and independent trial. Courts do not operate independently and the trial proceedings are biased. Furthermore, the judges and jurors are under the control of the Korean Workers’ Party. There are some cases in which criminal trials and petition procedures





proceed according to the rules in the Penal Code, Criminal Procedure Law, and Court Composition Law. Recently, an example of the court system upholding a citizen's right to due process of law was described by a few North Korean defectors in which a defense attorney was able to interview and represent the defendant. However, there are multiple cases of illegal procedural violations, and more witnesses describe North Korea's petitions system and the role of the defense attorney as perfunctory.

Since Kim Jong-il's death on December 17, 2011 until the end of 2012, North Korea enforced public order control over their citizens. Officials trained in public order control were assigned positions when the power structure was revamped during the fourth session of the Party Delegates and the fifth session of the 12th Supreme People's Assembly. For the first time in 13 years, a national meeting of chiefs of security branches was convened as well as a national meeting of legal workers. The participants stressed that the doctrine of a revolutionary legal order must be firmly established. Most North Korean defectors testified that social control was tightened following the death of Kim Jong-il. In an effort to tighten social control, Kim Jong-un emphasized the politics of law. But that did not refer to the rule of law but rather rule by law. Kim Jong-un's politics of law has gained much attention since the death of Kim Jong-il.


#### **4. The Right to Equality**

In recent years, there has been an increasing trend in favoring wealth over personal background in North Korea. While discrimination based on personal or family background is on the decline in certain areas, it still plays an important role in most regions. This was further supported by interviews of North Korean defectors

conducted from 2010 to 2012 in which 75 percent of the respondents confirmed that discrimination based on family background still persists. Discrimination is especially apparent in Party membership and promotions. 78 percent of the respondents confirmed that discrimination took place in staff promotions, and 68 percent said the same was true in Party membership. A large majority of respondents (80 percent) said family background was important in cases of promotion. However, discrimination based on personal background was less prominent in regards to college admissions, marriage, and job assignments, compared to Party membership, staff promotion or other promotions.

There are additional types of social discrimination. Party membership or military service is not permitted if anyone in the family is missing due to defection or suspected defection. In addition, detention in political prison camps or correctional centers has a negative effect in potential marriage, matriculation to graduate schools, promotions or military service. North Koreans who have relatives in South Korea are not admitted to the Party or military service or eligible for promotion. Individuals who have relatives or friends in China or if one of his/her parents is Chinese, he/she will experience discrimination in obtaining Party membership, college admissions, marriage, and promotion to staff positions.

Widespread corruption in North Korea plays a negative role in applying fundamental principles of human rights, such as equality. In 2012, multiple cases of corruption were reported. This included offering bribes to receive a lighter sentence, to be released from a case, dismissal of a case during a pretrial, and dismissal of inspections for anti-socialist behaviors. Additional examples of corruption include: reduction in severity of penalty terms including release from correctional centers, reduction in collection points, and release from detention centers, labor training camps or other



correctional facilities. This increase in corruption is expected to continue in 2013, and offering bribes is expected to expand in 2013.

## 5. Freedom of Residence, Movement and Travel


The freedom to select a place of residence or change the location of residence is a fundamental human right. North Korea guarantees freedom of residence and movement in the Constitution. However in reality, North Koreans must obtain a travel or transfer permit when traveling outside their city or county of residence. If a traveler arrives at a town or a village, the Inminban (people's group) leader is required to report it to the local security agent. Furthermore, individuals must register with the local security agent when they arrive at their destination. This strict guideline allows the government to exercise control over their people. Given the persisting economic hardship, many North Koreans journey to other places without a travel permit, knowing that it is often possible to bribe your way. Within one's own province, movement is possible based on one's citizen card instead of a travel permit. Furthermore, given the economic hardship, "bed check" inspections are not strictly enforced in recent years and even if a traveler or visitor is seized during the "bedcheck," he/she can get away by offering cash or cigarettes.

North Koreans are forbidden to change their residence without government approval. However, North Korean people have been undergoing change since the economic hardship during the 1990s and with the growing influence of capitalist ideas. As a result, many North Koreans change their residence by selling or exchanging goods behind-the-scenes. On the other hand, forced exile or relocation of residence is a typical example that violates the freedom of movement

and residence. North Korean authorities have been utilizing forcible relocation as a political tool to eliminate or segregate those who are critical or opposed to the regime. Pyongyang, the capital city of North Korea, is a prime example. The North Korean government has forcibly relocated a large number of people with unfavorable personal or family background to other provinces. Unfortunately, forcible expulsion policy continues today; however, testimonies by recent defectors vary and are even contradictory. Since 2000, many forcible relocations took place on account of defection, smuggling, and illicit circulation of information. In many cases, the families of defectors were forcibly relocated to remote areas. If a defector's family is expelled to a remote area, the defector who is in South Korea will try to take advantage of the situation and help his/her family flee from North Korea. As these cases increased, the authorities began to refrain from expelling defector families, thus diminishing the number of forcible expulsions. Another factor that contributed to the decrease in number of forcible relocation in recent years was the widespread corruption and offering of bribes. Since 2010, many families were expelled on account of prostitution, and since 2012, the use or abuse of narcotics was the cause of forcible relocation. Until 2011, the families of missing persons were forcibly expelled to farm villages; however, starting in 2012, the authorities expelled family members only after confirmation of defection.

## **6. Freedom of Religion and Conscience**

Under North Korea's Socialist Constitution, the government guarantees freedom of religion. In reality, North Korea prohibits the practice of any religion, saying that "religion is opium" for the people. North Korea regards religion as a spiritual tool of imperialist




intrusion, and religious persecution was launched across North Korea in the wake of the Korean War, taking advantage of anti-Americanism at that time. Through a nationwide demographic (family background) survey, North Korea classified religious followers and their families as a “hostile class” and labeled them as anti-revolutionary elements, thus providing reason for their persecution. When inter-Korean dialog began during the 1970s, North Korea reorganized religious organizations for external propaganda purposes. When they revised the Socialist Constitution in 1972, North Korea stipulated, “Citizens shall have freedom of religion as well as freedom to engage in anti-religion propaganda.” (“Article 54”) While approving freedom of religion, North Korea also allowed freedom of anti-religious activities, thereby restricting freedom of religion. North Korea has also restored inactive religious organizations into three groups; namely, Chosun (Korean) Christians League, Chosun Buddhists League, and Central Guidance Committee for Chosun Chondokyo (Heavenly Way). These groups were reorganized to form a united front with South Korea’s progressive religious groups in an attempt to launch anti-government struggles and advertise North Korea’s unification policy. In short, North Korea had mobilized religious leagues for their anti-South Korean political propaganda.

Since the 1980s, the international community has sharply criticized the lack of freedom of religion in North Korea. As engagement with international religious groups increased, North Korea began to relax their religious policy. For example, revising the laws, building religious structures, permitting religious ceremonies and operating religious educational institutions. When they revised the Socialist Constitution in 1992, North Korea stipulated, “Citizens shall have freedom of religion. This right shall be guaranteed by permitting the construction of religious buildings and holding of

religious ceremonies. Religion shall not be used to bring in outside forces or in harming the state and social order.” (“Article. 68”) The freedom to engage in anti-region propaganda was deleted from the Constitution. The amended section prescribed religion shall not be used to bring in outside forces or in harming the state and social order, which illustrates North Korea’s intention of forbidding practice of religion other than the Juche Ideology. Thus, freedom of religion is still restricted in North Korea.

There are a few religious facilities in North Korea, including Bongsoo Church, Chilgol Church, Jangchoong Cathedral, Jungbaek Temple, Bohyonsa Temple, Shingesa Temple, and Youngtongsa Temple. Some sources reported that there are underground churches in North Korea. Nevertheless, most North Koreans are not aware of religious facilities in their country. In fact, North Korean authorities are utilizing churches, cathedrals, and temples for purposes of political propaganda on foreign religious leaders and visitors. The slogan of a lecture series (July 2005) said, “Let us resolutely crush the enemy’s guileful conspiracy to spread religion in our society!” Thus, the practice of religion at the individual level is prohibited. On the other hand, superstition (or, fortune-telling) is widespread among North Korean people. The authorities classify followers of superstition as the “wavering class,” and penalized them for the practice. But, many people who struggle to survive find solace from participating in fortune-telling, and many North Korean defectors testified that even Party officials seek out fortune tellers from time to time.

Freedom of conscience signifies freedom to form individual ideas and moral standards that constitute the foundation of human dignity, internal values, and the freedom to express them openly. “Article 19” of South Korea’s Constitution clearly stipulates, all citizens shall enjoy freedom of conscience, guaranteeing this basic



right; however, North Korea's Socialist Constitution does not guarantee the freedom of conscience. The reason North Korea does not guarantee freedom of conscience is due to their priority to promote personality cult that is essential in maintaining the Unitary Suryong Ruling System. In North Korea, Kim Il-sung and Kim Jong-il are viewed as God. One of the most important reason that North Korea regards religion as a potential source of social disruption and foreign intrusion is the need to maintain the Unitary Suryong Ruling System. Permitting ideology other than Juche Ideology, created by Kim Il-sung and inherited by Kim Jong-il, is to threaten the integrity of the Unitary Ruling System.

In order to solidify and deify the Unitary ruling system, North Korea has developed the Ten Principles of Unitary Ideology. One of the main principles mandates that everyone must uphold unconditional loyalty to Kim Il-sung, and observe Kim's instructions as absolute guidelines. In an effort to infuse absolute loyalty to the Suryong (Leader), the authorities enforce daily assembly to all citizens to internalize the Ten Principles. However, these principles are open to arbitrary interpretation; therefore, the authorities utilize these principles to identify individuals with political grudges or ideological dissents, and penalize them as political criminals. Some North Korean defectors equated the Ten Principles to the Ten Commandants for Christians. With the continuation of the economic hardship, many North Koreans downplay the principles, although they would not purposely violate them. If anyone is caught violating any of the principles, he/she is penalized in a variety of ways.


By stipulating freedom of religion in the Constitution, North Korea has met the legal formality. However, religious activities are strictly forbidden and punished. In an effort to improve their external image and secure international cooperation and assistance, North Korea is maintaining a few religious facilities and utilizing

some religious leaders. However, North Korea does not legally guarantee freedom of conscience. All legal measures are aimed to enforce the Ten Principles that are intended to safeguard the Unitary Ruling System, and violation of the Ten Principles is punished. Through these strict measures, North Korean authorities control the lives and minds of its citizens and activities of organizations.

## **7. Freedom of Speech, the Press, Assembly and Association**

Freedom of press and publication is a fundamental right that guarantees everyone to have individual opinions, thoughts, and the right to express them freely. North Korea's Constitution stipulates freedom of press and publication; however, freedom of press and publication and the people's right to know are constrained through laws, systems, and customs. Since the 1990s, many North Koreans have listened to South Korean radio programs and watch CD-Roms despite strict prohibition of these activities. Because North Korean news outlets are not playing their proper functions, North Korean citizens are trying to satisfy their right to know, despite strict government controls. These days, North Koreans prefer small devices such as USB memory sticks to the relatively large CD-Roms. While illegal, these devices provide outside information to North Koreans. The authorities are trying to curb the circulation of outside information by subjecting violators to labor training camps or labor correction. Despite strong enforcement measures against outside media, many North Korean defectors describe increasing popularity of secretly watching South Korean TV dramas, movies and other videotapes. This clandestine practice is likely to continue despite government attempt to end it. The wide use of mobile phones among North Koreans has been problematic for the government in their effort to enforce social control, since such





phenomenon poses a threat to the regime's stability. The frequent use of cell phones enables the inflow of outside information and to that extent, cell phones are contributing to the circulation of new information and satisfying people's right to know. Following the death of Kim Jong-il, North Korea has tightened their ban on cell phone use by installing electronic walls along the border regions. However, the use of mobile phones has been increasing, as it is possible to avoid penalties by offering bribes. If unable to offer bribes, the violator has to serve a six-month labor training penalty, especially if the violator is caught talking to a South Korean party, which is considered a political crime. In many cases, North Koreans use cell phones to support their daily lives, thus the use of mobile phones is likely to continue and expand.

Freedom of publication is clearly prescribed in North Korea's publication laws. Despite this law, all printed materials in North Korea are subject to government censorship before publication. Therefore, freedom of publication is restricted and censorship is strictly enforced by the central government. Any writing, literary or otherwise, must be approved by the Korean Worker's Party's (KWP) publicity and propaganda department. North Korean defectors explain that a good family background is essential for anyone trying to publish creative writing. In addition, class discrimination is applied for writers who wish to participate in public activities sanctioned by the Party. Despite these tight regulations, marketplace (or, informal open street market) is found everywhere in North Korea where published materials are readily available, allowing people to acquire a wide collection of books. Given this exposure to the outside world and different materials, most people along the border region do not trust reports coming from the central government.


North Korea's Constitution guarantees freedom of assembly,

demonstration and association. In reality, assembly and associations sanctioned only by the KWP are permitted, and ordinary citizens are not allowed to practice free assembly. Unauthorized assembly and associations are subject to punishment as prescribed in the Penal Code, Administrative Penalty Law, and other relevant laws. Under the persisting economic hardship, North Korea's institutional stability is showing signs of fissure and the government control over the citizens has not been effective, including mechanisms such as daily (people's) assembly and political education. Strong government controls over official assembly and daily assembly are losing their efficacy with the increasing public perception that money solves all problems. Even though North Koreans are deprived of their right to form voluntary assembly, demonstrations or associations, the public perception of this right appears to be slowly improving.

## **8. The Right of Political Participation**

North Korea has adopted the principle of representative system of government as their basic governing structure. Accordingly, legislative functions are entrusted in the Supreme People's Assembly and People's Assembly at the provincial, city and county level. Delegates of these assemblies are chosen through population elections. North Korea's election law stipulates that delegates of the Supreme People's Assembly are chosen every five years and those at the local assembly are elected every four years through general, equitable, direct, and secret ballots of the people. Despite these claims, elections in North Korea are utilized as propaganda tools to justify their one party dictatorship which is clear from observing the candidate selection process and voting procedures.

Only one candidate is selected to run for each district, and



the KWP predetermines and selects the candidate based on internal rules. The elections are held under tight supervision of the State Security Agency, and the citizens are required to cast an affirmative or negative vote for the only candidate on the ballot. The voting procedure requires the voter to simply put the ballot into a box (marked affirmative or negative). Elections in North Korea are not free competing political campaigns based on diverse policies and ideas, but rather an exercise in political mobilization designed to promote people's interest in politics and an elite recruiting device for the KWP power structure. Most North Koreans believe that voting in elections is a mandatory duty rather than a right. Anyone who fails to vote is labeled a reactionary, thus everyone votes without exception.

Following the delegate elections for the 12th Supreme People's Assembly held on March 8, 2009, North Korean authorities announced, "99.98 percent of those registered on the voter registration list have participated in the voting, and 100 percent of those who voted submitted an affirmative vote for the candidate running in their electoral district." A similar announcement was made after the local elections held on July 24, 2011, boasting "99.97 percent of those registered participated in the elections, and 100 percent of them submitted an affirmative vote for the candidate registered in their electoral district."

North Korean election laws prescribe that elections be held in a general, equitable, and direct ballot system, guaranteeing the right to elect and be elected to official positions. However, security agents and officials of the State Security Agency strictly supervise the voting procedures, and voters have no option but to submit affirmative votes for the exclusive KWP candidate. In order to avoid political retaliation, citizens must respond to official mobilization for elections and submit affirmative votes, thus submission of a

negative vote is not an option. These examples clearly illustrate a violation rather than protecting the citizens' right to participate in a fair political process.


## **IV. The Reality of Economic, Social and Cultural Rights**

### **1. The Right to Food**

North Korea's total grain output has increased in recent years despite a series of natural disasters. And yet, the shortage of grain persists, widening the inequality of access to food among people with different family background and social status. This inequality is further exacerbated by the failure of government policies. In addition to shortage of grains, the military-first policy and the priority of allocation for the defense industry does not allow proper allocation of grains and other food, which exacerbates the availability of food for the general population. In short, North Korean authorities are failing to fulfill its responsibility to protect the people's right to food.

North Korea's grain ration policy which is determined by one's family background restricts people's access during the period of grain shortage. First, the government's discriminatory ration policy based on class creates inequality between the elite and the general public. Distribution of grain rations are given priority to the elite class which inevitably deprives the public's share and access to food. Second is the developing inequality between ordinary citizens, as the gap of wealth and purchasing power between the rich and poor are deepening.

As the central rations are focused on the military and the elite, more agencies and enterprises without power are trying to



secure their own grain supply. This leads to an unequal distribution to most urban workers, who depend on the resourcefulness of their place of work. The grain situation in farm villages are relatively better, but farm workers also do not receive an adequate supply of grains. The lack of grain distribution to farm workers is caused by the government's mandatory collection of military grains and public contribution which is removed from the farmers' share. The grain situation has deteriorated in Hwanghae Province, which in the past produced enough grains for their province and other provinces. Many workers at collective farms are busy farming and do not have time to sell in the market. Therefore, they have no choice but to borrow grains from others in the spring and pay back twice the amount in the fall. As the Public Distribution System fails to function properly, the government has implemented a new system called a non-ration system on a trial basis. Under this new system, a patch of land is rented out to those who cultivate this land in place of regular rations. However, the grain situation in the border areas are much better with an active trade and business transactions. North Korean families who receive remittances from family members who defected to South Korea are able to gain better access to food.


## 2. The Right to Health

North Korea's overall medical service system continued to crumble in 2012, owing to the unequal resource distribution that was inevitable under the persisting economic hardship and the military-first policy. There is a shortage of medicine and basic medical equipment. Under the on-going economic hardship, the foundation of North Korea's public health system is also crumbling. The lack of electricity, poor road conditions and ill-equipped emergency medical infrastructure are critical factors that threaten

to damage the health system. The primary and secondary medical service that ordinary people rely on has already deteriorated. Citizens have to rely on clinics and people's hospitals, but their access to these facilities are also deteriorating, thus reducing their physical and economic accessibility and prohibiting their right to health. On the other hand, prognostic service for government officials is operating properly. Similar to food rations, there is a difference in access between ordinary citizens and high-ranking officials. The third and fourth level medical service that high-ranking officials and middle and upper class rely on, is operating normally. Therefore, there is a clear inequality between different classes in terms of access to medical service and medical benefits. Many North Korean defectors describe the government's proud advertisement of preventive medicine; however, they reveal that it is not functioning properly.

As stated above, there is a shortage of medicine and access to medical service, and medication is determined by one's class. First, free medicine is selectively provided depending on one's class. Depending on power and personal contacts, free medicine is available which violates individual's right to health. Second, those who have purchasing power can obtain medicine at hospitals, markets or private drug stores. However those who lack purchasing power depend on poor quality medicine made at the hospital or folk medicines. As a result, people who lack purchasing power suffer from lack of access to medical service, hence the breach of their right to good health.

According to the People's Health Law, hospitalization and attendant expenses are supposed to be free of charge. But in most cases, patients are required to pay for their expenses. Since the free medical service is not functioning properly, many patients are required to pay for all expenses in the event of a surgery. For those



who are poor and in need of surgery, their right to health is breached. As the free medical service is not functioning properly, many citizens who are unable to meet the hospital or surgery expenses end up losing their lives in the absence of proper and timely treatment.

### 3. The Right to Work

The right to work is an individual's legal right that is protected under various labor laws. The goal of the right to work is to protect the livelihood of an individual and his/her family. Under the international human rights law, the right to work or to be employed is a conditional right. Individual states and governments may establish policies and technical details to achieve full and productive employment based on their own standards. The debate over the right to work is generally focused on areas such as the freedom to choose jobs, decent work, ban on forced labor, prohibition of arbitrary dismissal, and non-discrimination.

First, a prime example of the breach of freedom to choose job is the group allocations. In 2010, North Korean authorities group assigned a large number of discharged soldiers to a coal mine. According to the testimonies of North Korean defectors, this practice still continues. The KINU's North Korean Human Rights Database also reveals group allocations are the most frequent in coal mines, factories, and collective farms, in that order. To avoid these group allocations, many workers are known to utilize personal contacts and bribes. If anyone fails to report to work after the group allocations, he/she is penalized, which is a clear violation of the right to choose employment. North Korean authorities arbitrarily regard absence from work as no work, which is an anti-socialist behavior, and send the individual to a labor training camp. In order


to avoid penalty, workers offer bribes or obtain a false diagnosis from a doctor.

Second, in terms of decent work that allows a worker to support his family in a stable and steady manner, the North Korean reality is that the government is unable to legally or practically provide job stability or job safety. In most cases, even nominal salary or regulation pay is not paid on a regular basis and the amount of payment falls short in order to support family.

The third case is unpaid hard labor, especially at the detention facilities. Forced labor imposed on inmates is a serious violation of their right to work. North Korean authorities are operating labor training camps as a part of their socialist education. The inmates are not paid for their labor even though they are working in harsh construction sites, collective farms, and firewood collection. The inmates at correctional centers and political prison camps also suffer from forced labor. North Korea has also dispatched their workers to construction sites in Russia and China to earn foreign currency. In order to prevent them from fleeing from the site, workers are forced to live and work collectively, while their wages are controlled or withheld by the authorities. Even in the Kaesong Industrial Complex, South Korean business owners are prohibited from disbursing wages directly to the workers. These practices are a violation of North Korean workers' right to work, and are grounds for international concern.

Fourth, there is no significance in analyzing the right to work from the point of ban on arbitrary dismissal from work in North Korea. Most work places in North Korea do not provide proper wages and there is no competition between enterprises. Thus there is no reason for a reduction of manpower. But arbitrary restrictions of tenure for workers in foreign posts and those at Kaesong Industrial Complex amount to an abuse of the right to





work, even though they are not necessarily arbitrary dismissal from work.

Fifth, in terms of non-discrimination, a number of discriminatory standards are in effect in job assignments in North Korea. This includes personal and family background, as well as Party allegiance. Providing employment according to personal strengths or preference is not a priority. For example, if a worker has an unfavorable social status, called “Songbun”—ascribed to those with a family member who participated in anti-regime activities during the Korean War- or a family member who used to be a wealthy landlord, he or she will be placed into coal mines and collective farms that demand extreme physical exertions. The job assignment is especially harsh if a family member or a relative has violated the guidelines for the Unitary Ruling System, if his/her family fled to South Korea during the war or has joined the anti-North Korean voluntary police during the Korean War. On the other hand, children of Party or Government officials are given comfortable office jobs regardless of their skills or background. Changing jobs or getting re-assigned after the first job also depends on the decision of the Party based on personal background. However, some recent North Korean defectors explained that the most important factor in job assignment is wealth. In other words, having the financial ability to bribe is a contributing factor in obtaining good employment.


It may appear as though the right to work is guaranteed because everyone is institutionally guaranteed a job in North Korea. The problem is that personal preferences or wishes are not respected in the job assignment process, and discrimination based on personal or family background persists. All workers have to report to work even though the salary falls far below the family’s subsistence level. If anyone neglects his/her duty, physical or financial penalties are imposed, which violates the individual’s right to

work. Harsh forced labor imposed on inmates in detention facilities, along with chronic malnutrition, is a serious threat to the inmates' lives as the international community has already pointed out. In addition, it is very important for the North Korean authorities to improve management methods for wages and life styles of workers overseas.

#### 4. The Right to Education

The objective standard for measuring the level of guarantee for the right to education are availability, accessibility, acceptability, and adaptability. To satisfy the availability criterion, there have to be functioning educational institutions and programs. North Korea's educational institutions include kindergarten, elementary and middle school which are compulsory educational institutions. Colleges and universities function as institutions for higher education. Since the onset of the economic hardship, operation and functioning of these institutions and programs vary significantly based on geographic location.

Second, it is necessary to analyze the accessibility issue in terms of physical and economic accessibility and non-discrimination. In terms of non-discrimination, North Korea does not allow access to normal educational institutions or programs to children of political criminals and people with resistance and reactionary potentials. In addition, the 11-year compulsory education is not offered at political prison camps, and the elementary schools in the camps teach education that is entirely different from what is taught outside the camp. From the physical accessibility standpoint, it appears that there is no institutional deficiency, but from an international standards, North Korea needs to upgrade the facilities in order to offer training in modern technologies, such as training




on how to use the Internet. The lack of modern facilities restricts children's right to education. From the perspective of economic accessibility, serious problems persist in North Korea since the onset of the economic hardship. North Korea legally stipulates the 11-year free compulsory education. In accordance with the law promulgated in September 1975, North Korea has been offering this program, and insists that the education program is paid by the government. The Primary Education Law enacted in 2011, also reaffirmed the 11-year compulsory education funded by the government. However, textbook supplies are limited to the point where many elementary school students study without them. This results in parents purchasing textbooks or offering gifts to teachers or buying on the market. Some North Korean defectors reported that textbook supplies have improved since Kim Jong-un came into power in 2012.

In a survey conducted by KINU in 2012, 82.0 percent of respondents said the financial burden for parents of school children was rather heavy (52.9 percent said very heavy). The burden consisted of contribution for extra school facilities, meals for teachers, and money for teachers. The children of parents who are unable to afford these expenses often choose not to attend class. Some impoverished families are unable to send their children to school, and the government is not taking any action to help them receive public education. There are times when the classmates and the teacher visits the home of impoverished students to encourage them to come back to school. On the other hand, even if a student fails to attend school for an extended period of time, the school will often count the student as attending classes on the record to avoid being reprimanded from higher authorities. In extreme cases, the truant student will even be allowed to graduate, and his/her record is submitted to higher level local schools for possible

matriculation. The KINU human rights database shows that on the question of school attendance rate, 61 of 111 respondents (55.9 percent) said children attended school regularly. When asked about elementary school attendance rate, 34 respondents (30.6 percent) stated 80 percent of the elementary school students attended classes. 11 (9.9 percent) respondents said 50 percent of the students attended classes regularly, and 5 (4.5 percent) respondents said only 30 percent of students attended classes regularly. In addition to attending school, children are also mobilized for farm work. In the past it was twice a year; once in the spring and once in the fall. However in recent years, children engage in farm work (field work) almost every afternoon, either at a nearby collective farm or at their teacher's personal patch of land. Some students offer gifts to their teachers to receive exemption from these chores.

The Primary Education Law enacted in 2011 stipulates that administrative and criminal penalties may be imposed on all anti-socialist behavior in the education sector, including giving and receiving of money, non-educational use of school facilities, mobilization of students for non-educational activities, sale of textbooks, and for profit teaching. Paradoxically, these legal stipulations seem to reveal that students are unable to gain access to education under the persisting economic hardship in North Korea and the perfunctory free education system fails to function properly.

Third, in terms of acceptability, it is unclear whether the contents of education offered meets the minimum standards. "Article 29" of the Rights of the Child Convention stipulates, "(T)he education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential." However, North Korean education laws prescribe a series of basic principles of socialist education and the schools' missions and goals to fulfill them. Accordingly, one of the most



important subject at schools in North Korea is instilling political ideology, imparting knowledge, and developing a child's personality, while teaching universal values is viewed as secondary.

Fourth, in terms of adaptability, it is necessary to analyze whether the educational contents and courses offered are designed to enable students to adapt to social needs and changes in the future. North Korea has established educational courses at factories, farms, and fish farms in addition to the regular education system. Even a system of life-time learning has been implemented. Since the onset of the economic hardship, however, this particular system appears to have stopped. Even the education courses offered to citizens have not operated properly. There are also technical and vocational training courses at enterprises, farms and fish farms. Therefore, in terms of institutional setup, North Korea has in place a work and learn system. The problem is that they are not properly functioning under the on-going economic hardship.

The North Korean government provides a 11-year free compulsory education under the Education Law, Primary Education Law, and Rights of the Child Guarantee Law. These laws mandate an allocation of budget that prioritizes free compulsory education. In addition, parents have the duty to send their children to school under these laws, and local governments and schools are required to supervise the enforcement of these legal mandates. Despite these mandates, children of impoverished families often skip classes to help their parents. North Korean law also requires the government to take appropriate measures to guarantee the right to education of handicapped children. Although North Korea has some special education facilities, operation of these facilities vary according to region. It also appears that the government is unable to comply with the legal mandate to allocate education budget on a priority basis to guarantee the children's right to education. In short, North Korea is


not fulfilling their legal obligations to guarantee the children's right to education.

## V. The Reality of Human Rights of Vulnerable Groups

### 1. Women

Under the current North Korean laws and systems, women are entitled to equal rights as men, and are guaranteed the same social status and opportunity to work. In reality, these laws and systems are not properly enforced. The law of social discrimination against women formed under the feudalistic belief of man leads, woman follows persists in North Korea to this day. As a result, individual rights given to women are routinely violated, as well as restrictions placed on their social status and opportunities. This reality has not changed and continues. Since the onset of the economic hardship, North Korean women have been forced to be the breadwinner for their family in addition to the household chores. Under heavy physical burden and male centered family structure, women have to endure harsh conditions in order to maintain peace in the family. As the economic difficulties continued to decline, more women became the breadwinner for their family, which changed the traditional gender roles. This shift in gender roles has slowly improved women's status.

In connection with human trafficking, the recent trend is that more women are voluntarily crossing the border to China by paying professional guides. This voluntary action by women to cross the border has decreased cases of kidnapping and enticing women to cross the border. Despite the decrease in involuntary crossing of the border, there are still cases of human trafficking



where brokers persuade women to go to China. Women who are caught crossing the border to China are deported and sent to detention facilities. These women are beaten and mistreated, and become victims of uterine inspections at detention facilities. In addition, North Korean women experience serious health risks from heavy workloads, malnutrition, and forced abortion at detention facilities.

## 2. Children

Under the extreme social controls and with the onset of economic hardship during the 1990s, most North Korean children are deprived of their fundamental human rights, including the right to health, physical and mental protection, the right to have nationality, and education. Furthermore, most of them are not guaranteed the right to food, which is one of the basic needs, thus many children suffer from chronic hunger and malnutrition. In September 2012, UNICEF and North Korea's Central Statistical Bureau conducted a joint survey on nutrition levels of North Korean children (age, 0-59 months) and women (age, 15-49 years old). The survey revealed that 15.2 percent of North Korean children under the age of five were underweight, 27.9 percent and 4 percent were suffering from chronic and acute malnutrition, respectively. 29 percent of the children were anemic. One of the main health risks of North Korean children is the use of narcotics. In recent years, there has been an increase in use of narcotics. Since the currency reform (January 1, 2009), the number of homeless children known as "kkot-je-bi (homeless street orphans)" has rapidly increased. The precarious situation for children is illustrated by children who have lost their parents, and children who travel to cities from farm villages in search of food. In some cases, under aged girls fall into

prostitution. Furthermore, only small improvements have been made to provide education for children. In most cases, North Korean children do not have the right to select the content of their education or classes. Instead, many of them work at collective farms or construction sites. In addition, many children abandon school due to financial constraints.

### **3. Persons with Disabilities**

Individuals with disabilities in North Korea have been the victims of serious human rights violations. They have been the victims of forced sterilization, segregation of facilities, and restrictions on their residence. Some improvements have been made in recent years including less restrictions on residence and significant decrease in forced sterilization. However, most of the handicapped and disabled individuals are not given assistance or protection from the government. Instead, they live with their families or beg on the streets and face discrimination by others. However for the first time in 2012, North Korea sent a delegation to the 14th Paralympics Summer Games (August 30-September 10) held in London. Furthermore, the General Assembly for the International Paralympics Committee held last year in Beijing, China, unanimously accepted North Korea as an associate member, with plans to accept as a full member in 2013. These agreements and recognition indicate that North Korea is improving their policy for disabled persons. If North Korea intends to improve the rights of disabled persons, they need to consider becoming a signatory of the UN Convention on the Rights of Persons with Disabilities.



## VI. The Reality of Human Rights of North Korean Escapees

### 1. North Korean Escapees

In 2012, the Korea Institute for National Unification (KINU) and Johns Hopkins Bloomberg School of Public Health conducted a survey to develop an estimate on the number of female North Korean defectors and their children in Heilongjiang Province of China. As of 2012, the number of male North Korean defectors living in Heilongjiang Province was estimated to be 4,326 (minimum of 3,047 and maximum of 5,542). The number of female defectors was 4,240 (minimum 3,014, maximum 5,575), and the number of their children was 12,735 (minimum 10,770, maximum 14,427). Combining the 2009 survey results for Jilin and Liaoning Provinces, the number of North Korean defectors living in the three Northeastern Provinces reach a total of 5,777 (minimum 3,475, maximum 8,533), and the number of their children total 17,201 (minimum 12,901, maximum 22,321). Considering the fact that previous survey for the Yanbian region was underestimated, the total number of North Korean defectors living in these three Chinese provinces total 7,500 (minimum 4,500, and maximum 10,500) and the number of their children is estimated to be 20,000 (minimum 15,000, maximum 25,000). The total number of North Korean defectors in the survey did not show a significant difference. However, the number of children has significantly increased compared to the number indicated in the 2009 survey, which was at 7,524 (minimum 5,851, maximum 9,326). A survey conducted by National Human Rights Commission of Korea in 2010 estimated the number of children born to female North Korean defectors in China to be a maximum of 20,000-30,000,

with around 4,000 of them in urgent need of protection.

Following the death of Kim Jong-il on December 17, 2011, North Korea enforced a tight reign on the movement of their citizens during the mourning period. All households along the border region rotated to watch over the area. Bed-checks were conducted with more vigilance, and each Inminban (people's group) appointed a new informer. Stern warnings were issued indicating immediate shooting of defectors and that three generations would be eliminated if anyone in the family defected. This resulted in a sharp decline in the number of defections. In the border cities of Musan and Onsong, there were reports of land mines installation along the border and panels spiked with four inch nails along the banks of the Duman River. Barbed wire fences and cameras were installed along the major defection routes near the three main cities of Hoeryeong, Musan, and Onsong. In addition, camouflaged traps were dug out and noisemakers hung on barbed wires to detect movement across the border. On the other hand, official grain ration was partially resumed and some relief assistances were offered to discourage defection. In an effort to prevent re-defection, local party secretaries received additional financial help and were told they would be held responsible if they failed to keep a close watch on individual activities. Meanwhile, as Hyesan City in Yanggang Province became a new defection route, authorities installed electronic walls and devices to detect cell phone activities and prevent defection in this area. As a result, contacting potential defectors from the outside became very difficult.

In June 2012, the Chinese security agency and the North Korean State Security Agency conducted a joint search and arrest operation in Yenji. During the 15-day operation, approximately 30 defectors were arrested. The Chinese security agency tightened



roadside checks to interdict defector movements headed toward third countries such as South Korea. The agency also recruited false North Korean defectors planning to defect to South Korea in order to report real defectors to the Chinese authorities.


North Korea has yet to join the UN Protocol to Prevent, Suppress and Punish Trafficking of Persons. Instead they continue to punish, rather than protect deported North Korean women who could have been victims of human trafficking operations. During the October 2009 Penal Code revision, North Korea added penalty of fines to the list of penalties under “Article 27.” A penalty of fines was also added to the list of additional punishments under “Article 28,” which stipulates anti-state and anti-people crimes. Since the death of Kim Jong-il, the level of punishment on defectors has increased significantly, such that heavier correctional labor is imposed in place of the previous labor training penalty. Furthermore, simple defections are now viewed as attempts to flee to South Korea. As a result, the correctional labor penalty imposes serving time equivalent to the duration of stay in China. Since 2010, expulsion or exile is forced on families of defectors and will continue in 2012.

In 2012, a total of 1,509 North Korean defectors arrived in South Korea, resulting in 24,609 North Koreans. Similar to the past, some defectors fled from the North at the encouragement or with the financial support of those already in South Korea. This mode of defection is the most popular and is desirable in term of promoting their right to have a family. In 2012, four cases (involving 8 persons) of reverse defection took place. These North Korean defectors who were living in South Korea decided to return to North Korea after receiving lawsuits by their brokers and experiencing social discrimination. They held a news conference in North

Korea, accusing South Korea for social discrepancies and praising North Korea for embracing them, despite their betrayal. These reverse defections were not new, for there had been a few cases in the past. However, what was unique about this case was that North Korea made use of this situation to prevent and discourage future escapes.

Forcible deportation of North Korean defectors by the Chinese authorities is another important human rights issue that needs improvement. North Korea has a passport system to travel overseas, but they only allow foreign trips on a restricted basis. The political punishment resulting from border crossing without a permit is a serious threat to one's life and his/her family. This type of penalty is extremely harsh, and violates individual human rights. Since the death of Kim Jong-il, more restrictions have been placed, preventing movement and elevating the level of penalty for defection. In an effort to prevent re-defections, North Korea is using a two track policy: first, tighten the surveillance on movements of people and raise the levels of punishment for defection. Second, emphasize the responsibility of local agents for defection prevention, while at the same time offering them incentives such as additional grain rations or clothing. The authorities have also built electronic walls to intercept cell phone communication and installed detection devices to eliminate broker activities along the border. In addition, border guards are assigned on a rotation basis to remove corruption.

Defection from North Korea has been taking place for a long period of time and many defectors who end up in China live with Chinese citizens as their own family. Despite this living arrangement, the legal status of North Koreans living in China is tenuous. If they are deported to North Korea, raising and educating their children in China becomes impossible. Furthermore, there is the



danger of human trafficking, forcible marriage, forced service at restaurants and bars, and other indecent business transactions. Following a series of search and arrest operations by the Chinese on North Korean defectors in 2012, the activities of brokers who assist North Koreans to defect to South Korea or another third country has significantly decreased.

## VII. Other Humanitarian Issues

### 1. Separated Families

At the end of November 2012, the number of separated families registered with the Unified Separated Family Information Center was 128,778 persons. Of this total, 53,443 of them were deceased and 75,335 of them were still alive. Of the living, 79 percent of them were 70 years or older.

The 1949 Geneva Convention IV stipulates the protection of family right. South and North Korea were not parties to this convention at the time of the Korean War, but the convention had legal implications on both parties as they independently pledged to observe the terms of this convention. The family right is clearly stipulated in both South and North Korean Constitutions. Through the Red Cross talks and Inter-Korean Ministerial Meetings, South Korea has supported family rights for separated families. From 2000 to 2011, 18 family reunions and seven TV reunions occurred. In addition, a total of 4,321 families (21,734 persons) have reunited with their families and relatives. However, the inter-Korean family reunion meetings have not occurred since the 18th reunion meeting which was held from October 30 to November 5, 2010. South


Korean government has actively and continuously supported inter-Korean exchange of separated families both at the official and civilian levels. Nevertheless, the number of family reunions at the civilian (unofficial) level has been decreasing since 2008, with 314 individual reunions. In 2009, there were 119 reunions, 38 in 2010, 28 in 2011, and only 25 in 2012.

North Korea recently launched a long-range missile, the Eunha No. 3, and conducted a nuclear test. As a result, the international sanctions on North Korea will be tightened and no significant progress in the separated family issue is expected to occur this year. However, the promotion of family rights for separated families can continue if the two sides can agree on exchanges and meetings, treating the separated family issue as a humanitarian issue, separate from political differences.

## **2. Abducted South Koreans in North Korea**

The accurate number of South Korean civilians abducted to North Korea is unknown. There are seven separate lists containing information on abducted South Koreans, but there are inconsistencies among them. However, the fact that none of them returned to South Korea indicate that most of them have been forced to adapt to life in North Korea.

North Korea's kidnapping of South Korean civilians during the Korean War and transferring and forcibly holding them is a flagrant violation of 1949 Geneva Convention IV. The South Korean Government has been trying to confirm the status of abducted civilians for decades, but North Korea refuses to cooperate. However in 2010, the North Korean government notified that they were unable to confirm the status of the five South Korea civilians.



A total of 3,835 South Korean civilians have been abducted to the North after the cease-fire. North Korea held them against their will after checking their educational background, physical fitness, political usefulness, and other considerations. Subsequently, North Korea released a total of 3,310 (86.5 percent) abducted civilians, and they returned to South Korea within six months to a year after their abduction, and eight additional civilians returned in 2000. At the end of 2012, a total of 517 South Korean civilians were still held in North Korea. Some of them working for propaganda radio programs and espionage training courses. Others are engaged in a variety of anti-South Korean projects. Abducted South Koreans whom North Korea found to be of little political value were thrown into political prison camps. Abduction of South Korean civilians is a clear violation of the Geneva Convention and is a war crime and a crime against humanity under international law. It is also a violation of family rights of their family members in South Korea.

North Korea refuses to respond to South Korea's proposal to discuss the issue of abducted civilians, flatly denying the issue itself. North Korea argued that those civilians came to the North voluntarily and is remaining in the North according to their wishes. Since North Korea denies the word abduction or kidnapping, a new concept was introduced in discussing South Korean Prisoners of War (POWs) and abducted persons. The new agreed term is 'missing persons during war time whose whereabouts are unknown.' Subsequently, the issue of abducted persons after the war became an official agenda during the inter-Korean Red Cross talks and inter-Korean Ministerial meetings. South and North Korean Red Cross agreed to hold a family reunion meeting during Chusok (Korean Thanksgiving) in 2009. The reunion took place from

September 26 to October 1, 2009. For the meeting, South Korea requested the status of the 12 abducted South Korean civilians, and two of them attended the meeting and were able to meet with their South Korean families. The South Korean Red Cross again requested the status of the 11 remaining abducted civilians, but North Korea stated they were unable to confirm the status of the remaining 11 civilians. No progress has been made after this exchange.


### **3. Korean War POWs**

As of 2012, approximately 500 South Korea POWs are presumed to be in North Korea. As of January 2012, 80 South Korean POWs returned to South Korea. There are approximately 400 family members of South Korean POWs.

It is believed that most of the South Korean POWs are sent to work in coal mines in North and South Hamgyoung Provinces. At the time, North Korea was in urgent need of manpower at coal mines. While ordinary civilians refused to work at the mines, it was relatively easy for North Korean authorities to place POWs in the mines and control the group by putting them in one remote area. The families of South Korean POWs face extreme discrimination in North Korea. However, some North Korean defectors recently explained that the families of POWs do not face discrimination in their daily lives and are able to even become a KWP Party member.

Since the POW exchange at the end of the Korean War and during the 1960s, the United Nations Command repeatedly demanded resolution of South Korean POWs at the Military Armistice Commission meetings. However, North Korea insisted they returned all South Korean POWs to the Neutral Nations





Repatriation Committee, and there was not one South Korean POW remaining in North Korea. North Korea's position on this issue remains unchanged. During the inter-Korean Red Cross talks and inter-Korean Ministerial meetings held following the inter-Korean Summit Meeting in June 2000, the two sides agreed to resolve the POW issue with the separated family issue. From the Second to the 18th inter-Korean Red Cross "Separated Family Reunion" meetings, the confirmation status for the remaining 126 POWs was provided and North Korea confirmed 19 alive, 14 deceased, and 93 status unknown. In addition, 17 of the living POWs have met with their South Korean family members; however, no progress has been made to resolve this issue since 2011.



# I

## The Purpose of Publication and Research Methods

1. The Purpose of Publication
2. Research Methods





# 1



## *The Purpose of Publication*

North Korea is one of the nations with the worst human rights situation. The international community has repeatedly urged North Korea to improve their human rights situation as systematic and widespread human rights abuse continues to mount. Since 2005, the international community has expressed serious concerns on this issue and has led active discussions and adopting a series of resolutions at the UN Human Rights Council and the UN General Assembly. The number of states supporting this concern has increased in recent years. Resolutions on North Korean human rights have been adopted unanimously at the UN Human Rights Council in March and December of 2012, for the first time without formal voting. In January and March of 2013, the UN High Commissioner on Human Rights and the Special Rapporteur on North Korean Human Rights requested a Commission of Inquiry (COI) on human rights abuses in North Korea. Accordingly, the world organization is expected to establish a year-long Commission of Inquiry within the UN Human Rights Council. However, in order for this type of pressure to produce effective results, a detailed

investigation plan and objective analyses must be supported.

The Korea Institute for National Unification (KINU) established the Center for North Korean Human Rights Studies in December 1994 to develop a scientific and systematic collection and management of reliable data on North Korean human rights issues. Since 1996, the Center has annually published the White Paper on North Korean Human Rights in Korean and English. In our effort to examine the reality of human rights situation in North Korea and to develop basic materials for the White Paper, the Center has been conducting a series of in-depth interviews with North Korean defectors arriving in South Korea on a regular basis. The Center maintains the highest level of professionalism of research staff to ensure the reliability and objectivity of interviews and questionnaires. The 2013 White Paper on North Korean Human Rights consists of chapters on International Human Rights Standards and Human Rights in North Korea, the Reality of Civil and Political Rights and Economic, Social and Cultural Rights, the Reality of Human Rights of Vulnerable Groups, and the Rights of North Korean Defectors, as well as other humanitarian issues involving South Korean POWs and Abducted South Koreans held in the North, and Separated Families. As discussions on North Korean human rights become more active at international forums, the goal of this report is to contribute to a more productive discussion on the issue, instill serious concerns domestically and internationally and serve as an essential reference for research and activities to improve the human rights situation in North Korea.



# 2



## *Research Methods*

The format of the White Paper and the research method in which we examined North Korean human rights situation was a result of two major factors. First, in 1991, North Korea became a member of the United Nations and the State party to the following four international conventions on human rights: the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention on the Rights of the Child (CRC). Thus, the White Paper follows a format based on the definition of human rights as stipulated in the Universal Declaration of Human Rights (UDHR) and four main international instruments on human rights.<sup>1</sup> Second, North Korea has enacted and revised

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<sup>1</sup>-This White Paper does not deal with the so-called “third generation” human rights such as the ‘right to peace’ and ‘right to development,’ nor with ‘cultural rights’ when discussing “economic and social rights” and the rights of “senior citizens” in the “Vulnerable Groups” chapter. As we accumulate more relevant information and data and as discussions continue, these issues, too, will certainly be included in this report.

their domestic laws to protect human rights, and the White Paper seeks to assess whether North Korean authorities are abiding by their own domestic laws when evaluating human rights situations. Accordingly, each chapter of this report will begin with a description of international human rights standards and a review of North Korea's domestic laws. Following the introduction, a detailed discussion/analysis on the reality of North Korean human rights will be addressed. At the end of each section, a brief assessment of North Korea's current human rights situation will be offered in light of international human rights standards.

The international community continues to request North Korea for more transparency on their human rights situations since direct access to the country should precede any report on the human rights situation. However, the United Nations Special Rapporteur on the Situation of Human Rights, international human rights organizations, and international NGOs are still barred from entering the Democratic People's Republic of Korea, making it impossible to conduct an independent monitoring of North Korea's human right violations or gain direct access to inside information.

Although these limitations make research more challenging, alternate methods of research has made it possible for KINU to assess the reality of North Korean human rights and publish the White Paper. First, in-depth interviews with North Korean defectors who have settled in South Korea are KINU's primary source of information. For example, the 2013 edition of the White Paper on Human Rights in North Korea contains information from 286 in-depth interviews with North Korean defectors, which was selected from a pool of pre-interviews.

The 286 selected respondents defected to South Korea in 2012 and were selected based on their statistically meaningful

characteristics and social background. These factors included place of residence, route taken to South Korea, and those with experience in prison camps. Each interview was based on a survey focusing on human rights issues and lasted approximately two hours. The demographic characteristics of the 286 interviewees are illustrated below:

<Table I-1> Demographic Characteristics of Respondents from In-depth Interviews, 2012

Items	Detailed Items	Cases (Persons)	Ratio (percent)
Gender	Men	109	38.11
	Women	177	61.89
<b>Subtotal</b>		<b>286</b>	<b>100</b>
Age Group	Teens (Born in 1994 and after)	12	4.19
	20s (1993-1984)	93	32.52
	30s (1983-1974)	71	24.83
	40s (1973-1964)	65	22.73
	50s (1963-1954)	33	11.54
	60s & over (Born in 1953 and before)	12	4.19
<b>Subtotal</b>		<b>286</b>	<b>100</b>
Year of Final Defection	Before 2000	3	1.05
	2001-2005	20	6.99
	2006-2010	47	16.43
	2011 and after	216	75.53
<b>Subtotal</b>		<b>286</b>	<b>100</b>
Frequency of defection	1	170	59.44
	2	63	22.02
	3	25	8.74
	4	9	3.15
	5	3	1.05
	6	2	0.70
	10 or more	2	0.70
	No response	12	4.20
<b>Subtotal</b>		<b>286</b>	<b>100</b>

Each participant was given an identification number (NKHR2012000000) in order to maintain confidentiality and to manage data systematically. When information from a particular interview is cited in this report, the identification number of the participant is mentioned. In addition to in-depth interviews, additional surveys were conducted when more information was needed on a particular facet on North Korean human rights issue. In each of these surveys, the respondent is referred to as North Korean defector XXX, date-month-year, interview in Seoul. Memoirs by North Korean defectors were also used as an additional source of information. In addition, this report utilized reference documents obtained from North Korea, including proclamations from the Inmin Boanbu, the Ministry of People's Security. For comparison and verification, KINU used reports published domestically and internationally on North Korean human rights situation such as North Korea Today, News Flash issued by Good Friends of report by Daily NK. KINU also utilized documents from the UN concerning North Korean human rights, including reports submitted to the UN by North Korean authorities, reports by the Special Rapporteur on the Situation of Human Rights in DPRK, UN resolutions on North Korean Human Rights, and concluding observations by the UN Human Rights Committee. Furthermore, KINU also reviewed surveys and statistical data compiled by WHO, UNICEF, UNFPA, and Statistics Korea. Finally, when necessary, KINU referred to information garnered directly from North Korean sources such as the Korean Central News Agency, the Rodong Shinmun and other relevant North Korean literature to describe the reality of North Korea.

Despite the limited information on North Korea, the Center for North Korean Human Rights Studies at KINU has prepared the




2013 White Paper on Human Rights in North Korea. We hope the various methods of comparison, cross reference and verification will help the reader gain a better understanding on the reality of North Korea.



# II

## International Human Rights Standards and Human Rights in North Korea

1. International Human Rights Standards
  2. North Korean Laws on Human Rights
- 



# 1



## *International Human Rights Standards*

### **A. International Human Rights Law**

Historically, the international community viewed issues concerning individual citizens as a domestic problem. However, after witnessing the horrific Holocaust perpetrated by the Nazis during World War II, the international community led by the United Nations came together and began a series of discussions on human rights at the global level. The international human rights regime has seen remarkable progress in the latter half of the 20th Century. The Universal Declaration of Human Rights (1948) is now recognized as an international customary law, and the international community has since adopted a large number of human rights treaties, including the two human rights covenants adopted in 1966 (on civil and political rights<sup>1</sup> and on economic, social and cultural rights).<sup>2</sup> As a result, the human rights issue today is no

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<sup>1</sup>–International Covenant on Civil and Political Rights (ICCPR).

<sup>2</sup>–International Covenant on Economic, Social and Cultural Rights (ICESCR).

longer a domestic problem; it has now become a universal value and a common concern of the entire international community.

Nations today freely sign and ratify human rights treaties, thereby becoming signatories bound by the terms, and carry out pertinent obligations. Under these treaties, nations not only have the obligation to respect human rights of individual citizens, but also to protect their rights from infringement by third parties and to actively fulfill their human rights.<sup>3</sup> Nations may place different levels of emphasis in carrying out these duties, but they do apply equally in regards to civil, political, economic and social rights.

Each state (government) holds primary responsibility of ensuring fundamental human rights of their citizens. However, the state, which has the primary responsibility for protection, can become the main source of harm at any time. In such case, because human rights can no longer be treated as a domestic problem, the international community has developed a variety of mechanisms for enforcement and supervision. These mechanisms are found in two broad categories: a series of human rights treaties designed to oversee the implementation of various treaty terms and requirements, and the UN system spearheaded by the UN Human Rights Council, which enforces special procedures, complaint procedures, Universal Periodic Review (UPR). The following table shows various monitoring mechanisms:

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<sup>3</sup> “Obligations to fulfill” are positive duties, and they include duties to “facilitate, provide, and promote.” Daniel Moeckli, et al. (eds.), *International Human Rights Law* (Oxford: Oxford University Press, 2010), pp. 130-132.

<Table II-1> Monitoring Mechanisms under the Six Core Human Rights Treaties

Treaty	Monitoring Body	Periodic Report	Inter-State Complaint	Individual Communication	Confidential Inquiry
ICESCR66	Committee on Economic, Social and Cultural Rights (ECOSOC Resoution. 1985/17)	YES (Arts. 16-17)	YES (Optional Protocol Art. 10, Declaration Required)	YES (Optional Protocol Arts. 1 ff.)	YES (Optional Protocol Art. 11, Declaration Required)
ICCPR66	Human Rights Committee (Art. 28)	YES (Art. 40)	YES (Arts. 41-43, Declaration Required)	YES (1st Optional Protocol)	No
ICERD66	Committee on the Elimination of Racial Discrimination (Art. 8)	YES (Art. 9)	YES (Arts. 11-13)	YES (Art. 14, Declaration Required)	No
CEDAW79	Committee on the Elimination of Discrimination against Women (Art. 17)	YES (Art. 18)	No	YES (Optional Protocol)	YES (Optional Protocol Arts. 8-10)
CAT84	Committee against Torture (Art. 17)	YES (Art. 19)	YES (Art. 21, Declaration Required)	YES (Art. 22, Declaration Required)	YES (Art. 20)
CRC89	Committee on the Rights of the Child (Art. 43)	YES (Art. 44)	No	No	No

## B. North Korea and International Human Rights Law

As a member of the international community, North Korea has joined and ratified international human rights treaties. As a

party to these treaties, North Korea has the responsibility to respect, protect and faithfully fulfill the terms of political and social rights. After joining the political and social rights covenants (ICCPR and ICESCR) in 1981, North Korea has also become party to the Convention on the Rights of the Child in 1990 and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2001, submitting periodic reports and participating in related international activities.<sup>4</sup> North Korea has also received Universal Periodic Review conducted by the United Nations Human Rights Council. Since 2004, the UN Special Rapporteur on North Korean Human Rights has been carrying out his mission under special procedures of the Council, but North Korea has refused to accept the need for Rapporteur's activities and denied his entry into North Korea.

<Table II-2> The Six Core Human Rights Treaties and North Korea

Treaty	North Korea	Periodic Report	Inter-State Complaint	Individual Communication	Confidential Inquiry
ICESCR <sup>66</sup>	Accessed in 1981	YES	No (Not a Party to the Optional Protocol)	No (Not a Party to the Optional Protocol)	No (Not a Party to the Optional Protocol)
ICCPR <sup>66</sup>	Accessed in 1981 <sup>5</sup>	YES	No (No Declaration)	No (Not a Party to the Optional Protocol)	N/A

<sup>4</sup> In fact, North Korea has undergone the reviews of these supervisory systems by submitting three periodic reports to the “Social Rights Committee” in 1984, 1989 and 2002, two reports to the “Political Rights Committee” in 1984 and 2000, one to the CEDAW committee in 2002, and three to the “Rights of the Child Committee” in 1996, 2002 and 2007, respectively.

<sup>5</sup> When the UN Sub-Commission on Human Rights adopted a North Korean

Treaty	North Korea	Periodic Report	Inter-State Complaint	Individual Communication	Confidential Inquiry
ICERD66	Not a Party	N/A	N/A	N/A	N/A
CEDAW79	Accessed in 2001	YES	N/A	No (Not a Party to the Optional Protocol)	No (Not a Party to the Optional Protocol)
CAT84	Not a Party	N/A	N/A	N/A	N/A
CRC89	Signed in 1990; Ratified in 1990	YES	N/A	N/A	N/A

Based on their collectivist world-view, North Korea stresses rights of collectivity and social rights over individual rights and political rights. Similar to other socialist states, the importance of state sovereignty overshadows individual human rights in North Korea, and most international human rights laws are only recommendations.<sup>6</sup> Nonetheless, North Korea has been trying to organize their legal structure and improve the realities on the ground to meet international standards. The international community is well aware of North Korea's limitations and domestic situation. For this reason, it is incumbent on the international community to uphold and promote standards of universal human rights. The international community has pursued various methods to maintain a constructive

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human rights resolution for the first time in 1997, North Korea notified in protest that it was withdrawing from the Civil and Political Rights Covenant. However, there was no withdrawal provision in the Covenant, thus the withdrawal was not approved. Subsequently, North Korea resumed its activities in the Human Rights Committee, and its previous status as a signatory was restored automatically.

<sup>6</sup> Soo-am Kim, et al., *2012 White Paper on Human Rights in North Korean* (Seoul: Korea Institute for National North Korea, 2012), pp. 49-53; Young-suh Han, "Understanding International Legal System concerning Human Rights Guarantees," *Kim Il-sung University Press: A History of Laws*, Vol. 56, No. 4 (Pyongyang: Kim Il-sung University Press, 2010), pp. 132-136.

dialogue with North Korea to improve their human rights situation. Since these efforts have not produced satisfactory results thus far, the international community is continuing to explore other channels to pressure North Korea to improve their human rights situation.





# 2



## *North Korean Laws on Human Rights*

### **A. Current Status of Human Rights Laws**

Included in North Korea's normative documents or positive laws, are the Constitution, laws of the Supreme People's Assembly (SPA), and other normative documents, such as political directives, decisions, orders and instructions. The Constitution is at the top of legal hierarchy, followed by the laws of the Supreme People's Assembly. All other normative documents must remain within the purview of these higher laws.<sup>7</sup> Most North Korean laws and regulations are enacted in the form of political directives issued by the standing committee of the SPA, but at times they are enacted in the form of laws and regulations by the Supreme People's Assembly.<sup>8</sup>

North Korea has enacted and enforced a number of laws

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<sup>7</sup>-Kyong-chol Lee, "On Upholding DPRK's Principles in Resolving Legal Source Problems," *Kim Il-sung University Press: A History of Laws*, Vol. 46, No. 1 (Pyongyang: Kim Il-sung University Press, 2000), pp. 48-49.

<sup>8</sup>-A typical law enacted by the Supreme People's Assembly would be the 1946 *Law concerning Gender Equality in North Korea*.

and regulations in connection with the Universal Declaration of Human Rights and other rights stipulated by international human rights regime. In their effort to comply with the mandates of the right to life, the right to liberty and security of person stipulated by the Universal Declaration of Human Rights and Covenant on Civil and Political Rights, North Korea has enacted and enforced laws to maintain law and order, as well as political control over their people. Some of these laws include the Penal Code, Annex to the Penal Code (ordinary crimes), Administrative Penalty Law, People's Security Control Law (formerly, Social Safety Control Law), and Prosecution and Surveillance Law. In connection with the right to due process of the law, there are laws such as the Criminal Procedure Law, Attorney Law, Court Composition Law, Petitions and Appeals Law, and Sentences and Decisions Enforcement Law. In terms of the right to equality, North Korea has put in place the North Korea Gender Equality Law. In addition, North Korea has given the city of Pyongyang a special status under the Management Law for the Capital City of Pyongyang. As for the freedom of residence, movement, and travel, North Korea has the Exit-Entry (Immigration) Law and the Citizens Administration Law. For the freedom of publication, they enacted the Publication Law, and in connection with the right of political participation, they established the Delegates Election Law for all levels of People's Assembly.

Furthermore, the Universal Declaration of Human Rights stipulates the right to have nationality and the right to have personal property as part of civil and political rights. The Declaration and the Civil Rights Covenant also stipulates the right to have a family and government protection. In connection with these rights, North Korea has enacted a series of laws, including the Nationality

Law, Personal Property Law, Family Law, Civil Code, Civil Procedure Law, Inheritance Law, and Damage Compensation Law.

North Korea has also legislated multiple laws in connection with the Covenant on economic, cultural and social rights. For example, in the area of the right to enjoy a healthy life, they have established the People's Health Law, Law on Prevention of Epidemics, Medical Treatment Law, Medicine Control Law, and Mineral and Hot Springs Law. In the social security area, they have put in place the Social Insurance Law and the Law on Raising Pre-school Children. In regard of the right to work, North Korea has enacted the Socialist Labor Law, Labor Protection Law, Labor Output Standards Law, People's Economic Planning Law, and the Law on Basic Standards for Consumption of Materials. In the area of education, they have established the Education Law, Grade School Law, and High School Law. On September 25, 2012, the sixth session of the 12th Supreme People's Assembly promulgated a supreme people's law (entitled "on implementing a 12-year compulsory education"), extending the previous four year elementary school curriculum to five years and the six year middle school education into a three year preliminary middle school (intermediate) and a three year advanced middle school (high school). In the field of cultural rights, they have established the Cultural Relics Protection Law, Natural Assets and National Parks Protection Law, Forest Preservation Law and Environmental Protection Law.

In connection with the protection of vulnerable groups, North Korea promulgated the Gender Equality Law in 1946. Subsequently, it has enacted the Women's Rights Protection Law and the Children's Rights Protection Law, thus reflecting the requirements under the CEDAW and the CRC. They have also established the Disabled Persons Protection Law and the Senior Citizens Protection Law in

order to protect disabled persons and senior citizens. The following table <II-3> summarizes the laws mentioned above.

<Table II-3> North Korea’s Human Rights Laws

	Rights	Relevant Laws
ICCPR	Human dignity, Right to life, Right to liberty and security of person	Penal Code, Addendum to the Penal Code (General Crimes), Administrative Penalties Law, People’s Security Control Law, Prosecution and Surveillance Law, Inhabitants Administration Law
	Right to equality	Gender Equality Law, Law for the Protection of Women’s Rights, Law for the Management of Capital City of Pyongyang
	Right to due process of the law, Right to presumption of innocence	Penal Code, Attorney Law, Court Composition Law, Petitions and Appeals Law, Sentence and Decisions Enforcement Law
	Right to fair trial	Criminal Procedure Law, Civil Procedure Law, Maritime Procedure Law
	Freedom of residence, movement and travel	Exit-Entry (Immigration) Law, Inhabitants Administration Law
	Right to political participation	Delegates Election Law for regional and district levels
	Right to have nationality	Nationality Law
	Freedom of opinion and expression	Publication Law
	Right to have family and personal property	Family Law, Civil Code, Inheritance Law, Damage Compensation Law
UDHR/ ICESCR	Right to healthy life	People’s Health Law, Epidemics Prevention Law, Medical Treatment Law, Medicine Control Law, Mineral and Hot Springs Law
	Social security	Social Security Law, Pre-school Children Education Law, Senior Citizens Protection Law, the Disabled Persons Protection Law, Rights of the Child Law

	Rights	Relevant Laws
UDHR/ ICESCR	Right to work	Socialist Labor Law, Labor Protection Law, Labor Output Standards Law, People’s Economic Planning Law, Law on Basic Standards for Consumption of Materials
	Right to have education	Education Law, Elementary School Law, High School Law, “On Implementing 12-year Compulsory Education” by (SPA)
	Right to enjoy cultural life	Cultural Relics Law, Natural Assets and National Parks Protection Law, Forest Preservation Law, Environmental Protection Law, Mineral and Hot Springs Law
CEDAW	Protection of women’s rights	Gender Equality Law, Women’s Rights Guarantee Law
CRC	Protection of rights of the child	Pre-school Children Education Law, Rights of the Child Guarantee Law

Even though North Korea has established laws related to human rights, provisions of these laws are not properly enforced. Due to the persisting economic hardship, most of the laws related to labor rights, social security and medical treatment are not enforced. On the other hand, most provisions related to regime maintenance and social control such as the Penal Code and Administrative Penalty Law are strictly enforced, and instructions established by the Supreme Leader are strictly given North Korea’s unique political system which is that North Korea regards law as a political tool. A North Korean legal scholar once defined the concept of law as “expressions of our Party’s policies, and it is an important weapon to carry out national policies.”<sup>9</sup> Kim Jong-il also

<sup>9</sup>Yon-soo Jeong, “To Firmly Establish Law and Order is an Essential Precondition for a Good Protection and Management of National and Social Assets,” *Social Science*, Vol. 1 (1983), p. 60.

said, “Our laws are important weapons for the realization of our national policies.”<sup>10</sup> Accordingly, the words of Kim Jong-il and Kim Il-sung’s instructions are treated as supra-legal norms. In 2011, a survey was conducted on 80 North Korean defectors in Seoul. One asked, what did you think was law when you were living in North Korea? Approximately 90.5 percent of participants said Kim Jong-il’s words and instructions. 86.5 percent stated proclamations issued by the Ministry of People’s Security as law, while 79.7 percent mentioned state laws such as the Constitution and the Penal Code. In addition, 77 percent of the participants stated orders of the National Defense Commission as laws, while 74.3 percent participants chose Party’s directives. 71.6 percent stated Ten Principles of Unitary Ideology, and 56.8 percent said cabinet decisions and instructions. In terms of hierarchy or power that influences people’s daily lives, 52.9 percent said the impact was in order of Kim Jong-il’s words → Party’s orders → Cabinet decisions → Party cadre’s instructions → Constitution (other laws).<sup>11</sup> Currently, Kim Jong-un’s instructions are viewed as the penultimate.<sup>12</sup>

Although most of the provisions from the Universal Declaration of Human Rights and international human rights covenants are reflected in various laws in North Korea, no law on freedom of press and freedom of peaceful assembly has been established. It may be difficult to grant freedom of press or freedom of assembly and association in light of the unique nature of North Korea’s political system.

<sup>10</sup> Jong-il Kim, *On Strengthening Socialist Lawful Life* (Pyongyang: Korean Workers’ Party Publishers, 1989), p. 11.

<sup>11</sup> Bong-dae Choi, *A Case Study of Legal Awareness of North Korean Defectors* (Seoul: A Policy Report submitted to the Ministry of Unification, 2011), pp. 10-12.

<sup>12</sup> Kyu-chang Lee and Kwang-jin Jeong, *A Study of North Korea’s Criminal Trial System: Characteristics and Reality* (Seoul: Korea Institute for National North Korea, 2011), pp. 37-45.

## B. Streamlining North Korea's Human Rights Laws

When North Korea revised the Constitution on April 9, 2009, it stipulated respect and protection of human rights for the first time.<sup>13</sup> “Article 8, Paragraph 2” states the state shall safeguard the interests, respect and protect the human rights of the working people. In the past, human rights was only stipulated in lower level laws such as the Attorney Law (“Article 2”), Criminal Procedure Law (“Article 5”), and People’s Security Control Law (“Article 6”). The current North Korean Constitution which was further amended on April 13, 2012, specified human rights of the citizens in Chapter 5, Basic Rights and Responsibilities of Citizens. But, North Korea’s concept of human rights is not focused on the protection of rights for the individuals, but rather on the principle of collectivism, namely, all for one, and one for all. (“Article 63” of the Constitution)

Since introducing human rights provisions to the Constitution in April 2009, North Korea has streamlined various human rights laws. In the area of civil and political rights, they have strengthened provisions concerning regime security in the Penal Code and Administrative Penalty Law. With respect to economic, social and cultural rights, they updated labor related provisions in the Law on Basic Standards for the Consumption of Materials, Labor Output Standards Law, and People’s Economic Planning Law with a view to support the construction of strong and prosperous nation. Also updated in regards to human rights of citizens were the

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<sup>13</sup> Subsequently, North Korea revised its Constitution on April 9, 2010, and changed the name of its Central Court and Central Prosecutors’ Office into “Supreme Court” and “Supreme Prosecutors’ Office.” And then, on April 13, 2012, it revised the Constitution again to reflect the election of Kim Jong-eun as the First Chairman of the National Defense Commission and declared North Korea as a “nuclear State” (or nuclear power) in the Preamble.

Maritime Appeals Procedure Law, Labor Protection Law, Natural Areas Protection Law, and Forest Preservation Law. Education laws such as the revision of Elementary School Law and High School Law. These revisions of North Korean laws were not aimed at improving the citizens' human rights, but to encourage and educate the people as well as new workers for the promotion of strong and prosperous nation. In order to improve protection of vulnerable groups, North Korea enacted the Disabled Persons Protection Law (in 2003), Senior Citizens Protection Law (in 2007), the Women's Rights Protection Law, and the Rights of the Child Law. These legislations were established in response to international criticisms. It must be noted that these revisions in human rights laws are significant, although improvement of human rights can not be expected by revising laws alone.<sup>14</sup> Most important in this context is North Korean authority's willingness to faithfully enforce these laws. Meanwhile, North Korea enacted the Mineral and Hot Springs Law in January 2013. The Korean Central News Agency reported the enactment of this law on February 5, 2013, stating the purpose of this law is to contribute to actively protecting and promoting the health of our citizens. The law is significant in that it is related to the people's right to enjoy cultural rights and healthy life, but it would be difficult to expect North Koreans to improve their health through visits to mineral and hot springs amid serious economic difficulties.

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<sup>14</sup> Kyu-chang Lee, "The Trends of North Korea's Human Rights Laws, and its Analysis and Assessment," Center for North Korean Human Rights Studies, Korea Institute for National Unification, *A New Prospect for Understanding Human Rights in North Korea* (Seoul: Korea Institute for National Unification, 2012), pp. 15-51.



<Table II-4> Streamlining Human Rights Laws since the 2009 Constitutional Revision

Laws		Time Enacted/ Revised	Main Contents
Constitution		April 9, 2009	<ul style="list-style-type: none"> <li>- Stipulated respect and protection for human rights</li> <li>- Declared guiding instructions on Military-first Ideology; Inserted new provisions on "Military-first revolutionary line"</li> </ul>
Laws relating to ICCPR	Penal Code	Revised on April 28, 2004; July 21, 2009, October 19, 2009	Strengthened penalties and updated regime maintenance provisions
	Law on Rail Cars	Enacted on December 22, 2010	Detailed penalties against crime against railroad operations
	Maritime Procedure Law	Enacted January 19, 2011	Protection of maritime claims, Set up a maritime tribunal
	Inhabitants Administration Law	Enacted on July 8, 2010	Organized Inminban (people's group); Set up Supervisory districts; Regulations on Guest-housing
	Administrative Penalties Law	Revised on October 16, 2011	New provisions on crimes against defense facilities and enhanced surveillance
Laws relating to ICESCR	People's Economic Planning Law	Revised on August 4, 2009; April 6, 2010	Strengthened legal duties and speedy work in economic planning
	Law on Basic Standards on Consumption of Materials	Enacted on November 11, 2009	Regulations on application and guidance control on standards for consumption of materials

Laws		Time Enacted/ Revised	Main Contents
Laws relating to ICESCR	Labor Output Standards Law	Enacted on December 10, 2009	Regulations on application and guidance control on labor output standards
	Labor Protection Law	Enacted on July 8, 2010	Updated labor protection system and regulations
	Elementary School Law	Enacted on January 19, 2011	Regulations on establishment and operation of elementary schools, and training of education workers
	High School Law	Enacted on December 14, 2011	Text of law unknown
	Natural Areas Protection Law	Enacted on November 25, 2009	Set up Natural Areas Protection Law, and provisions on surveys, management and guidance control
	Forest Protection Law	Enacted on November 25, 2010	Develop, supervise, and control guidance of forests
	Mineral and Hot Springs Law	In January 2013	Date of enactment unspecified; text of law unknown
Laws relating to the Protection of Vulnerable Groups	Rights of the Child Law	Enacted on November 22, 2010	Broad regulations on the protection of the rights of the child
	Women's Rights Protection Law	Enacted on November 22, 2010	Broad regulations on the protection of women's rights


**White Paper on Human Rights in North Korea 2013**





# III

## The Reality of Civil and Political Rights

1. The Right to Life
  2. The Right to Liberty and Security of Person
  3. The Right to Due Process of the Law
  4. The Right to Equality
  5. Freedom of Residence, Movement and Travel
  6. Freedom of Religion and Conscience
  7. Freedom of Speech, the Press, Assembly and Association
  8. The Right of Political Participation
- 



# 1



## *The Right to Life*

### **A. The Right to Life and North Korea's Laws on Capital Punishment**

“Article 6, Paragraph 1” of the International Covenant on Civil and Political Rights (herein after ICCPR) stipulates, every human being has the right to life, and this right is protected by law. No one is voluntarily deprived of his or her life. In countries where capital punishment is still upheld, “Article 6, Paragraph 2” of the covenant specifies that capital punishment may be carried out only on the gravest crimes and only by the final sentence of the court with such authority, provided that the relevant laws at the time of crime did not violate the ICCPR and the Convention on the Prevention of and Punishment for Massive Genocide. Although placing limitations on the right to life such as capital punishment may at times be justified, arbitrary deprivation of life is forbidden, and the criteria for arbitrariness should be based on necessity and proportionality.

Since the overall revision of the Penal Code on April 29, 2004, North Korea has partially revised their Penal Code twice between 2005 and 2008. They also made extensive revisions on

their Penal Code on April 28, 2009, and made further revisions on July 21 and October 19, respectively. Similar to the previous Penal Code revisions, the revised 2009 Penal Code also lists categories of crimes subject to capital punishment. According to this list, the following crimes are subject to capital punishment: conspiracy to overturn the state, terrorism, treason against the fatherland, treason against the people, and premeditated murder. North Korea has expanded the list subject to capital punishment in the Penal Code by adding treacherous (disloyal) destruction (“Article 64”). In addition, the 2009 revised Penal Code prescribes a 20 year period of criminal prosecution for crimes subject to capital punishment (“Article 56”). While the 20 year period is a positive development, adding another crime subject to capital punishment is a negative movement given that it is another way that North Korea breaches their citizens’ fundamental right to life. The crimes subject to capital punishment are listed in the following <Table III-1>:

**<Table III-1> Crimes Subject to Capital Punishment in North Korea’s Revised 2009 Penal Code**

Conspiracy to overturn the State (Article 59)	Participation in political revolt, civil disturbance, demonstrations or violent attacks, and conspiracies thereof; applies to extremely serious cases.
Terrorism (Article 60)	Murder, kidnapping or harming of officials or citizens for anti-state purposes; applies to extremely serious cases.
Treason against the Fatherland (Article 62)	Those who betray the Fatherland by fleeing and surrendering to another country; those who betray the Fatherland or turn over secrets to the enemy; applies to extremely serious cases.
Treacherous Destruction (Article 64)	Disloyal destruction for anti-state purposes; applies to extremely serious cases.
Treason against the People (Article 67)	Korean nationals who, living under imperialist rule, engage in persecution of North Korea’s National Liberation Movement or hinder the struggle for unification of the fatherland; applies to extremely serious cases.
Premeditated Murder (Article 278)	Premeditated murder based on greed, jealousy or other despicable motivations; applies to extremely serious cases.

On December 19, 2007, North Korea added a unique law called Annex to their Penal Code (involving ordinary crimes). This Annex is a significant statute within North Korea's legal structure, since the Presidium of the Supreme People's Assembly has formally adopted it as a government directive and a complement to the North Korean Penal Code. For this reason, it is just as important as the other provisions of the Penal Code. This Ordinary Crimes Annex consists of 23 articles, and 16 of the articles stipulate crimes subject to capital punishment, including smuggling and dealing in narcotics. At the time of the Penal Code revision in 2004, North Korea had a smaller scope of crimes subject to capital punishment, such as conspiracy to overturn the state, treason against the Fatherland, terrorism, treason against the people, and premeditated murder. The fact that North Korea added an Annex to the Penal Code in the 2007 revision is negative in terms of human rights protection. Capital punishment reinforces control over the citizens and protects the system. Expanding the scope of crimes subject to capital punishment exacerbates the lack of human rights condition in North Korea. All 16 articles in the Annex contain vague statements such as the gravest cases or extremely serious cases when discussing capital punishment, which leaves room for arbitrary decisions to be made by the authorities. This unclear definition of the Annex permits capital punishment for various crimes as long as the authorities determine the crime in question was extremely serious (See "Article 23"). The crimes subject to capital punishment in the Ordinary Crimes Annex are listed in <Table III-2> below:

<Table III-2> Rules for Capital Punishment in the Addendum to the Penal Code (General Crimes)

Extreme act of willful destruction of combat equipment and military facilities (Article 1)	Willful destruction of technical combat equipment and military facilities (extremely serious cases)
Severe plundering of state property (Article 2)	Plundering of state property (extremely serious cases)
Severe acts of theft of state property (Article 3)	Theft of state property (extremely serious cases)
Severe acts of willful destruction or damaging of state property (Article 4)	Willful destruction of state property (extremely serious cases)
Severe acts of engraving or printing counterfeit currency (Article 5)	Engraving or printing counterfeit currency (extremely serious cases)
Severe acts of smuggling or selling precious or colored metals on the black market (Article 6)	Smuggling or selling precious or colored metals on the black market (extremely serious cases)
Severe acts of smuggling state resources (Article 8)	Unlawful export of underground resources, forest resources or fishery resources for sale in other countries (extremely serious cases)
Severe acts of smuggling or dealing with narcotics on the black market (Article 11)	Acts of smuggling or dealing with narcotics on the black market (extremely serious cases)
Extreme instances of prisoner escape (Article 14)	Cases in which a prisoner serving a heavy prison term flees before the term ends
Extreme instances of gangster-like behavior (Article 17)	Acts of gangster-like behavior (extremely serious cases)
Unlawful business operation (Article 18)	Cases in which sexual services are organized at restaurants or boarding houses
Extreme instances of deliberate infliction of serious injury (Article 19)	Taking deliberate actions to inflict serious injury to others (extremely serious cases)
Severe acts of kidnapping (Article 20)	Kidnapping of a person (extremely serious cases)
Severe acts of rape (Article 21)	Acts of rape (extremely serious cases)
Severe acts of theft of private property (Article 22)	Acts of theft of another person's private property (extremely serious cases)
Other exceptional crimes subject to an unlimited term of correctional labor or death sentence (Article 23)	Cases in which a criminal has committed multiple crimes and displayed no remorse (extremely serious cases)



In North Korea's 2009 UPR report to the UNHCR,<sup>1</sup> they stated that capital punishment is carried out only in five categories of extreme crimes (Paragraph 34 of the report). Not added to this list is the crime of clandestine destruction, which was inserted as a crime subject to capital punishment during the 2009 Penal Code revision. More importantly, the North Korean authorities did not officially announce the revisions made to the Addendum to the Penal Code (General Crimes). Perhaps North Korea deliberately avoided mention of this Annex for fear of international criticism.

North Korea's Penal Code stipulates, "Criminal liability shall be confined to those acts of crime stipulated in the Penal Code." ("Article 6", North Korean Penal Code) Despite the Penal Code's stipulations, various forms of punishment, including capital punishment, are enforced through means such as proclamations and instructions. For example, as seen in <Figure III-1>, the North Korean authorities in one decree strictly forbid the circulation of foreign currency and warn that anyone who violates this law can be publicly executed. This proclamation was released on December 28, 2009 by the Ministry of People's Security (formerly People's Security Agency). North Korea's Penal Code stipulates that illegal dealing in foreign currency shall be given a maximum of a three-year correctional labor sentence, but does not authorize capital punishment. ("Article 104"). It is not clear whether these decrees are intended for temporary or continuous application. However, based on the content, it is reasonable to conclude that

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<sup>1</sup>-UN Human Rights Council, Working Group on the Universal Periodic Review, Sixth session, Geneva, 30 November-11 December 2009, "National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1. Democratic People's Republic of Korea," UN Doc. A/HRC/WG.6/6/PRK/1 (August 27, 2009).

they are applied on a continual basis. Thus, such decrees in reality undermine the Penal Code.<sup>2</sup>

<Figure III-1> Proclamation! The Ministry of People's Security  
(formerly People's Security Agency)

### Proclamation

Regarding Stern Punishment of Those Who Circulate Foreign Currency  
in the Territory of the Democratic People's Republic of Korea

Strict observance of the system for circulating the nation's unique currency is the sacred legal duty of all citizens and an important guarantee for safeguarding of our people's right of self-reliance and the protection of our society's economic foundation.

Recently, however, some citizens, agencies, enterprises, and social cooperative organizations are violating the nation's currency circulation system, harming the upright spirit of the people, destroying healthy social disciplines, and disrupting the socialist economic management system.

This is a serious crime constituting harmful and dangerous behavior which infringes upon the interests of the State and the people, hampers the construction of a Strong and Prosperous Nation, and undermines the system of socialism in our own style.

On behalf of the government of the Republic, the Ministry of People's Security hereby proclaims the following in order to firmly establish the nation's currency circulation system and to eradicate illegal activities involving the circulation of foreign currencies:

**1. All citizens, agencies, enterprises, and social cooperative organizations must refrain from circulating foreign currencies in North Korea.**

- (a) All businesses, including restaurants, service outlets, and foreign merchandise shops must conduct all transactions in North Korean currency and cease all service of foreign currencies.

All professional foreigner service units, including airports and international hotels, must provide service only when foreigners present North Korean currency, after exchanging foreign money at an exchange booth.

- (b) State agencies which formerly accepted foreign currencies must now accept North Korean currency only when collecting fees, fares, and prices.
- (c) All trading agencies (including cooperatives and joint ventures) must supply imported merchandise strictly according to State plans. They must not engage in hoarding or profit by transferring imported merchandise to private citizens, agencies, enterprises or social cooperative organizations, thus encouraging the illegal circulation of foreign currencies.

<sup>2</sup> Myung-sub Han, "Application reality of North Korean Criminal Act," *2010 White Paper on Human Rights in North Korea* (Seoul: Korea Bar Association, 2010), pp. 176-178.

- (d) All citizens must exchange all foreign currencies in their possession into our currency through official currency exchange booths to safeguard our currency circulation system. They must not, with their foreign currency, engage in black market trade, private dealings, loan-sharking, cheating, brokering, smuggling, bribing or swindling.
  - (e) All agencies, enterprises, and social cooperative organizations must obtain the foreign currencies they require in accordance with state plans.
2. **Except for those units approved by the state, the domestic export targets for all other units shall be abolished. All domestic agencies, enterprises, and social cooperative organizations must not engage in illegal foreign currency credit transactions.**
  3. **All related banking organizations must properly establish the exchange rate system between our currency and foreign currencies, and responsibly engage in exchange business.**
  4. **All citizens, agencies, enterprises, and social cooperative organizations must not interfere with or hamper the activities of supervisory and control agencies and workers engaged in the enforcement of control over illegal foreign currency circulation.**
  5. **All agencies, enterprises, and social cooperative organizations in violation of this proclamation shall be penalized with suspension of business or management activities or dissolution of business, and all cash and merchandise transacted shall be confiscated. All individuals involved in buying and selling things with foreign currency, black market trade using foreign currency, loan-sharking, brokering, and bribing, as well as those who illegally circulated foreign currencies or organized or tacitly encouraged such activities, shall be subject to strict legal punishment ranging in severity up to the death penalty, and all cash and merchandise involved shall be confiscated, depending on the nature and level of crime.**
  6. **This proclamation shall go into effect on January 1, 2010, and shall apply to all citizens (including foreigners), agencies, enterprise units, and social cooperative organizations (including special and military units) in North Korea.**

December 28, Juche Year 98 (2009)

**The Ministry of People's Security**  
**The Democratic People's Republic of Korea**

## B. Public Execution

The most reprehensible violation against an individual's right to life is the public execution, and capital punishment imposed under the proclamations and the Addendum to the Penal Code (General Crimes). The civil and political rights covenant (ICCPR) in its preamble declares that all human rights derive from the respect of human beings. Public executions are a clear violation of the right to die with dignity.

“Article 32” of the Court Sentence and Decision Implementation Law stipulates that death sentence shall be carried out by a firing squad. Thus, public executions are usually carried out utilizing this method where nine shots are fired. Public executions usually take place amongst an assembly of people. The schools, farms and enterprises are notified of the public execution in advance. Regarding the procedures of public execution, the defectors have described the following: The Republic's flag is draped in the background, and people from the Central Prosecutors' Office come to the site. The director of Provincial Safety, the director of the State Security Agency, a court official, and others also attend. The trial is conducted openly. A court official will read out criminal charges and hand down the sentence. One defector explained that a court official read the criminal charges and gave the death sentence in accordance with such and such articles of the Penal Code of DPRK.<sup>3</sup>

During a Human Rights Committee meeting to review North Korea's second report on civil and political rights, a North Korean

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<sup>3</sup> Interview with defector XXX in Seoul on January 9, 2008.

delegate confessed to a case of public execution. The Human Rights Committee had evidence of the public execution. North Korea stated they publicly executed Ju Soo-man, a violent criminal, in Hamhung in October 1992, for the brutal murder of his grandparents (Jong-un Ju 84 years old and Yon-ok Choi, 72 years old). Even after admitting to the public execution, North Korea maintained their position and insisted that the execution took place to comply with the demands of the masses. The North Korean delegation openly admitted to the practice of public execution during the Universal Periodic Review Session of UNHCR on December 7, 2009. During the session, a North Korean delegate explained, “Capital punishment in principle is carried out behind the scenes. In exceptional cases, particularly in the case of a heinous crime, public executions are carried out occasionally in compliance with the demands of the victims’ families who want confirmation.” North Korea has officially admitted to the practice of public execution at an open international forum discussing human rights issues.

- **Public Execution Procedures and North Korean Criminal Law**

As illustrated in <Table III-1> and <Table III-2>, crimes punishable by the death penalty are listed in the Penal Code and the Addendum to the Penal Code (General Crimes). The procedure for capital punishment is provided in the Criminal Procedure Law and the Law on Sentences and Implementations of Decisions. The death penalty is carried out after the judgment is finalized, and executions require the approval of the Presidium of the Supreme People’s Assembly (“Article 419,” Criminal Procedure Law). From the rule of law standpoint, it is important to determine whether

North Korea conducts public executions only for crimes described in the Penal Code and in accordance with legal procedures.<sup>4</sup> Documents presented below indicate that public executions are ordered for crimes stipulated in the Penal Code and the sentences are carried out in accordance with certain procedures. For example, the Pyongyang Court of Justice sentenced Lee Seong-cheol to death for the deliberate destruction of state property in accordance with “Article 4” of the Addendum to the Penal Code (General Crimes). On September 2010, the Supreme Court requested approval for the public execution of defendant Lee Seong-cheol as sentenced and confirmed by the Pyongyang Court of Justice (Figure II-2). In addition, the North Pyongan Province Court of Justice sentenced Chun-nam Kim to death applying “Article 4” of the Addendum to the Penal Code (General Crimes). The Supreme Court requested approval for the public execution of defendant Chun-nam Kim as sentenced and confirmed by the North Pyongan Province Court of Justice (Figure III-3).

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<sup>4</sup> Kyu-chang Lee and Kwang-jin Jeong, *A Study of North Korea's Criminal Trial System: Characteristics and Reality* (Seoul: Korea Institute for National Unification, 2011), pp. 81-88.

## <Figure III-2> The Supreme Court's Request for the Approval of Execution (1)

- Seong-cheol Lee (age 40, the crime of intentional destruction of state property)

### ● On the Criminal Acts of Defendant Lee Seong-cheol

Case Name: The crime of intentional destruction of state property  
(Article 4 of the Addendum to the Penal Code)

Defendant: Seong-cheol Lee, male

Residence: The Hyeongje-san District of Pyongyang

Work Position: Hyeongje-san District laborer

Personal Background: Farmer

Party Affiliation: Not affiliated

### ● Substance of Crime

Defendant Seong-cheol Lee, in conspiracy with joint defendant Jeong-gil Kim (male, age 44, Daedong County farm worker) and two others, committed eight severe acts of destruction of state property from 2006 to 2010 in stealing eight laboring cows (valued at 401,410 NKW) from Hyeongje-san and surrounding districts and slaughtering them in secret. In addition, they stole and illegally sold six laboring cows and one candidate cow (341,900 NKW), and also committed the crime of personal commercial activity.

※ Joint defendant Jeong-gil Kim, who was urged by defendant Seong-cheol Lee and conspired in the secret slaughter of the eight laboring cows for the purpose of obtaining their meat and by products, was sentenced to a life-time term of correctional prison labor under Article 97 (3) of the Penal Code (the crime of willful destruction of state property);

※ Joint defendant Yeong-min Kwon, who stole three laboring cows and delivered them to the defendant, was sentenced to nine years of correctional prison labor under Article 89 (3) of the Penal Code (the crime of theft of state property); Yeong-sik Kim, who stole two laboring cows and two candidate cows and delivered them to the defendant was sentenced to six years of correctional prison labor under Article 89 (2) of the Criminal Act.

### ● Opinion of the Supreme Court

We request approval for the public execution of defendant Seong-cheol Lee, who was sentenced to death by the Pyongyang Court of Justice and whose sentence was affirmed as final.

## &lt;Figure III-3&gt; The Supreme Court's Request for the Approval of Execution (2)

- Chun-nam Kim (age 36, the crime of willful destruction of state property)

- **On the Criminal Acts of Defendant Kim Chun-nam**

Case Name: The crime of willful destruction of state property  
(Article 4 of the Criminal Act Supplementary Provisions)

Defendant: Chun-nam Kim, male

Residence: Yeomju County, North Pyongan Province

Work Position: Yeomju county laborer

Personal Background: Soldier

Party Affiliation: Labor Party

- **Substance of Crime**

Defendant Chun-nam Kim, in conspiracy with others, committed twelve acts of cutting and destroying 1,100m of high voltage 3,300V power lines (4mm and 5mm copper wire, valued at 73,300 NKW) around Dongrim County in the period from 2008 to 2010. He then sold the stolen copper wires weighing 191.5kg for 1,004,100 NKW, taking the profit for his personal use.

※ Joint defendant Yeong-suk Choi, who in conspiracy with the defendant, committed four acts of stealing or secretly selling 80kg of power lines (5mm copper wire, 35,300 NKW), was sentenced to three years of correctional prison labor under Article 89 (2) of the Penal Code (the crime of theft of state property).

※ Joint defendant Gi-ung Lee, who knew the defendant would cut power lines and bring them to him, secretly sold the power lines on three occasions, totalling 71kg of stolen power lines (valued at 11,500 NKW). The defendant was sentenced to two years of correctional prison labor under Article 115 (1) of the Penal Code (the crime of smuggling and trafficking colored metals).

※ Joint Defendant Seong-yun Han bought and secretly sold copper wire brought by the defendant on four times totalling 73.5kg of wire (valued at 11,300 NKW). Since his cousin Seong-gu Han (male, age 24, member of the North Korean People's Army), is in a special forces unit, a settlement offer was presented, but no settlement was reached. Thus defendant Han is now being handled as a separate case.

- **Opinion of the Supreme Court**

We request approval for the public execution of defendant Chun-nam Kim, who was sentenced to death by the North Pyongan Province Court of Justice and whose sentence is affirmed as final.



The documents above are the first evidence illustrating that North Korea adheres to the provisions of the criminal law in carrying out public executions, and the significance cannot be underestimated. However, the question remains whether all public executions are carried out according to the procedures laid out in the above documents. Examining the documents alone, it is unclear whether the Supreme Court requested approval after the death sentence was confirmed in the appeal or if the verdict was finalized without an appeal and the trial courts (the Pyongyang Court of Justice and the North Pyongan Province Court of Justice in these two cases) requested approval for the executions via the Supreme Court. Furthermore, the institution to which the Supreme Court requested approval was not specified, leaving uncertainty as to whether this approval came from the Presidium of the Supreme People's Assembly, as provided in the North Korean Criminal Procedure Law or from some other body. As discussed above, and confirmed in the testimonies by North Korean defectors described below, public and private executions are conducted within long-term labor training camps, execution by summary trial are routine in the political prison camps, and arbitrary secret executions are carried out by the State Security agents.

Testimonies from North Korean defectors provided the following details regarding public executions:

- **Public Execution for Anti-regime Activities**

*<Resistance Activities against the Regime>*

North Korea executes those charged with anti-regime activity or treason against the Fatherland. Public executions are carried out to the criminal caught selling items of historic or revolutionary relics or receiving cash or bribery from South Korea's National

Intelligence Agency. Among the newly confirmed testimonies in 2012 was a case of public execution in which a person was publicly executed for allegedly stealing and hiding rice at the instruction of South Korea's National Intelligence Agency. In addition to the crimes described, the death penalty was also enforced for religious proselytizing.

Testimonies	Testifier ID
Defector XXX testified that in 2007, a man and a woman living in Yonsa County had sold legally protected trees to China through an intermediary under the tacit consent of military, party, and security agency officials. North Korea was protecting the trees by law as relics of revolutionary history. When this incident was revealed during an inspection, the two individuals were publicly executed at the Soonam Marketplace.	NKHR2008000007 2008-07-30 and other 6 testimonies. <sup>5</sup>
Defector XXX testified that on October 2009, he heard a rumor that a woman who used to live in Junghwa County, Pyongyang, was executed in early 2009 for the possession of a Bible.	NKHR2011000209 2011-09-20
North Korean defector XXX testified that he/she had heard that the director of Nagang Sales Office in Chongjin City was publicly executed at a marketplace in Chongjin City, North Hamgyoung Province in October 2009 for taking money from South Korea's National Intelligence Agency.	NKHR2012000143 2012-07-17
North Korean defector XXX testified that he/she had heard that a man was publicly executed in Chongjin in 2010 on a charge that he/she threw rice into the sea at the instruction of South Korean Intelligence Agency, thereby causing increase in price of rice and exacerbating economic difficulties of the people.	NKHR2012000153 2012-07-24
North Korean defector XXX testified he/she had heard that a farm supervisor, a local party secretary, and an accountant at Sunchon County, North Pyong-an Province were publicly executed in front their colleagues assembled in Sunchon County in March 2011.	NKHR2012000152 2012-07-24

<sup>5</sup> NKHR2008000007 2008-07-30; NKHR2008000013 2008-08-19; NKHR2008000027 2008-12-02; NKHR2009000011 2009-03-03; NKHR2012000095 2012-05-29; NKHR2012000164 2012-08-08; NKHR2012000196 2012-09-25.

**<Murders of the agents of Ministry of People’s Security and State Security Agency>**

There are some testimonies indicating that public executions were carried out in connection with murders of the agents of Ministry of People’s Security and State Security Agency. It appears that some North Korean residents discontent with tighter social control measures were involved in the process of building a political succession system, and murdered the agents of Ministry of People’s Security and State Security Agency. The North Korean government responded mercilessly to these acts of resistance to the regime.

Testimonies	Testifier ID
Defector XXX testified to hearing a rumor that two brothers convicted of killing a agent of the Ministry of People’s Security in July 2010 during a crackdown on bingdu (a type of drug trafficked in North Korea) and viewing South Korean compact discs were executed at Hoeryeong Stadium.	NKHR2011000099 2011-04-26 NKHR2011000187 2011-08-16
North Korean defector XXX testified that he/she had witnessed a public execution by a firing squad at the Sanup-dong Stadium in Hoeryeong City, North Hamgyoung province in August of 2010. The charge was that two brothers, XXX and XXX, had murdered a State Security Agency’s guidance agent with an axe when they were caught using hand phones (cell phones).	NKHR2011000037 2011-01-11, and other 10 testimonies. <sup>6</sup>

**<Dissemination of Information about the Outside World>**

Occasionally, public executions are carried out on charges of circulating foreign information through South Korean leaflets or videos. In recent years, communication via electronic devices is

<sup>6</sup>-NKHR2011000037 2011-01-11; NKHR2011000151 2011-06-28; NKHR2012000020 2012-02-07; NKHR2012000025 2012-02-21; NKHR2012000041 2012-03-20; NKHR2012000106 2012-06-12; NKHR2012000111 2012-06-12; NKHR2012000128 2012-07-03; NKHR2012000159 2012-08-07; NKHR2012000168 2012-08-21; NKHR2012000258 2012-11-27.

quite common among North Koreans, with the introduction of computers, cell phones, MP3 and USB. As a result, changes are taking place in their level and quality of information, and many middle class families, including high-ranking officials, enjoy watching South Korean movies and TV series. Accordingly, North Korean authorities are trying to tighten information circulated in an effort to restrain the influence of capitalist culture and block people's access to information.

Testimonies	Testifier ID
Defector XXX testified to witnessing an execution of a woman in October 2008 at the Sinpung Stadium at Sinpung-dong, Wonsan, Gangwon Province for the crime of selling South Korean compact discs.	NKHR2011000158 2011-07-05
Defector XXX testified to hearing a rumor that a man who lived in Wonju, Gangwon Province, was shot in May 2010 at the market in Chongjin for selling South Korean compact discs.	NKHR2011000094 2011-04-12
Defector XXX testified to witnessing a man from Chongjin being shot in May 2010 at the Sunam Market in Chongjin for the crime of watching and distributing numerous South Korean compact discs.	NKHR2011000176 2011-08-02
North Korean defector XXX testified that he/she had heard that a student was publicly executed in December of 2011 for copying and selling a South Korean video.	NKHR2011000185 2012-09-11

Even among those caught with South Korean videos or propaganda leaflets in their possession, not everyone is subject to public execution. Defector XXX testified that depending on the case, people may be penalized with fines or sent to a labor training camp, but not always to correctional centers.<sup>7</sup> Defector XXX who defected in January 2010 testified that people could avoid physical punishment if they offered bribes.<sup>8</sup> But through the Penal Code

<sup>7</sup> NKHR2010000018 2010-10-05.

<sup>8</sup> NKHR2010000020 2010-06-01.

revision in 2009, North Korea made it possible to punish a wide range of cases by adding penalties for possession of corrupt or depraved materials and decadent behavior in an effort to cease the inflow of capitalist culture.<sup>9</sup> The authorities feared that South Korean videos would have a detrimental influence on North Koreans. For example, defector XXX said he listened to broadcasts of South Korea’s Christian Broadcasting Station and Hanminjok (One Nation) in 2009, which gave him the desire to go to South Korea.<sup>10</sup>

**<Acts Related to the Currency Reform>**

When the currency reform in late November 2009 failed, a rumor spread that Nam-gi Park, the former director of Finance and Planning Department of the Korean Workers’ Party (KWP) who was in charge of the initiative, was executed. During this time, several public executions took place for revealing the currency reform in advance and improperly disposing the old currency.

Testimonies	Testifier ID
Defector XXX testified to hearing a rumor at the 9501 Military Camp on the Pyongyang Subway that Nam-gi Park was publically executed in March 2010 at a school in Pyongyang. Another defector also heard a rumor that Nam-gi Park was killed by firing squad for leading the currency reform effort, and testified that the execution took place at the Ganggeon Military Academy in the Sunan District of Pyongyang.	NKHR2011000070 2011-03-15 NKHR2011000088 2011-04-05
Defector XXX testified to hearing a rumor that a woman was executed in December 2009 in Gyeongseong County, North Hamgyong Province, for divulging the currency reform in advance.	NKHR2011000221 2011-06-09

<sup>9</sup>-Baik-gyu Lee, “Overview of North Korea’s Revised Penal Code, 2009,” (The 157th Monthly Meeting of the Association for Research on the Laws of North Korea, September 16, 2010).

<sup>10</sup>-NKHR2011000022 2010-06-24.

Testimonies	Testifier ID
Defector XXX testified to hearing a rumor in July 2010 at the Sunam District of Chongjin that a man was executed for disposing old currency in a river, deeming it to be useless after the currency reform.	NKHR2011000217 2011-10-04

### <Other Anti-State Acts>

It appears that there were also public executions for failing to transmit electricity to Pyongyang. It seems that the act of not transmitting electricity was deemed an anti-state act and was heavily punished because electricity is considered essential to a strong and prosperous state.

Testimonies	Testifier ID
Defector XXX testified to hearing a rumor that two executives of the Jangjin River Power Plant were executed in March 2010 at their work place for not transmitting electricity to Pyongyang.	NKHR2011000133 2011-06-07

### • Public Execution of Economic Criminals

#### <Stealing Communication Lines or Copper Wires>

Most defectors testified that stealing or taking state owned property such as electric wires or communication lines was punishable by public execution.

Testimonies	Testifier ID
Defector XXX testified that she witnessed an execution in Sunchon City, South Pyongan Province, in October 2007 on charges of stealing factory equipment (a generator).	NKHR2010000093 2010-03-30
Defector XXX testified that she witnessed an execution by a firing squad in Eunduck County, North Hamgyoung Province, in the summer of 2008 on charges of smuggling.	NKHR2011000022 2010-06-24
Defector XXX testified that she had heard a rumor that in January 2009, a resident in Geumsan-dong, Hyesan City, Yanggang Province was executed by a firing squad for stealing rail spikes (steel nails).	NKHR2010000018 2010-10-05

Testimonies	Testifier ID
North Korean defector XXX testified that he/she had witnessed a public execution by a firing squad of a 36-year old man in January 2009 at Gilsungpo Harbor in North 3-dong, Sariwon City, North Hwanghae Province. He was charged for stealing communication cables.	NKHR2012000072 2012-04-26

### <Smuggling and Dealing with Narcotics>

Public executions are reported to be increasing on charges of smuggling, as smuggling activities have been on the rise along the Korea-China border. Evident from the revision of the appendices in the Penal Code, investigations on smuggling of narcotics are intensified and public executions are carried out frequently.<sup>11</sup>

Testimonies	Testifier ID
Defector XXX testified that he witnessed an execution by a firing squad in the marketplace in Hyesan District of Hamhung City in the summer of 2008. XXX was a section chief in the provincial Office of Inspection, and his charge was dealing with narcotics (ice).	NKHR2010000036 2010-11-02
North Korean defector XXX testified that he/she witnessed a public execution by a firing squad of a 45-year old man at Hoeryeong-chon, Hoeryeong City, North Hamgyoung Province in July of 2011. His charge was secret transaction of narcotic drugs. Anyone selling over 3 kilograms of meth (or so-called 'ice') would be subject to execution, and he was caught selling 9 kilograms of it.	NKHR2012000041 2012-03-20
North Korean defector XXX testified that he/she had heard that two 40 year-old men living in Hoeryeong City were executed by a firing squad at Hoeryeong stadium in Hoeryeong City, North Hamgyoung Province in November 2011 for dealing with narcotics ('ice').	NKHR2012000111 2012-06-12
North Korean defector XXX testified that he/she had witnessed a public execution by a firing squad of three men (including a second lieutenant security agent) and a woman at Susongchon in Chongjin City, North Hamgyoung Province on December 4, 2011 on charges of selling narcotics ('ice').	NKHR2012000107 2012-06-12 NKHR2012000122 2012-06-26

<sup>11</sup>—Despite the danger of punishment, some North Korean deal secretly in drugs (bingdu) for high profits. See Good friends, “North Korea Today,” No. 404 (May 25, 2011).

### <Squandering Public Property>

North Korean defectors testified that public executions took place for squandering public property. The Addendum to the Penal Code (General Crimes) imposes the death penalty for extremely aggravated cases of embezzlement or theft of public property.

Testimonies	Testifier ID
Defector XXX testified that a man who was a director of North Korean company earning foreign cash was executed for mis-appropriating government money at Sinpung Stadium, Sinpung-dong, Wonsan, Gangwon Province in October 2008.	NKHR2011000158 2011-07-05
Defector XXX testified that three men, including a chairman of a management committee of Yonglim-ri, Mundeok County, South Pyongan Province were executed for mis-appropriating public property at Pyongseong Stadium in Pyongseong, South Pyongan Province in July 2009.	NKHR2011000111 2011-05-17

### <Stealing Livestock>

There are many testimonies of public executions taking place in North Korea for stealing cattle and goats during the period of the Arduous March (the mid-to-late 1990s). Since 2000, the number of similar testimonies have sharply decreased, but others have provided information that public executions took place in 2009 and 2010 for those caught smuggling and selling livestock on the black market.

Testimonies	Testifier ID
Defector XXX testified to hearing a rumor that a male soldier was executed by a firing squad in November 2009 at the Fourth Company of the Fifth Battalion of the Twenty-fifth Brigade of the Kim Hyung-jik County at Yanggang Province for smuggling cows.	NKHR2011000103 2011-05-03
Defector XXX testified to witnessing a firing squad executing five people for smuggling livestock, including a 36 year-old man, in July 2010 at the Weolpo riverside levee in Myonggan County, North Hamgyoung Province.	NKHR2011000213 2011-10-04



- **Public Execution for Social Misdemeanors**

North Korean defectors have testified on public executions for human trafficking and murder. There have also been continuous reports on public executions for rape in recent years. Furthermore, there have been testimonies of public executions for cannibalism after the currency reform. There also appears to be a few instances of public executions for fraud and larceny.

**<Human Trafficking>**

The North Korean authorities appear to continue public executions for human-trafficking even after 2000, despite strong criticisms from the international community. A newly confirmed evidence in 2012 illustrated that public executions are still taking place on river-crossing brokers for assisting voluntary river-crossing (border-crossing). Their charge was human trafficking.

Testimonies	Testifier ID
North Korean defector XXX testified that two men living in Hyesan City in Yanggang province were publicly executed in May 2009 at Hyesan City on charges of human-trafficking. They helped 27 people, who voluntarily wanted to go to China, cross the river (border).	NKHR2012000046 2012-03-23
Defector XXX testified to witnessing the execution of two men and two women from Musan County, North Hamgyoung Province, on charges of human trafficking in October 2010 in Musan. They had allegedly trafficked thirty-eight individuals, and both were executed by a firing squad after a public trial.	NKHR2011000160 2011-07-12 <sup>12</sup>
North Korean defector XXX testified that he/she had witnessed a public execution by a firing squad of two men and four women at a marketplace in Musan County, North Hamgyoung province, in July 2010 on charges of human-trafficking.	NKHR2012000101 2012-06-05

<sup>12</sup>. This case re-confirmed a similar previous case that had slightly different details. NKHR2012000030 2012-02-21.

**<Murder>**

Despite the policy of enforcement and strict penal provisions against the use of violence, incidents of violent crime is on the rise. Many defectors testified that public executions are still carried out for the crime of murder. This trend continued in 2010.

Testimonies	Testifier ID
Defector XXX testified that in the summer of 2009 at a riverbank in Cheonnae County, Gangwon Province, she witnessed an execution of a student who attended college in Wonsan, Gangwon Province. The student was accused of murdering the mother of a college classmate. The college student on several occasions asked the student's mother, who was affluent, for a loan or food such as tofu, but the mother refused and the student impulsively killed her.	NKHR2011000196 2011-09-06
North Korean defector XXX testified that he/she had witnessed a public execution by a firing squad of a 65-year old woman in October 2009 in Kumya County, South Hamgyoung province, on charges of murdering the chief of the Kumya County clinic.	NKHR2012000049 2012-03-27
Defector XXX testified to witnessing the death by a firing squad of two men at Dongyeong Mountain, Wonsan, Gangwon Province, in January 2010, who were convicted of murder.	NKHR2011000158 2011-07-05
Defector XXX testified to hearing a rumor that a thirty-five year old man was executed for murder in Bukcheong County, South Hamgyoung Province, in February 2010.	NKHR2011000128 2011-05-31
Defector XXX testified that he had heard a rumor that XXX was executed by a firing squad at a fish-farm in Kangson-ku, Musan County, North Hamgyoung Province, for having murdered his wife in March 2010.	NKHR2010000024 2010-10-19
North Korean defector XXX testified that he/she had witnessed a public execution by firing squad of two women (age 30 and 27) on murder charges on the banks of Susongchon near Songpyong district railway station in Chongjin City, North Hamgyoung Province on October 22, 2010.	NKHR2012000052 2012-03-28

### <Rape>

Rape is committed against women and even minors in North Korea.<sup>13</sup> Public executions are also carried out as punishment for rape.

Testimonies	Testifier ID
North Korean defector XXX testified that he/she had witnessed a public execution by a firing squad of a man on charges of rape in June 2009 at the marketplace in Musan County, North Hamgyoung province.	NKHR2011000155 2011-07-05
North Korean defector XXX testified that he/she had witnessed a public execution by a firing squad of a 34-year old shoe-factory worker (living in Soonchon City, South Pyongan Province) on charges of rape/murder in July 2009 at Baekam County, Yanggang Province.	NKHR2012000129 2012-07-03
Defector XXX testified to witnessing a man who lived in Sadong District of Pyongyang being killed on Tong-il Street (Reunification Street) by firing squad in February 2010 for raping a minor.	NKHR2011000085 2011-04-05

### <Cannibalism>

There are testimonies on the sale of human meat during the period of the Arduous March; however after 2000, most of these testimonies disappeared. There was a reemergence on cannibalism in 2006 which was exacerbated by the economic turmoil and food shortage caused by the currency reform.

Testimonies	Testifier ID
Defector XXX testified to witnessing a shooting of a father and son for cannibalism in November 2006 next to Suseong-cheon levee in Deokseong County, South Hamgyoung Province.	NKHR2011000091 2011-04-12

<sup>13</sup> Documents of People's Safety Agency includes punishment guidelines for many kinds of rapes. They implies that crimes related to rapes frequently occur in North Korea. People's Safety Agency, *Reference Book for Law Enforcement Officials* (Pyongyang: People's Safety Agency Publishing Company, 2009), pp. 465-473.

Testimonies	Testifier ID
Defector XXX, who escaped North Korea in June 2011, testified to hearing a rumor that a man who lived in the Masan-dong area of Hyesan, Yanggang Province was executed in December 2009 for eating human flesh after committing murder. The executed man had allegedly killed a 10 year-old girl who was passing by and ate her flesh because he had nothing to eat; this occurred soon after the currency reform.	NKHR2011000225 2011-10-19

### <Other Deviant Acts>

Some public executions were carried out as a punishment for fraud or large-scale larceny.

Testimonies	Testifier ID
North Korean defector XXX testified that he/she had witnessed a public execution by a firing squad of a 23-year old woman on charges of fraud in October 2009 on the banks of Susongchon, Chongjin City, North Hamgyoung Province.	NKHR2011000118 2011-05-17
Defector XXX testified to witnessing the shooting of a man who lived in Chongjin at the Sunam Market in Chongjin in May 2010 for stealing 300 bicycles.	NKHR2011000176 2011-08-02

### ● Public and Secret Executions inside Correctional Centers

It has been reported that public and secret executions are carried out inside the correctional centers. Defector XXX testified that it may appear as though public execution has come to an end in recent years; however, they are conducted in secret. For example, at the Seventh Correctional Center located behind the Sariwon City Cigarette Factory,<sup>14</sup> executions were imposed on those charged with attempted flight. Defector XXX testified that in April 2007, a

<sup>14</sup>-NKHR2009000012 2009-03-05.

man was shot in the leg while attempting to flee from the Jongori Correctional Center. The center's deputy director ordered, "From now on I will shoot and kill anyone trying to flee from this center. Deal with him quickly so that I can publicly execute him within 2-3 days." But the man died from heavy loss of blood before the execution.<sup>15</sup>

### • Public and Secret Executions in Political Prison Camps

Defector XXX, a former political prison camp security guard who defected in October of 1994, testified that executions based on summary trials are carried out on a routine basis at these camps. Additionally, the State Security agents personnel arbitrarily decide to conduct closed executions.<sup>16</sup> Those subjected to public executions are usually people caught trying to escape. Defector XXX testified that when he went to cultivate a farm at a place called Kungsim in Hoeryeong, North Hamgyong Province, he witnessed a female inmate running towards a barbed wire fence to flee from the No. 22 Prison Camp in Hoeryeong. He testified that he believes guards took her away and she was executed.<sup>17</sup> Defector XXX testified that he was detained in the spring of 2006 at Gaecheon Prison Camp in South Pyongan Province. He witnessed XXX getting executed by a firing squad at the Gaecheon Prison Camp on charges of attempting to flee North Korea.<sup>18</sup>

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<sup>15</sup> NKHR2009000059 2009-09-29.

<sup>16</sup> Interview with defector XXX in Seoul on July 9, 1996.

<sup>17</sup> NKHR2010000069 2010-10-26.

<sup>18</sup> NKHR2010000045 2010-09-07. The witness said the Gaecheon "correctional center," but he must have meant the Gaecheon "management center."

### • Changes in Patterns of Public Execution

According to testimonies of North Korean defectors, public executions continued even after 2000; however, compared to the “Arduous March” period during the 1990s, public executions appeared to be decreasing. On the contrary, other defectors testified that the reduction in the numbers was due to the fact that closed and secret executions have increased, rather than a reduction in the number or frequency of executions. It is important to note that North Korean authorities have reacted to the harsh international criticisms on the practice of public executions in North Korea. This response, however, began to change for the worse. Many North Korean defectors testified that public executions were again on the rise since 2007.<sup>19</sup> In fact in 2009, the total number of public executed persons jumped to a total of 125, which was the highest number in recent years. The total number recorded was 76 in 2010 and 85 in 2011, showing rather high figures. Among the 286 defectors responding to in-depth interviews, only six respondents testified that they heard about or personally witnessed public executions, but this number too could increase as investigations continue.

<Table III-3> Number of Publicly Executed Persons according to Testifiers<sup>20</sup>

(Unit: Persons)

Year of execution	Number of testifiers				Number of persons executed
	Witnessed	Informed	Other	Total	
2005	14	5	1	20	55
2006	15	5	1	21	42
2007	21	4	2	27	47

<sup>19</sup> Kook-shin Kim, et al., *2011 White Paper on Human Rights in North Korea* (Seoul: Korea Institution for National Unification, 2011), pp. 81-84.

Year of execution	Number of testifiers				Number of persons executed
	Witnessed	Informed	Other	Total	
2008	28	8	0	36	74
2009	24	28	3	55	125
2010	19	30	1	40	76
2011	10	17	0	27	85
2012	1	4	1	6	6
Total	132	91	9	232	510

There are several reasons for the recent increase in the number of public executions: the addition of the Addendum to the Penal Code (General Crimes) in 2007, the 2009 Penal Code revision, and the official appointment of Kim Jong-un as the successor of power and subsequent developments. It is important to examine whether Kim Jong-un will continue to maintain and/or expand public executions as a means of enforcing terror to protect his regime or whether he will change the direction by relying more on secret executions and life term correctional labor penalties in his efforts to promote affinity with the people in recognition of criticisms by the international community.<sup>21</sup>

<sup>20</sup> The numbers in this table do not accurately reflect the number of persons who were publicly executed in North Korea. Clearly, there are unavoidable limitations in analyzing the overall trends of execution and their changes. For example, many defectors testified on the same events (for example, the case of Moon-hyok Oh in 2008 and the two brothers case of 2010) and there are reliability issues with their memories. So, it is quite possible that different testimonies may overlap on same case. Furthermore, researchers had difficulty identifying all the differences and draw conclusions on a case given divergent testimonies. But, even though there are certain limitations, the above table clearly shows that public executions continue to persist at a certain level in North Korea and their numbers are not diminishing at a significant rate.

<sup>21</sup> Soo-am Kim, et al., *2012 White Paper on Human Rights in North Korea* (Seoul: Korea Institution for National Unification, 2012), pp. 88-90.

Second, the majority of public execution testimonies are from Hamgyoung. This is related to the fact that the respondents are predominantly from that area.<sup>22</sup> Furthermore, there were more testimonies on public executions occurring in the border areas than areas further inland, and more in the cities than the countryside. The reason appears to be because more illegal activities take place in urban areas than in rural areas, resulting in a greater need for public executions to instill caution and fear among residents living near the border.

Third, the most common reason for public execution up to 2010 was economic and social crimes. However according to the testimonies from defectors, starting in 2011, crime related to narcotics became the most frequent cause for public execution. In connection with the 2010 public execution case involving the murder of agents of the Ministry of People's Security and the State Security Agency in Hoeryeong, which was initially confirmed during personal interviews with North Korean defectors in 2011, other defectors also testified during the 2012 interviews indicating that the incident had a significant repercussion in the North Korean society. Testimonies on public execution over crimes involving consumption of human body parts and theft of domestic animals had disappeared in earlier years (mid-2000s), but re-emerged in 2011, illustrating the deteriorating economic hardship, grain shortage that resulted from the failed currency reform, tightening of social control for leadership succession, and efforts to build a 'strong and prosperous nation.'

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<sup>22</sup> In connection with public executions that took place in 2011, the number of executions in Musan County, where the number was highest in the past, has significantly decreased, but the number of executions in Chongjin City has drastically increased.



## C. Other Breaches on the Right to Life

In addition to public execution, there are multiple human rights issues involving breaches on the right to life. In many detention facilities and political prison camps, many inmates are dying due to ruthless hard labor, malnutrition, diseases, and beatings. Poor sanitation facilities and lack of medical treatment further exacerbates the issue (See Chapter III. 2. The Right to Liberty and Personal Security). North Korean authorities have directly and flagrantly breached the right to life of their own citizens as evident from the recently reported shooting and killing of unarmed defectors fleeing from North Korea, forcible abortions upon deported individuals, and murdering of newborn babies. (See VI. The Reality of Defectors' Human Rights). North Korean authorities have a duty to actively promote social rights of their people; however, they fail to meet their duty as breaches to the right to life are evident from case of death from starvation. (See IV. 1. The Right to Food.) The recent increase in the death rate of newborn babies and their mothers are evidence that the right to life of North Koreans is not protected. (See Chapter IV. 2. The Right to Health)<sup>23</sup>

## D. Assessment

North Korea is a signatory of the International Covenant on Civil and Political Rights, and as such, have the duty to respect, protect, and fulfill the terms of the covenant. Adding an Annex

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<sup>23</sup> *Yonhap News* (Seoul), "Death Rates of Newborn Babies and their Mothers Higher than in the 1990s," November 26, 2012; Human Rights Committee, General Comment No. 6: Article 6 (Right to Life), para. 5.

(ordinary crimes) to the Penal Code and utilizing proclamations as a means to broaden the scope of capital punishment is in direct violation with North Korea's duty to respect the right to life stipulated in "Article 6" of the covenant. "Article 6" mandates that capital punishment may only be imposed on the gravest crimes and strictly forbids arbitrary deprivation of life. Furthermore, public execution as a means of carrying out capital punishment is a clear violation on the right to die with human dignity, and the same applies to the deaths in detention facilities and political prison camps. Shooting and killing unarmed defectors and murdering newborn babies are blatant breaches of the right to life, as are deaths from starvation and deaths of mothers of newborn babies.

More serious is the increasing frequency of public executions even though grave concerns continue to persist over other violations on the right to life. Many defectors testified that public executions are being replaced with secret executions and life sentence in correctional training penalties. In fact, testimonies relating to this issue has increased in 2011, with a peak in 2009, showing that the practice of public execution continued in 2011 without any sign of decrease. Given the tightening of internal control under Kim Jong-un's regime, this trend does not appear to change in the near future and threats to right to life of North Korean citizens will continue to persist, along with other types of human rights violations.



# 2



## *The Right to Liberty and Security of Person*

### **A. Liberty Rights and North Korea's Criminal Law System**

The Right to Liberty and Security of Person guarantees everyone to enjoy personal freedom and security as prescribed in the law and due process of the law. The international human rights regime clearly prohibits slavery, forced labor, torture, and other acts of persecution. “Articles 3, 4, and 5” of the Universal Declaration of Human Rights clearly stipulate that “No one shall be subject to torture or cruel, inhuman or degrading treatment or punishment.” “No one shall be held in slavery or servitude,” and “No one shall be subject to arbitrary arrest, detention or exile.” In addition, “Articles 7, 8, 9 and 10” of ICCPR stipulate that “Any persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” Furthermore, the United Nations General Assembly adopted the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment on December 10, 1984.

North Korea's Socialist Constitution prohibits all arrests and detentions of their people unless prescribed by law. The current Socialist Constitution revised on April 13, 2012 guarantees rights of liberty by stipulating, "Citizens cannot be detained or arrested and their homes cannot be searched without legal grounds ("Article 79")." The constitution revised in April 2009 stipulated for the first time respect for human rights, saying "The state shall safeguard the interests of the people and respect and protect their human rights ("Article 8")." In the past, provisions for the protection of human rights were listed only in Criminal Procedure Law and the Attorney Law.

The Criminal Procedure Law, last amended in 2006 specifies, "No one can be arrested or detained in a manner not provided for in the law or without following the procedures prescribed by the law ("Article 177")." The law also stipulates that no arrest shall be made without a warrant, and only investigators and retrial agents can make arrests ("Article 180"). More specifically, "Article 181" stipulates that if a pretrial agent needs to detain a suspect, the agent must apply for pre-approval from a prosecutor. In addition, the law specifies that "The suspect's family or organization shall be notified within 48 hours of arrest of the reasons for and the place of detention ("Article 183")."

Procedures regarding search and seizure are also regulated in the Criminal Procedure Law. Prior to search and seizure, the agent must submit a form and obtain a prosecutor's approval authorizing the seizure ("Article 271"). Before the actual search and seizure, the agent must present the authorizing document in the presence of two independent witnesses ("Articles 218 and 221"). Furthermore, there are many laws prohibiting torture and other inhumane treatments. In connection with the interrogation

of suspects, “Article 167” specifically stipulates that “The pretrial agent should not obtain the suspect’s admission of guilt through leading questions or forcible means.” “Article 229” also stipulates that “In the process of interrogation, the witnesses or suspect should be protected from the use of force or intimidation.”

North Korean Criminal Law also provides legal measures to protect the rights to individual liberty and personal safety. Law enforcement officials who illegally interrogated suspects can be punished with correctional labor in excess of ten years. (“Article 253”). If a law enforcement official has illegally arrested or detained a person, searched a home or seized or confiscated personal property, he/she may be sentenced to up to three years of correctional labor (“Article 252”). Despite these revisions in the Criminal Procedure Law and the Penal Code, the possibility of human rights violations still remains. However, under the same provisions, the investigators or pretrial agents are not required to obtain arrest or search warrants for arrests, investigations, searches and seizures. It is also widely known that laws are not faithfully followed throughout the enforcement process, even though the law clearly prohibits any violation of human rights or the liberty and security of a person.

Furthermore, from the standpoint of international human rights standards, it seems desirable for North Korea to be more concrete and detailed, including the prohibition of slavery and forced labor, prohibition of torture under detention, and a more humane treatment of inmates. These stipulations in the law are meaningless when applied to political prison camps that remain outside the purview of official government structure. The notorious North Korean political prison camps, which will be discussed later in this report, contain every conceivable type of human rights violations, including those of personal freedom and security.

## B. Detention and Correctional Facilities

- **Detention Based on the Type of Crime: Political and General Crimes**

Punishment under the North Korean Penal Code are classified as basic punishment or additional punishment. There are four types of basic punishment: the death penalty, an unlimited term of correctional prison labor, a limited term of correctional prison labor, and disciplinary prison labor (“Article 28”). Unlimited term of correctional prison labor and disciplinary prison labor were added during the Penal Code. The duration of unlimited correctional prison labor sentence is 15 years or longer. The duration for limited term sentences range from one to 15 years. Convicts sentenced to unlimited or limited correctional prison labor are detained in Correctional Centers and undergo correction through labor (“Article 30”). The criminals sentenced to correctional punishment are typically economic or violent criminals, rather than political criminals. Those sentenced to correctional punishment may be detained at correctional centers managed by the Correctional Bureau of the Ministry of People’s Security. In addition to the official correctional facilities, North Korea has been criticized for operating political prison camps, detention facilities, and labor training camps. Political criminals are incarcerated at prison camps operated by the Farm Guidance Bureau of the State Security Agency. These centers are political prison camps, often called control districts or special districts for dictatorial control. At the Ministry of People’s Security (hereafter MPS), the camps that hold former high-ranking officials are also called prison camps. Depending on the nature of the crime, different agencies exercise control over the convicts. For

example, the State Security Agency will handle crimes against the state and the people, whereas the Ministry of People's Security investigate ordinary criminal cases. The prosecution handles other crimes involving administrative and economic projects and violations by law enforcement officials and agents (Criminal Procedure Law, "Article 122").

<Table III-4> Confinement Facilities

Type of crime	Supervising institution	Confinement facilities
Economic criminals and people found guilty of violent crimes	Ministry of People's Security	Correctional Centers Labor Training Camps Detention Facility
Political criminals	State Security Agency (Bureau No. 7)	Prison Camps

### • Correctional Centers

Correctional center is a type of prison facility in North Korea that is similar to a South Korean prison. The Ministry of People's Security operates these centers and house convicts who have committed serious crimes. Those sentenced to death or correctional prison labor penalties by the court are detained at a correction center and there is at least one correctional center in each province.<sup>24</sup> The crimes and types of detention stipulated in the Penal Code are outlined in <Table III-5>.

<sup>24</sup> According to defectors, there are two correctional centers in Hamhung City, South Hamgyoung Province: a "correctional center for women" in Sapo District and a "correctional center for men" in Hwasan District. In addition, well-known correctional centers in North Korea include Kaechon Correctional Center, Jonkori Correctional Center and Susong Correctional Center. (Interview with defector XXX in Seoul on January 19, 2008).

**<Table III-5> Types of Crimes and Corresponding Place of Detention**

Category	Correctional centers		Designated location
	Unlimited term	Limited term	Disciplinary prison Labor
Crimes against the state or the people (14 types)	Conspiracy to overturn the state (5 types)	Conspiracy to overturn the state (14 types)	–
Crimes disruptive to national defense systems (16 types)	Inflicting deliberate damage on weapons, ammunition, technical combat equipment and military installations (1 type)	Neglecting preparedness for wartime production (16 types)	Neglecting preparedness for wartime production (10 types)
Crimes injurious to the socialist economy (104 types)	Taking or robbing state properties (6 types)	Stealing or robbing state properties (83 types)	Stealing or robbing state properties (76 types)
Crimes injurious to socialist culture (26 types)	Smuggling historical relics and smuggling and selling of narcotics (3 types)	Importing and spreading depraved culture (25 types)	Importing and spreading depraved culture (16 types)
Crimes injurious to administrative systems (39 types)	–	Collective disturbance; Interfering with official business (30 types)	Interfering with official business; Creation or dissemination of false information (29 types)
Crimes harmful to socialist collective life (20 types)	–	Acts of hoodlumism or racketeering (15 types)	Acts of hoodlumism or racketeering (18 types)
Crimes injuring the life or damaging the property of citizens (26 types)	Deliberate murder or kidnapping (4 types)	Deliberate murder (25 types)	Excessive self-defense (13 types)

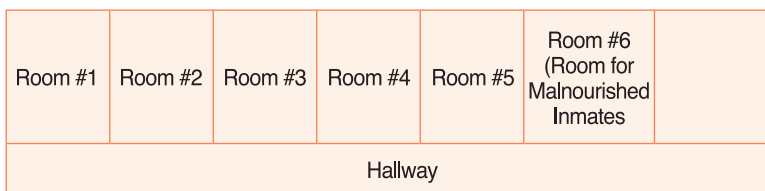
**<Structure of the Jongori Correctional Center>**

The majority of testimonies regarding correctional centers originate from the Jongori Correctional Center, located in Hoeryeong city, in North Hamgyong Province. Additions to this correctional center was completed in July 2006. The once all-male camp accom-



modates both male and female.<sup>25</sup> This center is divided into five sections. Section No. 1 and No. 3 are within the main facility. Sections 2 and 5 are less than a thirty minute walk from the main facility, in a single story building. Section No. 4 is located at the top of a hill. The main facility houses both male and female inmates. Sections No. 2 and No. 5 are only for male inmates, and their interiors are illustrated in the following diagram.<sup>26</sup>

<Figure III-4> Interior of a facility at the Jongori Correctional Center



According to defector XXX, visitation rules at Jongori Correctional Center allows for one visit per inmate every 6 months.<sup>27</sup> When the respondents interviewed was imprisoned at the Jongori Correctional Center in 2004, there was a ‘three-man open watch rule’ whereby one inmate was responsible for watching three other inmates. These inmates in turn would each be responsible for the surveillance of three other inmates. It was a system of dog-eat-dog. If any member of the 60 inmates attempted escape, everyone was subject to punishment. All inmates were required to memorize 10 basic rules, and each rule had sub-rules, so there were at least 30 rules to remember. Also, there were six basic rules regarding security agents, which expanded into 20 rules altogether. All inmates were

<sup>25</sup> NKHR2009000059 2009-09-26.

<sup>26</sup> NKHR2011000180 2011-08-09.

<sup>27</sup> NKHR2009000059 2009-09-26.

required to memorize these rules without making a mistake.<sup>28</sup>

<Figure III-5> and <Figure III-6> show the details of the Jongori Correctional Center, as described in testimony by North Korean defector XXX.<sup>29</sup>

#### <Figure III-5> Operation of the Jongori Correctional Center

**Name:** No. 12 Jongori Correctional Center

**Location:** Jongori, Hoeryeong, North Hamgyong Province

**Capacity:** Despite its maximum capacity of 500 persons, about 1,200 persons were detained there as of 2010.

**Inmates:** Both male and female inmates

\* The Jongori Correctional Center originally only detained male inmates, while female inmates were housed in Hamheung Correctional Center. Due to increasing numbers of inmates, the Jongori Correctional Center began to accept female inmates in 2006.

\* New buildings are under construction due to space shortages. There are currently three buildings.

**Life Inside:** Men work in the mines digging limestone and copper, while women produce wigs for export (under the direction of the Corrections Bureau) and engage in auxiliary work (primarily agriculture).

**Commutation:** Those who testify to crimes committed by persons outside the facility or conduct surveillance within the facility are eligible to commute their sentences by three months.

**Restrictions:** If an inmate commits a crime within the facility, the inmate responsible for watching him secretly reports it to the Security Office. If the report is determined to be true, the perpetrator is subject to solitary confinement or suspension of visitation rights for six months.

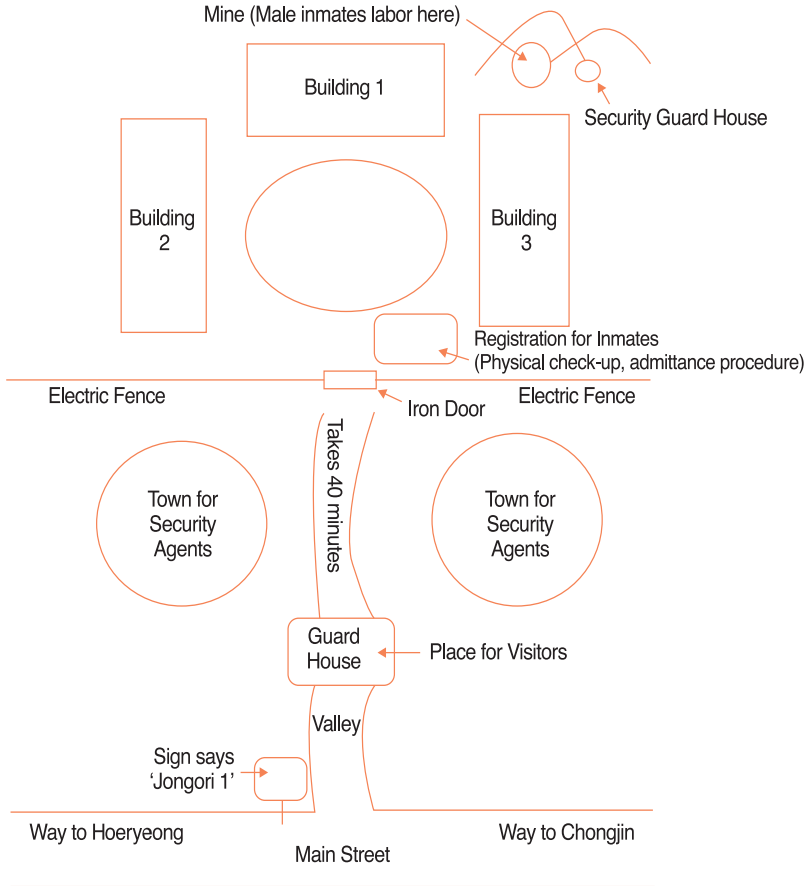
**Visiting:** Outsiders are only allowed to enter the sentry post. They are not allowed to access to the rest of the facilities.

**Signage:** There is no sign identifying the No. 12 Jongori Correctional Center.

<sup>28</sup>\_NKHR2009000067 2009-11-12.

<sup>29</sup>\_NKHR2011000175 2011-07-26.

<Figure III-6> Overall View of the Jongori Correctional Center



According to the testimony of North Korean defector XXX, female inmates were divided into work groups as follows: Group 1 (potatoes), Group 2 (vegetables), Group 3 (corn), Group 4 (beans), Group 5 (stone gathering), Group 6 (wig making), Group 7 (cleaning), Group 8 (firewood gathering), Group 9 (stock raising, including cows, sheep, goats, pigs, rabbits, chickens, ducks and etc.), Group 10 (making artificial eyelash) and a group for the gravely ill. Group 4 no longer exists. Group 8, the firewood gatherers, is

the heaviest labor for those who have less than six months left to serve (excluding the gravely ill).<sup>30</sup>

### <Newcomers' Class in the Correctional Center>

New inmates at the correctional center are supposed to receive education during the first month of their prison terms prior to starting work. This is conducted through a program called the newcomers' class.

Testimonies	Testifier ID
Defector XXX testified that in 2006, during his first month of detention at the Gaecheon Correctional Center, he attended the Newcomers' Class and received education without doing any work.	NKHR201000015 2010-10-05 NKHR2011000102 2011-05-03
Defector XXX also testified that once detained in the Correctional Center, inmates are to receive education in the Newcomers' Class for one month before beginning forced labor.	NKHR2011000241 2011-11-22
Defector XXX testified that detainees at the Jongori Correctional Center stay in the Newcomers' Class for one month. In class, inmates receive education on the regulations of the facility, hygiene, the preparation of prison uniforms, and ideology.	NKHR2011000248 2011-12-20

### • Labor Training Camps

#### <The History and Current Situation of Labor Training Camps>

Labor training camps mainly house those convicted of theft or disruption of collective living. Labor training camps have the capacity to hold 500-2,500 people. There is reportedly one facility for each city and county in the country. Labor training camps were originally known as education camps and operated as temporary

<sup>30</sup> NKHR2011000248 2011-12-20.

institutions, but they have evolved into permanent labor training camps. These camps are operated by an inspector and a security officer from the County People's Security Bureau, two members from the county level KWP Three Revolution Team, one member from the county level Youth League's Committee on Deviant Youth, the commander of the labor training camp, one guidance officer, and one rear guard worker.

The following section provides descriptions of the labor training camps. Hamhung Labor Training Camp No. 55, formerly an educational camp but in 2000, changed into a labor training camp. The camp is composed of three sections. Section 1 is the main section, while Section 2 is for agriculture, and Section 3 is for mining.<sup>31</sup> It is reported that educational labor training camp for youth has been established. According to North Korean defector XXX, a student named XXX was sent to the Nampo Educational Labor Training Camp for Youth for watching South Korean CD-Roms in July 2003.<sup>32</sup> It was also reported that the military operates their own labor training camps. Defector XXX testified that there were military labor training camps in Dancheon and Haechang in the South Pyongan Province.<sup>33</sup> There is also a testimony that reveals the existence of labor training camps within the military. North Korean defector XXX testified that each military base operates their own labor training camps and explained that there was one in Gimchaek. Labor training camps within the military are operated by the General Staff Department of the North Korean People's Army.<sup>34</sup>

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<sup>31</sup>\_NKHR2009000011 2009-03-03.

<sup>32</sup>\_NKHR2009000036 2009-06-03.

<sup>33</sup>\_NKHR2009000017 2009-03-24.

<sup>34</sup>\_NKHR2011000213 2011-10-04.

### <Disciplinary Labor, Disciplinary Prison Labor and Unpaid Labor>

Aside from the Penal Code, other laws include disciplinary labor as a form of punishment. “Article 18” of the Law on Sentences and Implementation of Decisions specifies the primary reason for suspension of sentences as follows: “Any gravely ill person serving disciplinary labor or a pregnant woman in the period three months before delivery to seven months after delivery of a baby, may be released early on a suspended sentence.” “Article 40” (3) of the Prosecutory Supervision Law also specifies disciplinary labor.

Under the revised Penal Code of 2004, North Korea established disciplinary prison labor as a new type of punishment. Disciplinary prison labor is defined as a type of penalty under the Penal Code. Disciplinary prison labor is a form of punishment where the convict is sent to a location for work details. Sentences range from six months to two years. For the convict, two days of disciplinary prison labor is equivalent to one day at a correctional center. “Article 31” of North Korea’s Penal Code revised in 2004 stipulates, “The citizen’s fundamental rights are guaranteed throughout the period an inmate serves in disciplinary prison labor punishment.” This provision confirms the testimonies of North Korean defectors who served time in labor training camps or short term labor detention facilities. The specified facility mentioned in the Penal Code refers to a labor training camp.

There are two categories of inmates detained in labor training camps. There are general detainees who were brought in for violations of anti-socialist behaviors, and those who were sentenced to labor training. The latter category of detainees are given different types of work. In other words, those sentenced by the court are managed under rules that are entirely different from general detainees.

The Administrative Punishment Law outlines unpaid labor as a form of punishment (“Article 14”). Unpaid labor is a punishment applied to those who have committed serious crimes related to their work. They serve these sentences by working at difficult and laborious jobs, though in some special cases they can remain in their current work unit. Sentences range from one to six months (“Article 16”). According to North Korean defectors’ testimonies, unpaid labor as an administrative punishment differs from disciplinary prison labor as a trials sentence in the following ways. While those sentenced to disciplinary prison labor work under surveillance, those laboring as administrative punishment work without surveillance and serve their terms at their current workplace without payment. Both forms of labor share certain features. Because terms are less than six months, those convicted tend to perform difficult and laborious jobs, and they are not paid for their work. However, the locations of punishments are different. Administrative labor punishments are completed at the workplace, while disciplinary prison labor is done mainly at the labor training camp. Workers assigned to unpaid labor as an administrative punishment are able to commute to and from their workplace, while those sentenced to disciplinary prison labor are detained for the duration of their term. Among other things, unpaid work differs from disciplinary prison labor in that it is usually related with work performance.<sup>35</sup>

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<sup>35</sup> Myung-sub Han, “Application reality of North Korean Criminal Act,” pp. 198-199; Kyu-chang Lee and Kwang-jin Jeong, *A Study of North Korea’s Criminal Trial System: Characteristics and Reality*, pp. 92-93.

&lt;Table III-6&gt; Forced Labor Punishments in North Korea

	Unpaid Labor	Disciplinary Labor	Disciplinary Prison Labor
Place	Current workplaces	Mainly in corrective labor camps. Also in other places such as factories, farms and mines.	Labor Training Camps
Commuting to Work	Possible	Impossible	Impossible
Service Period	1~6 months	Less than 6 months	6 months~2 years
Pay	Unpaid	Unpaid	Unpaid
Connection with Job	Necessary	Not clear	Not always necessary
Sentencer	Socialist Law-Abiding Life Guidance Committee, Cabinet, Arbitration Agency	Prosecutor	Court

## &lt;Current Status of Disciplinary Prison Labor&gt;

When North Korea revised their Penal Code in 2004, a new type of punishment called labor training penalty was formed. Several North Korean defectors testified that the labor training penalty was in fact handed down at the trials. The punishments stipulated in the Penal Code are now imposed during trials which is a significant development, as it could promote the protection of individual liberty and personal safety in North Korea.

Defector XXX was arrested in Yanji (Yeongil) City, China, on April 2, 2005. He had to undergo investigation and interrogation by the Onsung State Security Agency from April 13 to May 11. He was detained in the provincial collection center at Nongpo-dong, Ranam District, Chongjin City from May 11 to July 14. From July 15 to September 20, he was held in the Musan County People's Security Agency Detention Facility. He was tried on September 8,



at the Musan County Court, and was sentenced to one year of disciplinary prison labor. He was then imprisoned in Section 3 of the Jeungsan Correctional Center from September 22 to November 2, at which point he was released as his disciplinary prison labor term was completed. Although the term was for one year, the calculation of his term was as follows: Each day at the correctional center was equivalent to two days of disciplinary prison labor term. The term started from the date of his deportation. Consequently, he was released from Jeungsan Correctional Center after serving approximately 40 days. At the end of his trial, the Musan County Court judge stated, “Serving in a correctional center is hard and painful. If anyone were to serve there long term, he would almost certainly die and would not be able to support his family afterwards, so they released the inmates as soon as possible so that they can contribute to the welfare of the Musan County residents.” Participating in the trial process was one judge, one defense attorney, four mature men who participated in the sentencing phase (of which one person testified he was from a committee), two indicted persons (of whom one was waiting for his turn), one guarantor, and two guards (one security agent and one sergeant). The judge and three out of the four mature men left the courtroom for two to three minutes, and when they returned, the judge said, “Indicted person XXX is hereby sentenced to serve one year of disciplinary prison labor.” Following this, the judge said he would count one day served in the correctional center as two days of service in an effort to help local residents of Musan. North Korean defector XXX testified that he/she received pretrial in 2005 and received formal court trial before being detained at the Jeungsan Labor Training Camp.<sup>36</sup>

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<sup>36</sup> NKHR2009000018 2009-03-26.

However, detainment at a labor training camp without trial still continues as a general and routine practice. This practice persists even though a significant amount of time has passed since North Korea revised their Penal Code in 2004, requiring disciplinary prison labor to be imposed only through trials. Defector XXX testified that in general, there is no trial for inmates sent to labor training camps because the penalty does not affect the status of one's citizenship card. Detailed records of one's service at a labor training camp are kept at the Ministry of People's Security, but they do not appear on other documents that are necessary for normal activities.<sup>37</sup> Defector XXX testified that she was sent to a labor training camp without a trial.<sup>38</sup>

165 of the 245 articles contained in North Korea's Penal Code mentions punishment by disciplinary prison labor. Those convicted of more serious crimes are sentenced to a term at a correctional prison labor (at a normal correctional center). Without exception, the disciplinary prison labor penalty is not given for anti-state crimes. However, more than half of the crimes involving national defense result in disciplinary prison labor. Disciplinary prison labor is the preferred sentence in almost all crimes involving economic, land management, environmental protection, labor administration and socialist culture. Most crimes involving disturbances of social order are also punishable by labor training, and such penalties are rendered for newly declared crimes. In fact, the 39 articles in the code relating to new crimes mandate punishments exclusively in terms of disciplinary prison labor.

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<sup>37</sup>\_NKHR2009000058 2009-09-24.

<sup>38</sup>\_NKHR2009000065 2009-11-10.

Testimonies	Testifier ID
Defector XXX testified that he and three of his friends had to serve six months in a Labor Training Camp for using drugs (bingdu) in December 2007.	NKHR2008000029 2008-12-16
Defector XXX testified that she was locked up in the Hoeryeong City Labor Training Camp for one month in June 2008 on charges of using mobile phones.	NKHR2010000069 2010-10-26
Defector XXX testified that when he was detained by the Hyesan City Security Agency in July 2008 he saw an inmate, XXX, being sent to a Labor Training Camp on charges of fortune-telling.	NKHR2010000089 2010-06-08

- **Short-Term Labor Detention Facility**

Short term labor detention facilities are similar to correctional centers. Staff at correctional centers investigate and detain offenders for six months to a year without trial or revocation of citizenship. Detainees include defectors, those who have transgressed their designated areas, overstayed their travel permits, those on wanted lists, and ordinary juvenile delinquents. It has been reported that at various provincial short term labor detention facilities, brutal acts are perpetrated on suspects to obtain admissions of guilt.<sup>39</sup> If a person is caught traveling without a permit, he is sent to a short term labor detention facility.<sup>40</sup> Cases handled by short term labor detention facility include those that are not serious for correctional centers but are too serious to send to a labor training camp. Examples include workplace incidents (morally delinquent behavior such as failure to attend work or group training sessions) and accidental homicides by medical doctors or vehicle drivers.<sup>41</sup> Each provincial

<sup>39</sup> Interview with defector XXX in Seoul on January 19, 2005.

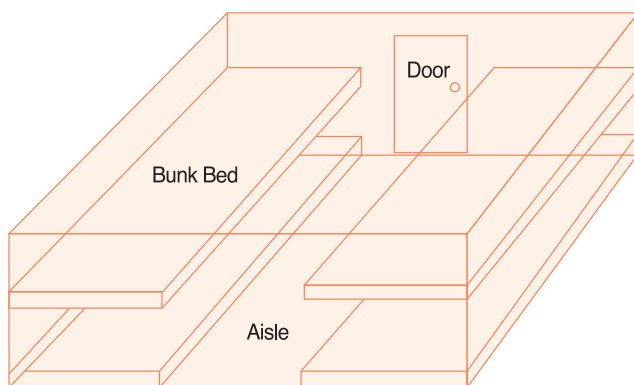
<sup>40</sup> Interview with defector XXX in Seoul on January 18, 2005.

<sup>41</sup> Interview with defector XXX in Seoul on January 10, 2004.

government operates a central short term labor detention center. Anyone at these centers caught trying to escape is put to death.

Most testimonies on short term labor detention centers relate to the Chongjin Short-Term Labor Detention Center. According to the testimony of North Korean defector XXX, as of July 2005, there were two prison buildings, one for men and one for women. Each building is approximately 66 square meters in size, and the prisoners sleep in bunks. Approximately 100 male and female inmates are detained at Chongjin. The defector said that prisoners had to curl their bodies and squeeze together during sleep, since 70 to 80 inmates were detained in one building. <Figure III-7> shows the layout of the building as described by a defector.<sup>42</sup>

<Figure III-7> Chongjin Short-term Labor Detention Facility



### • Detention Facilities

Detention facility is a place where suspects stay during investigation prior to their formal trial. There are two types of

<sup>42</sup> NKHR2010000069 2010-10-26.

detention facilities: one is supervised by the State Security Agency and the other is supervised by the Ministry of People's Security. The State Security Agency consists of the central security agency, Security Agencies (Province) and Security Agencies (County). Each security agency operates their own detention facility. The Ministry of People's Security is composed of the Central Ministry of People's Security, provincial safety bureaus, county safety offices, and village safety stations. Each security institution operates their own detention facility, bringing in suspects for investigation and pretrial procedures.<sup>43</sup>

The detention facility supervised by the State Security Agency (SSA) consists of five to ten rooms; however, the scale varies depending on the location. Each room is 12 to 15 square meters and houses between nine to fifteen people. The Detention facility has a pretrial investigation room, a room for solitary confinement, and ordinary rooms. According to North Korean defector XXX who was once detained at the SSA's Onsung Detention Facility, there were five to six rooms in the detention house, and around 25 suspects were detained in a three square meter room.<sup>44</sup> Male and female suspects are housed separately, and those waiting to be sent to the correctional center with prescribed sentences are separated from the ordinary suspects. Detention facility supervised by the Ministry of People's Security are similar to those supervised by the SSA. However, SSA detention houses do not allow visitation until the investigation is over, while those with prescribed sentences are not allowed to see anyone, even their family members. On the other

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<sup>43</sup>-Database on Human Rights Violations in North Korea, Operation of Collective Detention Facilities and Realities of Human Rights Violations in North Korea (Seoul: Database Center for North Korean Human Rights, 2011), pp. 41-44.

<sup>44</sup>-NKHR2011000040 2011-01-18.

hand, the detention houses operated by the Ministry of People's Security allow visitors to some degree, except for sensitive cases. Meanwhile, it has been reported that there are independent detention facilities that operate within political prison camps. In addition to the detention facility supervised by the SSA and the Ministry of People's Security, detention facilities within political prison camps are additional prisons for punishing those who violate prison regulations, disobey instructions or show interest in news from the outside.<sup>45</sup>

### C. Human Rights Abuses in Detention and Correctional Facilities

In North Korea, arbitrary detention and torture to obtain confessions in the absence of proper legal procedures are common. Horrific mistreatments including forced labor, torture and routine beating take place inside all detention facilities such as correctional centers, labor training camps, collection points, and detention centers. Hard labor, torture and beatings often result in serious illness and injuries. In many cases, there are incidents of death due to malnutrition, poor sanitation, and lack of medical treatment.

In their second periodic report to the Human Rights Committee (on civil rights), North Korea insisted that conditions for detention in correctional centers were according to the "rules for corrections program" and were strictly observed. However, torture and beatings in correctional centers are known to be routine, and violations of human rights are extremely serious.

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<sup>45</sup>Yun-tae Kim, "Operation of Collective Detention Facilities and Realities of Human Rights Violations in North Korea," (Master's Thesis, Wonkwang University, 2006), pp. 51-56.

## • Arbitrary Detention and Torture

According to the testimonies of defectors, inhumane treatment is common throughout North Korea, including detention and torture without due process of the law. In cases of transgression of Party policies or Kim Il-sung/Kim Jong-il's instructions, even the basic human rights of the suspect are routinely violated. This is done to demonstrate the severity of punishment for such transgressions.

There is a standing organization called the Anti-Socialist Inspection Group (or "Grouppa") which consists of workers from the Party, government, courts, and prosecution. Because they constantly conduct surveillance and investigations on various localities on violations of law and order, ordinary citizens fear them the most. If an individual is detained by them (for anti-socialist behavior), it is extremely difficult to be released (without money to bribe or power to influence), and people are usually charged with crimes subject to correctional prison labor, which is a very serious punishment.<sup>46</sup>

Labor training centers and short term labor detention facilities are not official detention facilities. However, the possibility that human rights violations occur at these places is still high which is a fundamental problem. The Ministry of People's Security is solely charged with making the preliminary decision to detain people at a correctional center or at a labor training center. In addition, many inmates in labor training camps are detained without formal court trials, which is a violation of human rights.

In addition, some defectors describe situations where inmates are sent to labor training camps after a court sentence.

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<sup>46</sup> Interview with defector XXX in Seoul on January 20, 2006.

According to defector XXX who fled in 2007, the system changed in 2007 so that inmates can be detained in labor training camps to a maximum of two years.<sup>47</sup>

North Korea insists that international criticisms regarding arbitrary detentions and tortures are false. In their Universal Periodic Review submitted to the UN Human Rights Council in 2009, North Korea said their Criminal Procedure Law strictly prohibits tortures and other methods of forced or induced confessions. Furthermore, North Korea described that victims of torture or forced confessions receive due compensation. In addition, law enforcement officials receive training and education on a regular basis to prevent any future instances of forced confessions or induced statements, and all prosecutorial agencies are taking necessary steps to prevent such practices. Nevertheless, testimonies of torture and inhumane treatment inside detention facilities have been documented continuously over the years.

### • The Reality of Forced Labor

#### <Correctional Center>

North Korea's Labor Law defines a normal work day to be 8 hours ("Article 16" of the Socialist Labor Law, "Article 36" of the Labor Protection Law). However, prison inmates work 10 hours per day. According to the testimony of a defector who was detained at the Jeungsan Correctional Center, all inmates work 10 hours a day and are strictly observed. They wake up at 5:00 a.m., eat breakfast at 5:30, take roll call at 6:30, and begin work at 7:00 a.m. The afternoon work shift runs from 1 to 6 p.m. (or until 9

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<sup>47</sup>-NKHR2008000004 2008-07-17.



p.m. during the farming season). Every 15th day, the inmates have a day off, but during the peak farming seasons (spring and fall), there are no days off. Compared to labor training camps, the level of work at correctional centers is less intense, but the level of discipline is much more intense. Defector XXX testified that he served at the Jongori Correctional Center from March to November of 2009, and the intensity of work was normal, but the discipline was much more tough.<sup>48</sup>

Testimonies also reveal that prison terms can be shortened in exchange for forced labor.

Testimonies	Testifier ID
Defector XXX testified that his sentence was shortened by twenty days in exchange for intensive farm work and wig making while he was detained in the Jongori Correctional Center in May 2009.	NKHR2011000080 2011-03-29

### <Labor Training Camps>

Although inmates are allowed to keep their Party memberships and citizen IDs, the workload and level of education was extremely intensive over a short period of time that serving at a labor training camp was physically more demanding than at a correctional center. Most defectors testified that the intensity of labor at labor training camps is much higher than at correctional centers, though the service term in the former is shorter.

Testimonies	Testifier ID
Defector XXX testified that "It would be better to serve a few years at a correctional center; because long-term inmates serve there, they do not put you through harsh training. But labor training centers and short-term labor detention facilities are very hard because the terms there are much shorter, so they put you through harsh treatment. There's no mercy, and they treat people like dogs."	NKHR2009000015 2009-03-17

<sup>48</sup> NKHR2010000015 2010-10-05.

Testimonies	Testifier ID
Defector XXX, who was detained at the labor training camp in Nampo for three months from July to September 2000, testified he had to get up at 4:30 in the morning and go to bed at 10 p.m. He had to work without any breaks except for a five-minute lunch break. Each meal consisted of half an ear of a boiled corn and radish greens without seasoning.	NKHR2010000031 2010-01-11
Defector XXX testified that he was detained at the Kim Hyung-jik County labor training camp in Yanggang Province in February 2009, and the inmates had to work without any break except for a short 10-minute lunch break.	NKHR2010000017 2010-10-05
Defector XXX testified that he was detained at the labor training camp in Gimchaek in January 2010. While there, he was assigned to tunnel construction sites and road construction sites. He had to get up at 5:30 a.m. and worked from 7 a.m. to 8 p.m. After that, he had to attend life-assessment meetings and education programs, so he usually went to bed at around midnight.	NKHR2011000213 2011-10-04
North Korean defector XXX testified that when he/she was detained at Musan County People's Committee labor training camp he/she was forced to work in Musan County, North Hamgyoung Province. He/she had to constantly run around during working hours, which lasted from 7am to 7pm.	NKHR2012000101 2012-06-05
North Korean defector XXX (woman, age 35 at the time) testified that she was sent to Daehungdan County (Yanggang Province) labor training camp. She was put through hard labor, and sometimes late night work lasted until 11pm or midnight. If the work site was too far to return to the camp, they pitched tents and spent the night in there.	NKHR2012000088 2012-05-22
North Korean defector XXX testified that she (woman, age 25 at the time) was sent to Hoeryeong City labor training camp in January 2011. She was mobilized to work on the hardest tasks the city had to finish, such as highway projects, rock carrying, and embankment construction.	NKHR2012000005 2012-01-10

It is clear that some security agents provide manpower to units engaged in foreign currency earning. The security agents make money illegally and are in conspiracy with those units.

Testimonies	Testifier ID
Defector XXX testified that if a workplace needed more workers for a construction project, they would submit a request to the People's Security Agency, and the agency dispatches inmates detained at the short-term labor detention facility; the company would in turn pay money to the agency.	NKHR2009000024 2009-04-20
Defector XXX testified that the labor at a labor training camp mainly consists of temporary duties at various work places which are in need of workers. The inspector's section would step in to pressure the camp to dispatch workers for hard labor. The inmates were also mobilized for the construction of a bean milk facility funded by international assistance groups to help improve children's nutrition.	NKHR2009000031 2009-05-12
North Korean defector XXX testified that he/she saw labor training inmates at work in January 2011 in Hyesan City, Yanggang Province. Towns people sometimes bribe the security agents so they can select a few inmates and utilize them to work on building construction or demolishing their homes.	NKHR2012000068 2012-04-24

### <Short-Term Labor Detention Facilities>

Some labor detention facilities impose forced labor, though there are some differences in treatment. In particular, those inmates who stayed in China for longer periods of time or those repatriated after many failed defection attempts are subjected to more severe forced labor.

Testimonies	Testifier ID
Defector XXX, who was detained at the Chongjin labor detention facility from August 30 to November 18 in 2009, testified that inmates sometimes got up at four o'clock in the morning and worked well into the night.	NKHR2011000040 2011-01-18
Defector XXX, who was detained in Sinuiju Labor Detention Facility for 40 days from June to July in 2010, testified that those inmates who stayed for long periods in China or made frequent defection attempts are gathered into working groups and experience harsh forced labor.	NKHR2011000018 2011-01-18

Testimonies	Testifier ID
North Korean defector XXX testified that he/she was detained at Hyesan City provincial collection point in September 2011 and was put into construction work. The intensity of work was so severe that an average of 15 inmates died every month.	NKHR2012000174 2012-09-04

Labor detention facilities implement a contract system to check whether each inmate has completed his/her individual task. This system is thought to affect the intensity of labor at labor detention facility.

Testimonies	Testifier ID
Defector XXX testified that he performed forced labor at the Sinuiju labor detention facility and that he had to endure intense work and long hours because of the contract system.	NKHR2011000018 2011-01-18

There is no compensation for the inmates' labor. Rather, in some cases, inmates have to pay for their own living expenses incurred during the detention period.

Testimonies	Testifier ID
Defector XXX, who was once detained in a labor detention facility in Hyesan, in July 2010, testified that he had to pay his living expenses.	NKHR2011000214 2011-10-04

### • The Reality of Inhumane Treatment

Harsh treatment methods such as beatings and torture are still reported to be prevalent at various detention and correctional facilities, including correctional centers, labor training camps and detention facilities. Some defectors witnessed cases where inhumane treatment resulted in serious injuries, illness and even death.

These inhumane treatment methods are often inflicted by security agents at the detention centers or correctional facilities. According to one testimony, this practice is common because security agents are worried that if they inflict harsh treatment by themselves, complaints may be filed. However, this practice seems to be encouraged by the North Korean authorities who are aware of outside criticism.

**<Correctional Center>**

Human rights violations, such as beatings and inhumane treatment, is pervasive at all correctional centers. In particular, numerous testimonies centered around the Jongori Correctional Center.

Testimonies	Testifier ID
Defector XXX testified that while he was detained at the Jongori Correctional Center of Hoeryeong City in April of 2008, he was beaten with a rifle butt for helping a weak fellow inmate.	NKHR2011000172 2011-07-26
Defector XXX testified that while he was detained at the Jongori Correctional Center in July of 2009, he was unable to work due to fever. Because of this, an agent beat him and he suffered from back pain.	NKHR2011000173 2011-07-26
Defector XXX testified that while he was detained at the Jongori Correctional Center in March 2010, he witnessed XXX being beaten by a security agent after a note was found which expressed an intent to file a petition against the agent. XXX had quarreled with the agent many times.	NKHR2011000242 2011-11-22
North Korean defector XXX testified that he/she was detained at Jongori Correctional Center in 2010. At the time, XXX (man, age 27 at the time) from Kyongwon County, North Hamgyoung province, was caught stealing cooked rice from the dining hall. He was forced to carry outside and bury human waste. When agents found him unable to fulfill the task, they beat him to death, after dragging him around.	NKHR2012000123 2012-06-26

Testimonies	Testifier ID
Defector XXX testified that he saw a female inmate beaten to death while he was detained at the Jongori Correctional Center in January 2011. When she died, black-colored water came out from her mouth, so camp officials concluded that she died from eating rubbish, not from the beating.	NKHR2011000248 2011-12-20

### <Labor Training Camps>

Similar to the situation at the correctional centers, incidents of beating in labor training camps were also frequent.

Testimonies	Testifier ID
North Korean defector XXX testified that he/she saw the agent beat inmates frequently when he/she was in Onsung County labor training camp in North Hamgyoung Province in February 2009. The inmates had scars from the beating.	NKHR2012000183 2012-09-11
Defector XXX testified that on February 16, 2010, while he was detained at the labor training camp in Gimchaek, North Hamgyoung Province, he saw a fellow inmate beaten to death by a security agent because he had stolen and eaten goats feed (boiled corn).	NKHR2011000213 2011-10-04
Defector XXX testified that during his detention in the labor training camp located in the Mt. Dongheung region of Hamhung in March 2010, he saw fellow inmate XXX beaten. The security agents forced inmates to beat fellow inmates for fear that if the agents themselves inflicted the beating, complaints might be filed against them.	NKHR2011000088 2011-04-05
North Korean defector XXX testified that in August 2010, at the labor training camp in Musan County, North Hamgyoung province, agents beat inmates while they were engaged in evening classes. If anyone tried to escape from work sites, agents would beat the inmate so severely that he/she could not stand. Agents forced inmates to do squat downs with a heavy piece of lumber on his/her back.	NKHR2012000101 2012-06-05
Defector XXX testified that while he was detained in the labor training camp in Bocheon County, Yanggang Province in September 2010, he saw his group leader smash a fellow inmate XXX with a club for not following his instructions.	NKHR2011000076 2011-03-22

### <Short-Term Labor Detention Facilities>

Similar to labor training camps, short-term labor detention facilities are a type of detention facility not stipulated in the Penal Code. However, the level and frequency of human rights violations such as beatings in these centers is known to be very serious. Most defector testimonies singled out the situation in the provincial short-term labor detention facility in Chongjin City, North Hamgyong Province.

The provincial short-term labor detention facility in Chongjin City holds only those who are caught after illegally crossing the border. There are approximately 1,500 detainees at the center at any given time. These detainees are held until People's Security agents from their hometown escort them back to their respective hometown. Those from Chongjin, Hoeryeong, and other cities within the province are released within six months. However, those from distant provinces such as Pyongan and Hwanghae provinces remain at the collection point for almost a year because the inmates' hometown agents, even after they are notified, routinely neglect their duty to escort their own people (the inmates) due to lack of transportation, and because the number of inmates is often so little.<sup>49</sup>

Testimonies	Testifier ID
Defector XXX testified that while she was at a short-term labor detention facility in Sariwon, Hwanghae Province in 2008, she saw a People's Safety agent order a group leader to beat all of her fellow inmates because a female inmate refused to respond to his instructions to sing a song.	NKHR2011000168 2011-07-19

<sup>49</sup>- Good Friends, "North Korea Today," No. 11 (December 12, 2005).

Testimonies	Testifier ID
North Korean defector XXX testified that when she was at Hyesan provincial collection point in 2009, a female inmate from Hyesan died in June of that year as a result of cruel treatment. Her case was handled as if she had received a formal trial (people's trial), even though there was no trial and her body was buried in secret.	NKHR2012000080 2012-05-15
Defector XXX testified that while he was detained in the provincial Short-Term Labor Detention Facility in Chongjin from November 2009 to February 2010, Cheol-yong X (a 21-to-25-year old sergeant) beat him with a club because of his poor work and lack of speed.	NKHR2011000067 2011-03-15
Defector XXX testified that while he was detained at the provincial short-term labor detention facility in Chongjin in 2010, an inmate named XXX was the group leader. One day, after this inmate made an insulting remark about a security agent, some inmates who did not get along with him secretly reported it to the agent. The defector testified that XXX was beaten by the People's Safety agents, and died a few days later.	NKHR2011000067 2011-03-15

### <Detention Facilities>

Beating, torture or harsh treatment as a form of punishment has been routine in the Ministry of People's Security Detention Facility.

Testimonies	Testifier ID
Defector XXX testified that when he was detained at the Safety Agency Detention Facility in Musan in April 2009, he saw Jong-cheol X, an investigation official between 36 and 40 years old, kicked and beat XXX, a suspect, with a club. The suspect was detained at the detention facility on charges of bike theft. Defector Jong-cheol X inflicted inhumane treatment on the suspect, injuring his leg and causing him to limp. Later, the victim was sent to a Labor Training Camp. After four months of detainment in the camp, he eventually had the injured leg amputated.	NKHR2011000116 2011-05-17



Testimonies	Testifier ID
Defector XXX testified that when he was detained in the People’s Safety Ministry’s Detention Facility in the Botong River area of Pyongyang in July 2009, he saw XXX, a fellow detainee, deprived of sleep for three days and beaten by hand for half a day. The victim had been detained on drug possession charges after receiving drugs in exchange for lending 2,000 dollars to a security agent.	NKHR2011000085 2011-04-05
North Korean defector XXX testified that in April 2010 at the Ministry of People’s Security detention center in Onsung County, North Hamgyoung province, two security agents forced a young man (age 19) to squat down and quickly stand up (with his hands on the head) repeatedly, and to kneel against a railing to extract certain statements from him.	NKHR2012000184 2012-05-07
North Korean defector XXX testified that he/she saw a male detainee (age 50, driver) beaten and kicked by four State Security agents and die in the detention center on October 14, 2011 at the Ministry of People’s Security detention center in Hyesan City.	NKHR2012000210 2012-10-16

Many defectors have testified that serious incidents of human rights violations have occurred inside Onsung County, North Hamgyoung province. It appears that strict controls are enforced at the detention points by the State Security Agency along the border as the number of defectors have increased. Maintaining order is said to have become more difficult but imperative. Other inhumane treatment, such as forcing inmates to remain in fixed positions for long periods of time, are imposed instead of forced labor.

Testimonies	Testifier ID
Defector XXX testified that while he was detained at the State Security Agency Detention Facility in Onsung in June 2009, a state security agent named Jong-cheol Lee (between 31 and 35 years old) beat him for three days while forcing him to confess on the person who trafficked him.	NKHR2011000040 2011-01-18

Testimonies	Testifier ID
Defector XXX testified that while he was detained in the State Security Agency Detention Facility in Onsung in 2010, he saw a state security agent beat a fellow inmate for not telling the truth. Afterward, he was hospitalized for a month.	NKHR2011000183 2011-08-09
North Korean defector XXX testified that he/she was arrested in January 2010 on charges of river crossing near the border region. Every time he/she was transferred from the Security Platoon in Hyesan City, Yanggang Province, to the Jagang Province Security Agency, agents beat him badly and indiscriminately, striking with fists and giving electric shocks. The beating was so ruthless that he lost consciousness and could not move.	NKHR2012000105 2012-06-05

### • The Reality of Malnutrition, Poor Medical Service and Death

#### <Correctional Centers>

Because of the disastrous conditions at the Correctional Centers, the inmates suffer from poor quality of food, lack of sanitation, and no medicine. In many cases, inmates end up losing their life. As with the various forms of inhumane treatments outlined above, a number of defectors' testimonies on this topic refer to the Jongori Correctional Center. It seems that a minimum amount of care is given to the gravely ill, namely allowing them to be off-duty. According to the reports, medicine and medical treatment are not provided to inmates.

Testimonies	Testifier ID
Defector XXX testified that many inmates inside the Jongori Correctional Center died of a high fever during a two month period from May to July in 2009. He heard that approximately 300 inmates died from disease in 2009, and the death toll rose higher in 2010. The hygiene situation of female building was better because the building was renovated; however, the building for the male inmates was old and dirty, which in turn raised the death toll.	NKHR2011000184 2011-08-16

Testimonies	Testifier ID
Defector XXX testified that he saw a fellow inmate die from a fever and physical exhaustion on July 10, 2009, while he was detained in the Jongori Correctional Center. He said the Jongori Correctional Center classified gravely ill persons into three categories: Grade 1, Grade 2, and Grade 3. Those classified in Grade 3 were exempted from forced labor and given additional food, but did not receive medical treatment. The sick occupied four rooms, and those with liver disease and tuberculosis were housed separately. The patients had to pay for their own medicine and treatment, but even with payment, all they received were injections of saline solution.	NKHR2011000173 2011-07-26
Defector XXX testified that when he was detained at the Jongori Correctional Center in December 2009, he saw a fellow inmate die from disease and overwork. According to his testimony, the body, after being briefly stored in the hospital, was taken away in a cart to Bulmang Hill, where it was cremated. Starting in 2009, the Jongori Correctional Center established a section for the gravely ill, and that is where many of death reports originated.	NKHR2011000242 2011-11-22
North Korean defector XXX testified that in January 2010 at the Jongori Correctional Center, he/she saw a female inmate die from high fever and physical exhaustion. No one treated her fever.	NKHR2012000008 2012-01-10
Defector XXX testified that while he was detained at the Jongori Correctional Center in June 2010, he witnessed many of his fellow inmates die from malnutrition. During his detention, he saw numerous deaths inside the camp.	NKHR2011000241 2011-11-22
Defector XXX testified that he saw an inmate named XXX (female, 36 to 40 years old) die from malnutrition while he was detained at the Hamhung Correctional Center in Hamgyong Province in July 2010. The number of deaths in the camp increased rapidly in 2010, and people died on a daily basis.	NKHR2011000066 2011-03-15

### <Labor Training Camps>

Labor training camps are said to provide meals, but many inmates die due to malnutrition and physical exhaustion from the heavy workload. According to the testimonies of North Korean

defectors, it is widely known that many inmates ended up dying due to a combination of beating, starvation and other causes. Some testimony even indicate the lack of timely medical treatment as the cause of death.

Testimonies	Testifier ID
Defector XXX testified that while he was detained at the Onsung Labor Training Camp in August 2009, he saw a fellow inmate suffering from severe diarrhea who eventually died because he was not taken to the hospital. Technically, doctors are on duty at the labor training camp, but the patients have to purchase medicines for the treatment.	NKHR2011000045 2011-02-08
North Korean defector XXX testified that an inmate (who was with her husband) died from pneumonia inside Onsung County labor training camp in February 2010. She heard that a doctor was brought in, but the inmate died without receiving any medicine.	NKHR2012000153 2012-07-24
Defector XXX testified that while he was detained at the Hoeryeong Labor Training Camp in October 2010, he heard that XXX (a 27-year-old male) ate poisonous grass. Because the camp did not administer emergency treatment, the man eventually died.	NKHR2011000089 2011-04-05
Defector XXX testified that on July 13, 2011, when he was detained at the Baekam Labor Training Camp in Yanggang Province, he saw a fellow inmate die of malnutrition.	NKHR2011000232 2011-11-08

#### <Short-Term Labor Detention Facilities>

North Korean citizens' right to life is also jeopardized at the short term detention facilities just as in other detention facilities. The detainees suffer from malnutrition and poor sanitation. Some simply collapse and die due to physical exhaustion.

Testimonies	Testifier ID
Defector XXX testified that he saw a fellow inmate die of malnutrition at the Chongjin Provincial Short-Term Labor Detention Facility in 2010. He heard that the person became physically weak while working at the firewood collecting group in Buryong, North Hamgyoung Province, and eventually died in the Chongjin Short-Term Labor Detention Facility. In February 2010, a pregnant female sought treatment for a harsh cough and high fever. However, the short-term labor detention facility would not accept her as a patient. As a result, she came down with tuberculosis and died on her way to a hospital.	NKHR2011000067 2011-03-15
Defector XXX testified that he saw a fellow inmate die of malnutrition in the Sinuiju Short-Term Labor Detention Facility on January 3, 2011. The body was wrapped in a blanket and stored in the warehouse. The next day, it was buried after a brief autopsy conducted by a People's Safety Ministry doctor.	NKHR2011000253 2011-12-20
North Korean defector XXX testified that in September 2011 he/she saw an inmate die from physical exhaustion inside the provincial collection point in Hyesan City.	NKHR2012000174 2012-09-04

**<Detention Facilities>**

Many detainees also died at the Ministry of People's Detention Facilities due to malnutrition and disease.

Testimonies	Testifier ID
Defector XXX testified that in January 2009, when he was detained at the Ministry of People's Safety Detention Facility located in Kim Hyung-jik County, Yanggang Province, he saw a fellow inmate who was on the verge of death due to malnutrition.	NKHR2010000017 2010-10-05
Defector XXX testified that he saw a fellow inmate die of malnutrition during his detainment at the Ministry of People's Safety Detention Facility in Hoeryeong, North Hamgyoung Province in December 2009.	NKHR2011000120 2011-05-24

Nutrition in detention facilities supervised by the State Security Agency is no better than that of the detention facilities

under the jurisdiction of the police. North Korean defector XXX testified that he was forcibly repatriated to North Korea and detained at the Onsung Detention Facility from July 1-14, 2010. There he had three meals a day, but each meal consisted of four to five spoonfuls of boiled corn flour ground with corn husks.<sup>50</sup> Many inmates also died at the State Security Agency Detention Facilities from inhumane treatment, disease, and malnutrition.

### • Forced Abortions and Murdering of Newborn Babies

The authorities routinely engaged in forced abortions on pregnant women who were deported to North Korea. Forced abortions are usually carried out at collection points, where inmates are detained before being transferred to a detention center. Initial interrogations are conducted, then the inmates are sent to the security agency according their area of residence. In most cases, the reason for forced abortion is because she had a Chinese baby. Abortions are conducted by means of forced labor, beating, and injections.

Testimonies	Testifier ID
North Korean defector XXX testified that in August 2009, at the provincial collection point in North Pyongan province he/she saw a female army physician perform an abortion on a female inmate (age 26, over 24-weeks pregnant) by using a rusted abortion equipment.	NKHR2012000077 2012-05-08
North Korean defector XXX testified that in August 2011 at the detention center of Musan security agency, North Hamgyoung Province, he/she saw a female inmate (33 years old at the time) getting forced abortion by beating. A week later, the mother also died.	NKHR2012000067 2012-04-24

<sup>50</sup> NKHR2011000186 2011-08-16.

Testimonies	Testifier ID
North Korean defector XXX testified that on November 20, 2011 at the provincial collection point in Hyesan City, Yanggang Province, he/she saw a guard named Guk-chol Kim kick a female inmate in the stomach repeatedly to induce abortion, allegedly because she had a Chinese baby.	NKHR2012000174 2012-09-04

## D. Human Rights Abuses inside Political Prison Camps

- **Current Status of the Political Prison Camps**

It is reported that North Korea is operating a total of six political prison camps, although North Korea officially deny their existence. The following details are compiled from personal testimonies of recent North Korean defectors.<sup>51</sup> The No. 22 management center in Hoeryeong, North Hamgyoung Province began its relocation in 2009-2010, and was finally closed in May 2012.

The reasons for closing No. 22 management center seem to be that it was located in close proximity to the border, thus exposed to the outside world. The inmates were relocated to No. 16 center in Myonggan, No. 14 Gaechon, and No. 15 Yodok management centers. Another change confirmed in 2012 was that No. 18 management center at Bukchang was significantly downsized and relocated to an area near Dongrim-li, Gaechon in South Pyongan Province. The area where No. 18 center used to operate became a general detention facility after the center was phased out, and the previous

<sup>51</sup> NKHR2012000161 2012-08-07; NKHR2012000168 2012-08-21; NKHR2012000185 2012-09-11; NKHR2012000198 2012-09-25 etc.

inmates were relocated to the Gaecheon center during the 2006-2007 period. The current number of inmates at the No. 18 center is estimated to be about 2000-5000, dramatically reduced from the previous estimate of 19,000 in 2009.<sup>52</sup>

<Figure III-8> Political Prison Camps



The total number of inmates in all political prison camps is estimated to be between 150,000 to 200,000. On October 16, 2009, the South Korean government reported to the National Assembly Foreign Affairs Committee that there was an estimated 154,000 political prisoners detained in six political prison camps throughout North Korea. At a joint seminar with the Database

<sup>52</sup> Keum-soon Lee, et al., *Political Prison Camps in North Korea* (Seoul: Korea Institution for National Unification, 2013), pp. 29-33.



Center for North Korean Human Rights in November 2009, National Human Rights Commission of Korea estimated that there were 200,000 political prisoners in North Korea.<sup>53</sup> However, the KINU researchers constructed with a new estimate in 2013, based on defector testimonies and satellite pictures, and the total number of inmates currently detained in the five North Korean political prison camps is estimated to be a minimum of 80,000 and a maximum of 120,000. The reported closing of the Hoeryeong Center and downsizing and relocation of the Bukchang Center seems to support this estimate. Furthermore, many defectors testified that the size of the new detention facilities built during the 1990s are not as large, and that many inmates working in mines and other locations have died as a result of poor working conditions. But the downsizing of detention facilities does not mean that the perception and policy of North Korean authorities are changing. The important point is that Kim Jong-un's regime continues to maintain a system of political prison camps in order to separate groups and individuals that are either hostile or pose potential threats to the regime.<sup>54</sup>

North Korean Political Prison Camps are said to cover an area of approximately 50 to 250 km<sup>2</sup>, holding between 5,000 and 50,000 inmates each. Prisoners are selected and managed by the State Security Agency(SSA) under the supervision of the Guidance

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<sup>53</sup>-National Human Rights Commission of Korea·Database Center for North Korean Human Rights, *An Assessment on Human Rights Situation in North Korea's Political Prison Camps and International Law and North Korean Law* (Seoul: National Human Rights Commission of Korea·Database Center for North Korean Human Rights, November 24, 2009), p. 23. Meanwhile, the Database Center for North Korean Human Rights has lowered the estimated total number of inmates to 135,000 in 2011. See Yeo-sang Yoon, et al., *The Human Rights Reality and the Operating System of North Korea's Political Prison Camps* (Seoul: Database Center for North Korean Human Rights, 2011), p. 120.

<sup>54</sup>-Keum-soon Lee, et al., *Political Prison Camps in North Korea*, pp. 19-21.

Department of the Secretariat of the Central Committee. Each camp under the control of Bureau No. 7 of the State Security Agency is composed of political, security, management, security guards, and supply service sections.

The duty of the political unit is to watch the ideological behavior of the people in the security guards unit and punish those who commit a crime. The security unit watches the inmates and identifies any suspicious behaviors, such as attempted escapees, murderers and malingers, for execution or reassignment to harsh labor. The management unit is organized to maximize the workload and attain the production norms allotted to the camps. The responsibility of the security guards unit is to guard the outer perimeter of the camp and suppress any revolt or uprising inside the camp. In addition, there is a supply service unit responsible for supplying food for the security and guards personnel, a materials section for supplying materials for construction projects inside the camps, and a chemical unit for supplying dynamite to the mines. Other units include finance, transportation, and communications. Most dreaded by the prisoners are the security and guard units, as both hold the power to determine the prisoner's fate. As an exception, the No. 18 management center is operating under a guard unit of the Ministry of People's Security, instead of the State Security Agency.

- **Complete Control District and Revolutionary District**

North Korea operates two types of political prison camps: one is called the complete control district and the other the revolutionary district. The complete control district is for inmates serving a life time sentence. Once an inmate is sent to this facility, he/she can never be released. The inmates will eventually die in the camp

after a life of hard labor at mines or lumber yards. These inmates do not receive any ideology education, but rather they only receive training that is necessary for farming or mining. On the other hand, political criminals detained at the revolutionary district may be released after serving his/her term (from 1-10 years) and upon the decision of review (parole) board. Before the release, the inmate must sign an oath, promising that he/she will never divulge any information about the life inside the camp. Anyone breaking this oath is sent back to the camp. Even after the release, these individuals will be classified as the hostile group, which means that they have to live at the lowest echelon of society. They are put under priority surveillance by the State Security Agency, and their activities, such as jobs and travels, are restricted. If they commit crimes after the release, a 10-year prison term is added to the term of their crime. The return to life from the revolutionary district is called release, and the former inmate is referred to as a released person. If an individual is sent to a political prison camp, he/she is called an immigrant.<sup>55</sup>

According to North Korean defector Myung-chul Ahn's testimony, among all the political prison camps in North Korea, only the No. 15 Political Prison Camp at Yodok, South Hamgyoung Province, has two separate sections: the revolutionary district and the complete or full control zone. All others have only full control zones. However, David Hawk stated that the revolutionary district also existed at the No. 18 Political Prison Camp.<sup>56</sup> Hye-suk Kim, who was detained at the No. 18 Bukchang Political Prison Camp, wrote in her autobiography that she was discharged from the

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<sup>55</sup> Keum-soon Lee, et al., *Political Prison Camps in North Korea*, pp. 13-14.

<sup>56</sup> David Hawk, *The Hidden Gulag*, 2nd ed. (Washington: Committee for Human Rights in North Korea, 2012), p. 69.

camp on February 16, 2001, on the birthday of Kim Jong-il by offering a livestock. She also testified that at the time of her discharge, the entire seventh generation was discharged.<sup>57</sup> Considering these testimonies, it would appear that although the No. 18 management center did not operate a separate revolutionary district, there were cases of released persons who could return to society. The Chongjin No. 25 Management Center apparently had both categories of detention: one that did not allow inmates to return to society and the other that released inmates at the end of their term.<sup>58</sup>

In the case of returnees from Japan (and their families) who have had close personal connections with North Korean elites and senior officials of the pro-Pyongyang General Association of Korean Residents in Japan (or “Chongryon”), they are detained in revolutionary districts within the political prison camps. The policy is to have them endure torture and thus make them more obedient to Kim Jong-il’s system before they return to society. Other political prisoners are mostly held for life in the complete control zones. Defectors have stated that there are exceptions where prisoners serving a life sentence may be transferred from complete control zones to revolutionary districts, though only a small number belongs to this category. Young-guk Lee testified that the level of punishment, as well as the length of detention and the possibility of release, varied depending upon the detainee’s personal background. In extreme cases, inmates mentioned during Kim Jong-il’s on-the-spot inspection and guidance tours were immediately released from the camp and directly returned to society.<sup>59</sup> However in general, no one returns home.

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<sup>57</sup> Hye-suk Kim, *A Prison Camp Created in Tears* (Seoul: Zeitgeist, 2011), pp. 85-88.

<sup>58</sup> Keum-soon Lee, et al., *Political Prison Camps in North Korea*, p. 14.

<sup>59</sup> “A Workshop for Defectors,” sponsored by Korea Institute for National Unification (January 20, 2006).

<Table III-7> Status of Operation and Management of Political Prison Camps

	Gaechon No.14 management center	Yodok No. 15 management center	Myonggan No. 16 management center	Gaechon (old Bukchang) No. 18 management center	Chongjin No. 25 management center
Type	Village	Village	Village	Village	Correctional center
Return to society	Impossible	Impossible/Possible	Impossible	Impossible/Possible	Impossible/Possible
Accompanying family	With family	Single/With family <sup>60</sup>	With family	Single/With family	Single
Operator	State Security Agency	State Security Agency	State Security Agency	Ministry of People's Security	State Security Agency

Source: Keum-soon Lee, et al., *Political Prison Camps in North Korea* (Seoul: Korea Institution for National Unification, 2013), p. 17.

## • The Reality of Political Prison Camps

To learn about the actual situation at the political prison camps, we have to rely on the testimonies of defectors who previously worked as prison staff or those who were detained as prisoners. The reality of life in the camps, as related in their testimonies, is summarized as follows:

### <No. 14 Gaechon Political Prison Camp>

There is no kindergarten at the No. 14 Gaechon Political Prison Camp, but there is one school (a 4-year elementary school) and one middle school. The elementary school teaches up to fifth grade. Each grade has three to four classes with each class consisting of 30-40 students. The middle school (junior high and high

<sup>60</sup> In the case of Yodok No. 15 management center, there are two “sub-districts:” the “singles district” where the criminal alone is detained, and the “family district” where the inmate is detained with his/her family.

school) has a six-year course. The students at both the elementary and middle/high schools total over 1,000 students. One teacher is assigned to each elementary school classroom, but there is only one teacher for each grade (class) at the middle/high school. At the middle/high school, the students usually do not study but go to work instead. That is why there is only one teacher assigned for each grade. The teacher's role is not to teach any particular subject, but to lead and supervise students on their way to and from fieldwork.

The reality of Gaecheon No. 14 Management Center was reported to the outside world after Mr. Dong-hyuk Shin successfully escaped from the center. According to Mr. Shin, the center is operated under a strict control with ten major laws and regulations. If anyone violates any of these rules, he/she is executed by a firing squad. The ten rules and regulations are as follows: 1. You must not escape. 2. Three or more inmates must not meet together. 3. You must not steal. 4. You must absolutely obey orders of the Protection Agency guidance officers. 5. You must immediately report if you have seen any outsiders or suspicious persons. 6. All inmates must carefully watch over each other and immediately report in the event of an unusual behavior. 7. You must over-fulfill all tasks assigned to you. 8. Unless needed for the job, no contact between males and females is allowed. 9. You must be truly remorseful of your own mistakes. 10. You will be immediately shot by a firing squad if you ever violate these laws and regulations of the camp. It is certain that anyone violating any of these rules will be put to death by a firing squad.<sup>61</sup> The following is a detailed description of life inside the Gaecheon Prison Camp from Mr. Shin's personal diary:<sup>62</sup>

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<sup>61</sup>-Dong-hyuk Shin, *Coming Out to the World* (Seoul: Database Center for North Korean Human Rights, 2007), pp. 60-62.

<sup>62</sup>-*Ibid.*, pp. 21-185.

### <Table III-8> The Reality of No. 14 Gaechon Prison Camp

The No. 14 Gaechon Prison Camp was established in 1965. Barbed wire fences divide the Gaechon Prison Camp and the Daedong River, and in the Center there are schools, a village, five inner villages, and several factories.

The prison camp consists of a main village and five inner villages. In the No. 4 and 5 Inner Villages there are no families, and all inmates live alone. There are no marriages and no families there. So all the children born inside the management center are from the main village or the No. 1, 2 or 3 inner villages. Inmates in the No. 1, 2, and 3 inner villages are not allowed into the No. 4 and 5 villages, and vice versa. The inmates in the No. 4 and 5 inner villages are never allowed outside their villages.

Mr. Shin was born in the Oidongri No. 8 Work Unit, which consisted of about 40 housing units. The housing unit was a single-floor home with a kitchen and four rooms, one room for each family. Since heating is not provided in the management center, seniors over 65 have to join the All Seniors Work Unit.

The housing unit at the center was built with concrete, so the floors and walls are all concrete. There is no mat on the floor, so people have to sleep on concrete. Coal is used for floor heating. Since coal is produced in the management center itself, heating coal is supplied every day on a ration basis.

The work unit in the prison camp is the most basic unit for carrying out work duties. There are all kinds of factories inside the management center, including coal-mines, a supervisors' office, a construction unit, a food factory, a cement factory, pottery barns, a rubber factory, paper mills, a clothing factory, and farms. Each factory contains a number of work units, and security agents are assigned to each factory. The No. 14 Prison Camp has a security agents' village, consisting of about 100 housing units, with two families in each housing unit. So there are about 200 agent families living in the center compound. Each agent is assigned to a group of three units.

In the clothing factory where Mr. Shin worked there were 12-13 work units, with a total of about 2,000-3,000 inmates. One work-unit has about 4-5 sub-units, and each sub-unit has about 20-30 inmates. So one work-unit has about 100-150 inmates working together. Each work-unit has a leader, and above him is a master leader appointed by the security guidance agent. Daily workloads are assigned not by the agent but by the master leader on orders from the agent. So the master leader is the most feared inmate, sometimes more feared than the agents. Unit leaders are often more demanding than agents.

In the prison camp, a secret prison is operated. Mr. Shin had to serve time in this secret prison after his mother and brother escaped from the center in April 1996. His cell had a concrete floor and a toilet. The size of the cell was about 150cm (5 feet), so it was a tight fit when he tried to stretch out on the floor. There was a shelf in the cell with a hanging chain, which the agents would attach to his ankles with fetters. When they pulled the chain, he would hang upside down. The center also had a separate torture room where they would carry out fire tortures.

### <Yodok No. 15 Management Center>

The Yodok Political Prison Camp is located in five sub-counties of Koop-li, Ipsok-li, Yongpyong-li, Pyongjon-li, and Daesuk-li, in Yodok County, North Hamgyoung Province. It occupies one third of Yodok County. The Yodok Camp has two districts: the complete control district and the revolutionary district. Those living in the revolutionary district are allowed to live with their family and to retain the citizen status. But, those detained in the complete control district lose their citizenship and are not allowed to live with family members and some face execution. There are elementary schools and middle schools in the revolutionary district, but only elementary schools in the complete control district.<sup>63</sup>

### <Myonggan No. 16 Management Center>

The No. 16 Management Center is located in Buha-li, Myonggan County, North Hamgyoung Province. It is known to house family units and known as Hwasong Management Center, Hwasong being the old town name for Myonggan. Some inmates were relocated from Hoeryeong No. 22 camp to No. 16 center, and the center is still in operation. However, further details on this center is not available, since no defector currently in South Korea has been detained at Hwasong.<sup>64</sup>

### <Bukchang No. 18 Management Center>

As indicated earlier, the Bukchang No. 18 Management Center was relocated to the Donglim-li area in Gaechon. Some information on the old Bukchang Management Center which was operated by the Ministry of People's Security is found in the diary

<sup>63</sup> Keum-soon Lee, et al., *Political Prison Camps in North Korea*, pp. 57-64.

<sup>64</sup> *Ibid.*, p. 74.



of defector Hye-suk Kim.<sup>65</sup> Hye-suk Kim was detained at Bukchang from the age of 13 in 1975 and spent 27 years inside the camp before her release on August 13, 2002. She defected to South Korea in March 2009.

Within the political prison camp is a school for immigrants (a euphemism for those confined in the center). Inside the school is a one-story building and each class consists of 28 to 32 students. Staff members at the school are the children of administrative workers or officials of the Ministry of People's Security or the State Security Agency, and they are known for harsh treatment of their students. From the third grade to middle school, students are assigned to night shift guarding the school building from 9 p.m. to 6 a.m. This duty is assigned according to work groups, with each group consisting of four to five students. At the end of each night shift, work groups must complete a night shift log. Without exception, as soon as they graduate, all students become coal mine workers. If a classmate is absent from school, all the classmates go to that student's house and drag him/her to school. The student is then whipped by the school staff and beaten by classmates. Students in the elementary school study in the morning, and in the afternoon are mobilized to dig mud and transport it to the camp's coal mine.

There are some coal mines at the Bukchang Political Prison Camp. Hye-suk Kim used to work in a coal mine called the Shimsan Coal Mine, where she worked with unprocessed coal. Each working group consists of 15 persons. Work schedule is composed of three shifts (midnight shift: midnight to 8 a.m.; morning shift: 8 a.m. to 4 p.m.; afternoon shift: 4 p.m. to midnight). However, workers rarely finished work on time. The workload within the Shimsan

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<sup>65</sup> Hye-suk Kim, *A Prison Camp Created in Tears*, pp. 15-58.

Mine was more than what could be handled. Disciplinary regulations within the coal mine are very strict. If workers fail to report to work three times, a day's worth of grain rations are withheld.<sup>66</sup>

### <No. 22 Hoeryeong Political Prison Camp>

As stated earlier, the Hoeryeong Political Prison Camp closed in May 2012. In the past, the Hoeryeong Camp was also known as Secholli Management Center. North Korean defector XXX testified that he had been to the area near the Hoeryeong Political Prison Camp. The camp's total area is smaller than a County, but he heard that approximately 10 percent of the entire agricultural output of North Hamgyong Province was produced at this camp.<sup>67</sup> The political prison camp in Hoeryeong was built in such a way that mountains block the view in the direction of Kungshim and Sechon. Children in the camp stay with their mothers, but wives are told to divorce their husbands.<sup>68</sup> Defector XXX testified that there was an elementary school inside the Hoeryeong Political Prison Camp, but children as young as fourth grade were forced to engage in farm work. They study in the morning, and in the afternoon each student takes a container and fills it with weed cut from the field or rice paddies.<sup>69</sup>

According to North Korean defector XXX, the children confined at the political prison camp start their heavy labor at 10 a.m. If a mother helps with her child's work, the child is punished. Each inmate has to complete his or her duty without help from others, and this even applies to parents and their children. Husbands

<sup>66</sup> As for details on Bukchang No. 18 Management Center, Keum-soon Lee, et al., *Political Prison Camps in North Korea*, pp. 44-50.

<sup>67</sup> NKHR2009000021 2009-04-13.

<sup>68</sup> NKHR2009000024 2009-04-20.

<sup>69</sup> NKHR2009000067 2009-11-12.

and wives are assigned to opposite work shifts to prevent any physical contact. A waterway is located in the political prison camp and some reports indicate it was built to drown inmates who are condemned to execution and save bullets.

Inmates are given three corn meals a day; however, if an inmate is caught helping his/her child or if a guard discovers any information that is against the rules, the inmate's food ration is withheld for two days. There is said to be underground cells which is used if an inmate fails to finish his/her task or if he/she misspoke about something. The inmate is placed in confinement in a 3x3 feet cell for 20-30 days, and only half of the meals are given.<sup>70</sup> The fence is wired with powerful 3,300V electric current, making it impossible to escape. Children in this camp attend school up to fourth grade, and after that they start to join various types of work.<sup>71</sup>

#### **<No. 25 Chongjin Political Prison Camp>**

The Chongjin Management Center is sometimes referred to as the Susong Correctional Center but in fact it is a management center for political criminals.<sup>72</sup> This No. 25 Center was used as a detention facility for the South Korean POWs after the war. It is not a village type but a fenced facility similar to a correctional center made for collective living arrangement. Some inmates are released upon completion of his/her term and only political criminals are detained in this facility alone, without their families.<sup>73</sup>

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<sup>70</sup>\_NKHR2011000134 2011-06-07.

<sup>71</sup>\_NKHR2011000165 2011-07-19.

<sup>72</sup>-Interview with defector XXX in Seoul on January 9, 2008.

<sup>73</sup>-Keum-soon Lee, et al., *Political Prison Camps in North Korea*, p. 64.

### • Detention and Punishment of Political Prisoners

The decision to send ordinary criminals to prison is determined through basic review and trial procedures. Cases of individuals charged with political or ideological crimes are unilaterally reviewed by the State Security Agency in a single trial system without judicial trial procedure. However, it seems as though certain procedures are followed. Defector XXX testified that decisions regarding the political criminals made at the county, city or provincial level must be ratified by the Party.<sup>74</sup> The North Korean government punishes not only the political criminals but also their relatives. This is due to the so-called crime by association system. Defectors XXX and XXX testified that this system usually applies to one's closest family members (next of kin). If a husband is convicted of a political crime, his wife has to divorce her husband and is sent to her hometown; however, if a wife is convicted, her husband does not receive punishment of any kind.<sup>75</sup>

North Korean defector XXX testified that if a married person is sent to a political prison camp, other family members ask the spouse to divorce the detainee in order to avoid being sent to the camp themselves. Others testify that confinement at a political prison camp is determined in secret trials.<sup>76</sup> Defector XXX testified that when her eldest brother XXX, a low level Party secretary, was detained at a political prison camp in April 2005 on charges of embezzlement of the Party funds, the decision was made through a secret trial.<sup>77</sup>

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<sup>74</sup>-NKHR2011000165 2011-07-19.

<sup>75</sup>-Interview with defector XXX-XXX in Seoul on November 30, 2002.

<sup>76</sup>-NKHR2011000196 2011-09-06.

<sup>77</sup>-NKHR2011000085 2011-04-05.

North Korea began charging individuals caught contacting South Koreans or attempting to flee to South Korea with the crime of espionage. These suspects are detained at political prison camps. Other testimony reveals cases where the remaining family members of the defector are also sent to political prison camps. Cases of incarceration on charges of religious activities are also on the rise.

Testimonies	Testifier ID
Defector XXX testified that his neighbor told him in January 2008 that XXX was sent to the Hoeryeong Political Prison Camp on charges of having a telephone conversation with his sister in South Korea and attempting to flee North Korea.	NKHR2010000053 2010-06-29
Defector XXX testified that his aunt was confined in the Yodok Political Prison Camp on charges of exchanging money with a South Korean during the reunion of separated families in October 2008.	NKHR2010000068 2010-04-27
Defector XXX testified that his mother told him in July 2010 that three family members who lived in Pohang District of Sinpo, South Hamgyoung Province were sent to a political prison camp for holding a worship service.	NKHR2011000196 2011-09-06
Defector XXX testified that he saw four family members (two males and two females), residing in Pohang District of Sinpo, South Hamgyoung Province, sent to a political prison camp in September 2009 because one of their family members fled to South Korea.	NKHR2011000077 2011-03-22
Defector XXX testified that he heard that family members of XYZ, a guidance official in the Department of External Affairs in the Musan County Security Agency, were taken to the Chongjin Political Prison Camp because XYZ fled to South Korea in October 2010.	NKHR2011000058 2011-02-22
Defector XXX testified that he heard from his neighbors that XXY, who had been residing in the Dongmyeong District of Hoeryeong, was sent to the Hoeryeong Political Prison Camp. He was said to have been arrested for attempting to enter a South Korean Embassy in China and repatriated back to North Korea in 2010.	NKHR2011000187 2011-08-16

Testimonies	Testifier ID
North Korean defector XXX testified that XXX who had fled to South Korea came back to North Korea to take his/her family (parents, two daughters and a son) out of North Korea, but was arrested and sent to a political prison camp.	NKHR2012000030 2012-02-21
North Korean defector XXX heard that a chief of a local security agency, named XX Kim (58-year old man at the time) was detained at Bukchang No. 18 management center in South Pyongan Province, along with his family (son, daughter, daughter-in-law, and grandson). His crime was mishandling state projects in violation of party guidelines. By the time he was released after five years, his daughter and grandson were dead.	NKHR2012000066 2012-04-20

In some cases, confinement is imposed at political prison camps as a punishment for deviant behavior. Cases of individuals sent to political prison camps for human trafficking are steadily increasing. In addition, serious economic criminals are also confined at political prison camps.

Testimonies	Testifier ID
Defector XXX testified that XXY, his uncle's wife, was sent to the Gaecheon Prison Camp in 2007 for taking agricultural publications outside the country and engaging in human trafficking.	NKHR2011000068 2011-03-15
Defector XXX testified that he heard XXY, a relative on his mother's side, was confined at a political prison camp on charges of human trafficking in 2009.	NKHR2011000124 2011-05-24
Defector XXX testified that in February 2010, the manager, bookkeeper and secretary working for a fuel oil warehouse in Cheonnae, Gangwon Province, were arrested for privately using and selling fuel oil. He saw not only the culprits but also their family members taken away to a political prison camp. The case was widely reported and was called the major fuel oil incident. It is believed that the oil warehouse located in Cheonnae is a secret oil station reserved for Kim Il-sung and Kim Jong-il.	NKHR2011000196 2011-09-06

## • Life inside a Prison Camp

### <Civil Right and Family Right>

Once a condemned person enters a prison camp, the camp confiscates his/her citizen ID card, depriving him/her of fundamental civic rights such as the right to vote or to run for public office. But there are exceptions. The revolutionary district in the Yodok No. 15 management center and the Bukchang No. 18 management center, operated by the Ministry of People's Security, do not confiscate inmates' citizenship and allow marriage, childbirth, and even access to Party membership.<sup>78</sup> Hye-suk Kim became an exemplary member of the North Korean Democratic Youth League (currently Kim Il-sung NKDYL) and entered the Party on recommendations from the Primary Party Committee and Primary League of Socialist Working Youth in October 1984 while imprisoned in a political prison camp. She also married a colleague, and gave birth to his child.<sup>79</sup>

Enjoying a married life inside the camp is something every inmate dreams of; however this decision is permitted by the guidance officer. Thus, all inmates try to gain the officer's favor by working hard, volunteering for risky jobs, observing all rules and regulations, and even spying on other inmates. This is the only way to win the highest honor: the so-called marriage commendation.<sup>80</sup> Detainees are prohibited from all verbal or written communication with family/relatives and are forbidden to have any contact with the outside world, including relatives.

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<sup>78</sup> NKHR2012000066 2012-04-20.

<sup>79</sup> Hye-suk Kim, *A Prison Camp Created in Tears*, pp. 60-68.

<sup>80</sup> Dong-hyuk Shin, *Coming Out to the World*, pp. 63-65.

### <Right to Life>

Arbitrary executions and public executions are often conducted inside management centers. For example, any inmate picking and eating wild berries is killed on site. Guards sometimes force inmates and beat the victim to death, claiming that the victim is not worth the bullet.<sup>81</sup>

### <Forced Labor>

Most inmates wake up before dawn, eat breakfast, and get ready for work. State security agents and work supervisors conduct roll call and work is assigned to each unit which consists of five workers. To prevent conversation or conspiracy, inmates are put to work until dusk. Approximately two hours are given for lunch and the inmates eat steamed corn rolls that they prepared. At the end of the day, a state security agent or Inminban (people's group) leader confirms the progress of the work, and if the work is behind schedule, the security agent decides whether to extend the prisoners' work hours.

Inmates usually wake up at 4 a.m., eat breakfast, and leave for work at 5 a.m. By the time they arrive at work it is about 6 a.m.<sup>82</sup> Weekend breaks are never granted in the camp, so everyone works on Saturdays and Sundays. Inmates are given a day off every month, usually at the beginning of each month. They also rest on annual holidays, which include New Year's Day and the birthdays of Kim Il-sung and Kim Jong-il.<sup>83</sup> Apart from the designated annual holidays, inmates are required to work on the remaining holidays. In the case of the No. 18 Bukchang Political Prison Camp, detainees

<sup>81</sup> Keum-soon Lee, et al., *Political Prison Camps in North Korea*, pp. 39, 51.

<sup>82</sup> Dong-hyuk Shin, *Coming Out to the World*, p. 56.

<sup>83</sup> *Ibid.*, p. 45.



are mobilized on holidays to work in the houses of coal mine guidance officers or security agents. They plow fields, plant potatoes or carry coal to be stored inside the warehouse.<sup>84</sup>

In some cases, forced labor results in death. In the case of the No. 18 Bukchang Political Prison Camp, many of the inmates end up dying from accidents within the coal mines. Hye-suk Kim's brother also lost his life while working at the coal mine.<sup>85</sup> In addition to harsh working condition, inmates are given minimal supplies for their daily life. Each coal mine worker is provided with a piece of soap and a pair of gloves each month, and a pair of shoes every 6 months.<sup>86</sup> It has been revealed that the political prison camps pay wages for forced labor. Hye-suk Kim saved her wages and purchased 80 kilograms of seaweed with her.<sup>87</sup>

### <Housing>

In the prison camps, single people or those imprisoned without their spouses live collectively in barracks while families live in huts built with wood, mud, and straw mats. Because the floors and walls are made of natural goods, the rooms are very dusty. Roofs in most cases are made from wooden boards covered with straw mats. Floors may be covered with mats made of bark. These homes do not stand up to poor weather - rain leaks into the house and it is extremely cold in the winter months.

### <Right to Health>

Under such miserable conditions, many prisoners suffer from pneumonia, tuberculosis, pellagra and other diseases, mainly

<sup>84</sup> Hye-suk Kim, *A Prison Camp Created in Tears*, p. 38.

<sup>85</sup> *Ibid.*, pp. 42-44.

<sup>86</sup> *Ibid.*, p. 66.

<sup>87</sup> *Ibid.*, pp. 34-35.

due to malnutrition and heavy labor. Many suffer from frostbites or hemorrhoids, but everyone, without exception, is forced to work. When a sickness becomes dire and the foreman decides the prisoner can no longer work, the prisoner is sent to a sanatorium and abandoned, since medication and doctors are not available on site.

The mother of North Korean defector Hye-suk Kim, used to climb hills to catch worms in a bucket to feed hens and ducks while she was confined in a prison camp. The hard labor made her weak. Even though her abdomen swelled from ascites, she was not treated with proper medication. Hye-suk Kim bought nutritional supplements for her mother by selling Chinese rice. After taking the nutritional supplements, her symptoms were relieved; however, once the supplements ran out, the symptoms returned. After being confined in her home with the illness for six months, she eventually passed away at the age of 43.<sup>88</sup> Hye-suk Kim's husband contracted pellagra from the Bukchang Political Prison Camp during the Arduous March. Many inmates confined in the prison camp died from pellagra, and many suffered from nutritional deficiencies.<sup>89</sup>

#### **<Human Rights Violation on Women's Hygiene>**

Hye-suk Kim reported that after her childbirth, she used patches torn from her underclothes as sanitary pads due to lack of fabric. She criticized the prison camp's inadequate hygiene for women, highlighting that even essential materials for mothers are not provided.<sup>90</sup>

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<sup>88</sup>-Hye-suk Kim, *A Prison Camp Created in Tears*, pp. 27-29.

<sup>89</sup>-*Ibid.*, pp. 27-29.

<sup>90</sup>-Hye-suk Kim, *A Prison Camp Created in Tears*, p. 68.

### <Right to Food>

The daily ration at coal mines and farms amount to 900 grams of corn per person. Since the mid-1990s, the inmates have received only 700 grams, as 200 grams are taken away for grain savings. For side dishes, inmates receive three pieces of salted lettuce and a handful of salt. The work is intensive but the quality of each meal is very poor, thus all inmates constantly suffer from extreme hunger. The most popular activity among inmates is to catch mice for cooking and eating. When inmates are dispatched to work at collective farms, they can easily catch mice. At one point, Shin ate mice every day for a week. Elementary school children receive 300 grams of grain per day. Middle/high school students from first to fourth grade receive 400 grams, and fifth and sixth graders receive 500 grams of grain rations.<sup>91</sup>

In the case of North Korean defector Hye-suk Kim, a mere seven kilogram of rice and grains were distributed to her seven-member family each month. She explained there was no other means of obtaining food, thus they had to gather edible wild greens from the mountain to satisfy their hunger. Whenever they had a day off, the entire family went to the hillside to gather edible wild greens and stored them for food.<sup>92</sup>

Traditional holidays are no different than ordinary days. Luckily, Hye-suk Kim's family was able to have rice mixed with corn on traditional holidays without having to use wild edible greens. During the winter, it was extremely difficult to find food. Hye-suk Kim's mother bought a millstone and grinded corn to make porridge for each meal. People suffered from malnutrition to the point where their own relatives could not recognize them because they were so emaciated.<sup>93</sup>

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<sup>91</sup> Dong-hyuk Shin, *Coming Out to the World*, pp. 46-48.

<sup>92</sup> Hye-suk Kim, *A Prison Camp Created in Tears*, pp. 73-76.

<sup>93</sup> *Ibid.*, pp. 25-26.

### <The Right to Education>

At the camp people's school (elementary school), the daily routine is almost the same as other elementary schools across North Korea, except for the labor the children are required to do from time to time. However, there is a significant difference between camp schools and schools outside in terms of course subjects, content of instruction, and the teacher-student relationship. At the elementary schools inside the camps, they teach only three subjects: Korean language, math, and physical education. Subjects such as Kim Il-sung, the Party, revolution, North Korean history, geography, science, music and fine arts are never taught at the camps.<sup>94</sup>

In middle/high school, camp students spend most of their time at factories, farms or coal mines, so most former inmates do not have memories of their middle school years. At schools inside the camp, students do not study in classrooms, but are mobilized for work at farms or factories as soon as they graduate from elementary school and move to middle school. At high schools, no textbooks are available so the students only take notes during the lifestyle review meetings.<sup>95</sup>

## E. Assessment

The internationally guaranteed right to liberty and the security of person is clearly prescribed in North Korea's Constitution, Penal Code, and Criminal Procedure Law. The problem is that these legal provisions are not observed in the process of enforcement of the law. More specific rules and regulations are necessary in this

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<sup>94</sup> Dong-hyuk Shin, *Coming Out to the World*, pp. 80-98.

<sup>95</sup> *Ibid.*, pp. 115-128.

context, including stipulations prohibiting slavery, forced labor and torture, and mandating a more humane treatment. Under the international law, forced labor inside the correctional facilities is a form of punishment permitted in principle and as an exception (“Article 8” and “Article 3b” of ICCPR). However, forced labor imposed on the inmates in North Korean penitentiaries is far beyond permissible in light of the absolutely horrific conditions and the high death rate.

The issue of political prison camps, which North Korea officially denies their existence, contains many elements of potential abuse on fundamental human rights, including the right to liberty and security of person. This situation can constitute as a serious crime against humanity. Thus North Korea is in clear violation of their obligation to respect and ensure specific provisions of the ICCPR, including “Article 9.1” (“No one shall be subjected to arbitrary arrest or detention.”), “Article 9.4” (“Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court.”), “Article 8.3” (“No one shall be required to perform forced or compulsory labour.”), and “Article 7” (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”).<sup>96</sup>

Recently, it has been confirmed that the Hoeryeong No. 22 Management Center was closed while the Bukchang No. 18 Management Center was restructured and relocated. The total number of political prisoners detained in all North Korean prison camps was on the decline. The decreasing number of inmates is perhaps a result of natural reduction, and it does not necessarily reflect any

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<sup>96</sup> As for the political prison camps and other possibilities of human rights abuses, Keum-soon Lee, et al., *Political Prison Camps in North Korea*, pp. 80-83.

change in relevant policies. North Korea continues to utilize political prison camps for the purpose of maintaining its political system. Consequently, the international community must continue pressuring North Korea to improve their human rights situation.



# 3



## *The Right to Due Process of the Law*

### **A. The Right to Receive a Fair Trial**

The “Article 11” of the Universal Declaration of Human Rights stipulates the principles of right to receive fair trial, presumed innocent until proven guilty, and *nullem crimen sine lege* (no crime unless prescribed by law). The article states in part, everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial. The ICCPR also prescribes similar principles. It stipulates, for example, the right to receive a “fair and public hearing by a competent, independent and impartial tribunal established by law;” (“Article 14, Para. 1”) the right to be presumed innocent; (“Article 14, Para. 2”) and no crime unless prescribed by law (“Article 15, Para. 1”) In addition, it sets forth the principles of due compensation (“Article 14, Para. 6”) and prohibits double jeopardy. (“Article 14, Para. 7”)

&lt;Table III-9&gt; International Human Rights Laws on Fair Trials

UDHR (Article 11)	<p>1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.</p> <p>2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.</p>
ICCPR (Article 14, Para. 1)	"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."
ICCPR (Art. 14, Para. 2)	"Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law."
ICCPR (Art. 14, Para. 3)	"In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality; (c) To be tried without undue delay, (g) Not to be compelled to testify against himself or to confess guilty."
ICCPR (Art. 14, Para. 6)	When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reserved 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.
ICCPR (Art. 14, Para. 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.
ICCPR (Art. 15, Para. 1)	No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.



North Korea has established their judicial system under the Constitution and the Court Structures Law. There are three levels of the judicial system: the Supreme Court, Provincial and (Direct city) Municipal Courts, and People's Courts. In addition, there are special criminal courts such as the Military Court and the Railroad Court. North Korea also has enacted the Penal Code and the Criminal Procedure Law, and the Penal Code stipulates the no law, no crime (*nullen crimen sine lege*) principle by specifying no post-factor penalties. ("Article 9" of Penal Code) In the Criminal Procedure Law of 2005, the detainment period for a suspect undergoing interrogation and awaiting trial was shortened, and the period of confinement for indictment and trial was specified. Despite these improvements, North Korea's Criminal Procedure Law of 2005 still has the following limitations in terms of protecting human rights in the course of due criminal procedure.<sup>97</sup> First, the Criminal Procedure Law allows for people to be arrested and confined during the course of investigation and without judicial deliberation by a court of justice. This raises serious concern in that the right to legal representation is not guaranteed during the investigative phase or during the early pretrial procedures. Second, opening trial proceedings to the public is essential to the transparency and fairness of trials. Accordingly, "Article 271" makes public exposure as the norm, but permits broad exceptions, including the protection of state or personal secrets and the prevention of socially harmful effects.

Third, North Korea's criminal procedure still falls short in terms of maintaining the principle of due legal procedures because

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<sup>97</sup> Myeong-seop Han, *Comprehensive Issues on Exchange between North and South Korea* (Paju: Hanul Publishing Company, 2008), pp. 30-32; Ministry of Court Administration, *North Korea's Criminal Law* (Seoul: Ministry of Court Administration of South Korea, 2006), pp. 25-26.

any provision in terms of legal confinement is omitted and fails to address rules for the presumption of innocence and hearsay.

Although North Korea has been operating the courts in accordance with their Constitution and other laws, their people do not benefit from fair trials, because the composition of courts and the operation of trials are not independent and the proceedings are unfair. The ICCPR stipulates the principle of due compensation in accordance with the law (“Article 14, Para. 6”), but there are no commensurate provisions in North Korea’s Constitution and criminal laws.

- **The Court Structure and Non-independent Trials**

*<Denial of Independent Trials>*

North Korea denies the independence of the courts, viewing them as vehicles through which the Party can exert influence or guidance over the trials. Legally, judges are elected by the North Korean citizens. However, Kim Jong-il or the Korean Workers’ Party controls the legislative power of the Supreme People’s Assembly (SPA), the representative organ of the supreme sovereignty, based on the principle of centralism and the Party’s predominance. The Party also supervises the selection and duties of deputies of the SPA. The Cabinet and the Supreme Court members are also selected by the SPA and held accountable. “The Supreme Court shall be accountable for their work to the SPA and to the Presidium of the SPA when the SPA is in recess” (“Article 168” of the Socialist Constitution). North Korean laws stipulate that the courts are to conduct independent judicial proceedings and carry out judicial activities according to the law (“Article 166” of the Socialist Constitution, “Article 272” of the Criminal Procedure Law). However,

these laws do not guarantee an individual judge's independence, but rather proclaims the independence of the judiciary as an organizational structure. Thus, it cannot be seen as guaranteeing the independence of the judiciary.<sup>98</sup> "Article 11" of the Prosecutory Supervision Law stipulates that a prosecutor shall consider each case to determine whether a hearing has been conducted at the right time and in the correct manner as required by law. As such, the prosecution has the authority to consider trials and cases under arbitration and thus participate in the proceedings of a case. Judges appear to be in subordination to prosecutors in North Korea's judicial system.<sup>99</sup>

### <The People's Jury System: the KWP Party's Control over the Judiciary System>

As a part of the trial system, North Korea has adopted a people's jury system. This system would appear, at least in form, to follow the jury system of the Anglo-American courts. However, it is a system employed to exercise the Party's control over the judicial system. Even North Korean scholars support this system. One North Korean scholar argued that the people's jury system is a system that guarantees the revolutionary character of trials, and the trials' roles and functions are smoothly carried out by the People's Jury System:

"The People's Jury System is a legal system that guarantees the revolutionary character of the Republic's trials. The Republic's trials legally

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<sup>98</sup> Kyu-chang Lee and Kwang-jin Jeong, *A Study of North Korea's Criminal Trial System: Characteristics and Reality*, pp. 49-53.

<sup>99</sup> Dong-han Kim, "Trend and Evaluation of North Korea's Judicial Laws," *Division of South and North Korea for 60 years: Past and Present of North Korean Law*, Year 2005 Academic Conference Proceeding of the Korea Society of North Korean Laws Studies, 2005.

guarantees the realization of people's democracy of our people's government. The roles and functions of the Republic's trials for the realization of dictatorship of people's democracy will be realized by the People's Jury System."<sup>100</sup>

There are no specific standards for the qualification of people's jurors except that they must be North Korean citizens who are qualified to participate in elections ("Article 6," Court Composition Law). In fact, their primary role is not to provide a fair and objective trial but rather, to rubber stamp the verdict of the accused. There are times when the people's jurors will request for a reduced penalty on behalf of the defendant. In most cases, however, they will not play an active role in the trials due to their lack of legal knowledge, thus their role is limited to confirming the charges against the defendant.

### • Unfairness of Criminal Trial Procedures

It is difficult to examine the trial process in North Korea. Thus far, none of the North Korean defectors have experience working as a prosecutor, a judge, a people's juror or an attorney in North Korea. Most defectors do not have special legal knowledge; therefore, there are many contradictory testimonies about the trial process.

#### <Court Participants>

Under North Korean laws, people's jurors are required to participate in all lower court (district court) decisions. A lower

<sup>100</sup> Duck-il Kim, "The Essence of People's Juror System," *A Study of Law and Politics*, Vol. 2, 2012, p. 34.

court consists of a judge and two people's jurors ("Article 9" of Court Composition Law). In general, the judgement is made by the judge and jurors. ("Article 17") Also, the law requires a prosecutor and a defense attorney to participate in the lower court proceedings ("Article 276" of Criminal Procedure Law). Since a judge, a prosecutor, and a defense attorney, as well as the people's jurors all participate in a trial, it may appear as though all criminal law requirements are met; however in most cases, the judge and the prosecutor will lead the trial and the attorney and people's jurors will play only minor roles.<sup>101</sup> Furthermore, in some cases, trials will begin without attorneys or people's jurors in attendance.

### <Trial Proceedings>

Criminal trials begin with investigations. In North Korea, there is a unique system called pretrial which is a period between investigation and the indictment. Pretrial is designed to identify the defendant and the overall picture of the crime ("Article 148," Criminal Procedure Law). Unlike these provisions, some North Korean defectors testified that penalties are often imposed at the investigation or pretrial phase in the absence of judges and people's jurors. North Korean defector XXX testified that in January 2010, he/she had experienced a pretrial, and was given a correctional penalty at the pretrial by a prosecutor and two pretrial investigators.<sup>102</sup>

A lower court trial consists of five steps: the opening proceedings, examination of facts, prosecutor's charges, attorney's defense, a final statement by the defendant, and decision or sentencing. ("Article 301," Criminal Procedure Law) In North Korea, some cases can be found from defector's testimonies where criminal trial

<sup>101</sup>\_NKHR2012000052 2012-03-28.

<sup>102</sup>\_NKHR2010000089 2010-06-08.

procedures are formally observed as stipulated in the Penal Code, the Criminal Procedure Law, the Court Composition Law, and other laws. Defector XXX testified to undergoing a pretrial examination for two months at the Musan County Court of Justice in May 2007. Five people, including a vice chief of justice, two people's jurors, an attorney and a prosecutor, participated in the trial. The trial process consisted of the prosecutor's argument, the attorney's defense, and the judgement of the vice chief justice and people's jurors.<sup>103</sup> However, some testimonies show that trial processes only occur on paper.

Testimonies	Source
North Korean defector XXX testified that he/she was arrested and deported after failing to enter a Korean consulate in China on March 1, 2004. He/she was sentenced without a trial to a one-year penalty by a written decision at the Bukchang County security agency. No attorney was in attendance.	Defector XXX during an interview in Seoul on March 7, 2007
North Korean defector XXX testified that he/she was arrested while attempting to cross the river (border). After a month long investigation at the Hoeryeong City state safety protection agency, he/she was transferred to the security agency of Hoeryeong City. He/she did not get a trial, because all defector cases are disposed of by written decisions without a trial.	Defector XXX during an interview in Seoul on January 16, 2008

All trials are conducted pro forma and individuals are declared guilty even if he/she does not answer a question, "XXX, are you guilty of xxx crime?" The defendant is not even allowed to speak or ask questions.<sup>104</sup>

<sup>103</sup>\_NKHR2008000022 2008-11-05.

<sup>104</sup>\_NKHR2012000036 2012-03-13.

### <Investigation, Pretrial and Duration of a Trial>

North Korea's Criminal Procedure Law specifies certain rules regarding investigations, pretrial and the duration of a trial. When a suspect or a criminal is detained, the investigator must draft a document explaining the detention decision within 48 hours and submit to a prosecutor for approval, and transfer the case to a pretrial within 10 days. ("Article 144") Pretrial must conclude within two months after the opening date. Criminal cases subject to labor training penalty must be concluded within 10 days. ("Article 151") However, the lower courts must conclude their proceedings within 25 days after the receipt of the docket. Even though proceedings for a suspect subject to labor training penalty must conclude within 10 days, the proceedings may be extended by five days if a criminal case is particularly complicated. ("Article 287," Criminal Procedure Law) The appellate court must conclude their proceedings within 25 days after the receipt of appeals document (Art. 366). Many North Korean defectors have testified on the irregularity of the duration of investigation and pretrial.

Testimonies	Testifier ID
North Korean defector XXX testified that her brother was charged with a crime of meeting a South Korean. He received a pretrial for a year in 2005 in the Security Agency (Province) detention center in North Hamgyoung Province.	NKHR2009000066 2009-11-11
North Korean defector XXX testified that he/she was sentenced to a labor training penalty, but the duration of pretrial and indictment was not observed.	NKHR2010000053 2010-06-29
North Korean defector XXX testified that the duration for a pretrial was not observed in the process of receiving a labor training sentence.	NKHR2010000102 2010-07-13

On the other hand, in some cases, the proper procedures of investigation, pretrial and formal trial are observed as stipulated in

the Criminal Procedure Law.

Testimonies	Testifier ID
North Korean defector XXX testified that although the duration of investigation was not observed, the duration for additional pretrial and lower court proceedings were faithfully observed.	NKHR2010000015 2010-10-05
North Korean defector XXX testified that while the duration for investigation and pretrial was not observed, the duration for indictment and lower court trial was observed.	NKHR2011000020 2010-05-19
North Korean defector XXX testified that he/she was given a labor training penalty, and the duration for pretrial, indictment, and lower court trial was all observed.	NKHR2010000059 2010-11-30
North Korean defector XXX testified that he/she was sentenced to a labor training penalty. The duration for investigation was not observed, but the duration for pretrial, indictment, and lower court trial was observed.	NKHR2011000021 2010-06-07

Overall, the duration for investigation and pretrial is not observed, but the duration for indictment and lower court trial is observed. This is not necessarily the result of strictly applying criminal law provisions. It is because the scope of the crime and penalties are determined in the course of investigation and pretrial, and the indictment and lower court proceedings are conducted in a perfunctory manner. One result of this system is that it does not require much time to conduct lower court proceedings. One defector testified that the trial took less than 15 minutes.<sup>105</sup> This is because all trials are conducted in a perfunctory manner in the belief that the State laws (of North Korea) cannot be wrong (or, the state laws are fair and just).<sup>106</sup>

<sup>105</sup>\_NKHR2012000036 2012-03-13.

<sup>106</sup>\_NKHR2012000256 2012-11-27.



## • The On-Site Open Trial System

### <On-site Public Trials and the Court Structure>

“Article 286” of the law stipulates, “In order to prevent crimes and awaken the masses to the issue on trial, the courts can organize trials and deliberations on-site (at any locality). In such instances, the representatives of an agency, enterprise or organization may be asked to reveal the acts of the criminal and accuse him/her.” North Korea adheres to procedures for on-site public trials as well as various formalities of court trials, such as having a judge, prosecutor, and people’s jurors. However, the majority of North Korean residents are not aware of whether the judges, prosecutors, attorneys, and people’s judges participate in public trials. The crimes subject to this type of trial are not specified, yet these trials are organized upon the instructions of the Party when it deems them necessary for social education or when there is a need to warn the masses about specific crimes.<sup>107</sup> On-site public trials are conducted for those who committed crimes such as stealing state properties, human trafficking,<sup>108</sup> and watching or circulating foreign videotapes.<sup>109</sup> These trials are also conducted for those who attempted to flee to South Korea, practice Christian faith, use computers (on-line chatting) or worked as a “missy” (entertainment business) while in China.<sup>110</sup>

Testimonies indicate that some ex-convicts are forced to observe public trials. North Korean defector XXX testified that this frequently happened to drug dealers and individuals who received

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<sup>107</sup>—Court Administration Agency, North Korea’s Criminal Law, p. 30.

<sup>108</sup>—NKHR2012000063 2012-04-17.

<sup>109</sup>—NKHR2012000084 2012-05-15.

<sup>110</sup>—NKHR2012000065 2012-04-17.

money from relatives who fled to South Korea. The person who gave this testimony was imprisoned at the Jongori Long Term Correctional Center in 2007 for illegal border crossing. After being discharged from the correctional center, he received a notice from the court requiring that he observe a public trial.<sup>111</sup>

#### <Local Public Trials and Public Executions>

The goal of local public trials is to instill fear in citizens by publicly exposing and censuring the actions of criminals. Accordingly, local public trials frequently led to public executions.

Testimonies	Testifier ID
North Korean defector XXX testified that there was a trial at the Miners' Hall in Musan County, in March 2007. In attendance were the chief judge of Musan County, chief prosecutor, director (or deputy director) of local people's committee, and political director of security agency. He/she testified that the sentence was "XXX shall be put to death!"	NKHR2008000022 2008-11-05
North Korean defector XXX testified that two men and 13 women were publicly-executed on February 20, 2008 on a bridge in Juwonku, Onsung County, North Hamgyoung Province. The authorities sent out advance notice to every agency, enterprise, and Inminban (people's group) to make sure everyone attended the trial.	Good Friends, "North Korean News Today," No. 114 (2008.3.5)

However, not all local public trials led to public executions.

Testimonies	Testifier ID/source
North Korean defector XXX testified that during an on-site public trial in March 2007 at Miners' Hall in Musan County, the judge handed down the sentence, "Death sentence to XXX!" Others were given 15 years, 10 years, 5 years, respectively.	NKHR2008000022 2008-11-05

<sup>111</sup>\_NKHR2012000008 2012-01-31.

Testimonies	Testifier ID/source
North Korean defector XXX testified that at an on-site public trial on June 12, 2008 at Hyesan City, Yanggang Province, a total of 12 people got sentences for narcotics and colored-metal smuggling. Three of them received life sentence, and four of them received correctional training for 10 or more years.	"Good Friends," "North Korean News Today," No. 167 (2008.7.1)
North Korean defector XXX testified that he/she saw a criminal being sent to a correctional center.	NKHR2011000131 2011-06-07

- **The Comrade Trial System**

The ICCPR stipulates that “Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.” (“Article 14, Para. 1”) North Korea’s Comrade (colleague) Trial System breaches the individual’s right to receive a fair trial by an independent tribunal because the system is operated as a part of a quasi-legal system.

**<The Legal Basis and Objectives of Comrade Judgments>**

North Korea has abolished the so-called mass trial (or people’s trial) system which was temporarily maintained during the Korean War. Since 1972, North Korea has enforced a system of comrade trials at the regional level. The legal basis for comrade trials is provided by the Prosecutor’s Inspection Law. “Article 40, Paragraph 3” of this law stipulates that in cases where the accused is sent to a pretrial, comes before the Socialist Law Abiding Life Guidance Committee, subjected to a comrade trial or sent to a detention center or labor training camp, the prosecutor can choose to rectify the behavior or demand further legal restitution.

The individuals targeted for comrade trial include economic criminals, minor violators, those who had unwittingly breached

Kim Il-sung's Thought (Juche Ideology), and other violators of minor crimes. These violators are given penalties of a six-month labor without pay, a fine amounting to 10 or 20 fold the economic losses incurred by his actions (or deduction of the same amount from their salary), suspension of various administrative rights, demotion, self-criticism, and stern warning. However, there is no appeal system.<sup>112</sup>

### <The Reality of Comrade Trials>

Comrade-trials are also conducted in the military.

Testimonies	Testifier ID/source
North Korean defector XXX testified that he/she had witnessed a comrade trial in October 2008 at the Protective Command in Munheungdong, Daedongkang District in Pyongyang. A lieutenant colonel who was the platoon leader of No. 10 guard post protecting an entry point to Pyongyang, struck someone for not complying with a pat-down search. He was sentenced to a six-month labor training penalty.	NKHR2011000209 2011-09-20
North Korean defector XXX testified that on November 23, 2010 a North Korean military position suffered a retaliatory bombshell attack from South Korean forces in the wake of North Korea's earlier artillery shelling on South Korean island of Yonpyongdo. A North Korean platoon leader was wounded, but three soldiers fled the scene leaving the leader behind and outraged Kim Jong-un issued an order to turn the soldiers to a comrade trial.	Radio Free Asia, "A North Korean Platoon Leader Wounded; Some Soldiers Flee," (2010.11.25)
North Korean defector XXX testified that several soldiers crossed the Military Demarcation Line (in the middle of DMZ) and took pictures, which was a violation of Korean Armistice Agreement. Several of them were put to a comrade trial at the Corps Headquarters in May of 2012.	NKHR2012000247 2012-11-20

<sup>112</sup> Court Administration Agency, *A Survey of North Korean Judicial System* (Seoul: Court Administration Agency, 1996), pp. 630-637.

It appears that North Korea's food crisis is also affecting comrade trials within the military. North Korean defector XXX testified that more and more soldiers are deserting the military due to economic and food difficulties. He explained that the economic situation was comparatively better between 2001 to 2003, but was strained from 2004 to 2006, and bare minimum from 2007 to 2010.<sup>113</sup> There is also a testimony of illegal border crossings by military personnel, resulting in a comrade trial. North Korean defector XXX testified that three soldiers received comrade trials for illegal border crossing. He further testified that although the defendants had their insignias removed and were taken away for execution, they were freed after nine days of confinement at a brigade's security platoon.<sup>114</sup>

- **Trials of Political Criminals**

North Korea continues to enforce a policy of separating political crimes from ordinary crimes. Political offenders are punished under different terms known as crimes against the state. These crimes are committed by anti-revolutionary hostile elements in opposition to the people's regime while crime against the Korean Workers' Party are treated as political crimes, and the State Security Agency(SSA) handles their investigation as well as the pretrial ("Article 122 and 124" of the Criminal Procedure Law). Unlike ordinary criminal cases, the provincial and major city courts function as the primary (first level) courts for all political crimes ("Article 127," Criminal Procedure Law). The jurisdiction of the investigation and pretrial is defined under the Criminal Procedure Law. If the

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<sup>113</sup>\_NKRH2011000096 2011-04-19.

<sup>114</sup>\_NKRH2011000103 2011-05-03.

Ministry of People's Security or the prosecution (or any other agency) arrests a spy or an anti-Party member, anti-system criminal, they are required to transfer the case to the SSA.

The SSA conducts pretrials in all political crime cases, but trials are conducted by the courts. Some defectors have testified that the SSA also conducts trials. Defector XXX, who previously worked at the SSA, testified that if the Security Agency (Province) uncovers a political crime, they report the crime to the Prosecution Bureau of the SSA. If the bureau confirms the crime, a trial is conducted in the province where the pretrial was conducted. A prosecutor under the Prosecutors' Bureau of SSA determines the sentence in the name of Central Court (current Supreme Court). The proceedings are conducted behind closed doors, and penalties are determined based on the Penal Code. During the session, the security agency decides whether to imprison the criminal for life and whether the criminal's family would also be imprisoned. However, there are no established guidelines for making this decision. The prosecutor, the security agent, and other officials confer to determine the scope and duration of detention for the accused.<sup>115</sup> Defector XXX, who previously performed related work at the State Security Agency, testified that as soon as the pretrial is completed, a prosecutor from the Prosecution Bureau of the SSA will come to the local area and declare the sentence. He also testified that a prosecutor from the SSA would come to the Security Agency (Province) for sentencing (at the Security Agency (City) in the case of Nampo City and at the Security Agency (Province) in the case of other cities and counties). In short, political criminals do not go through a formal trial procedure<sup>116</sup> which is in violation of the

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<sup>115</sup> Interview with defector XXX in Seoul on April 19, 2005.

<sup>116</sup> Interview with defector XXX in Seoul on October 10, 2005.

provisions of ICCPR. The ICCPR stipulates that “In the determination of any criminal charge against him, everyone shall be entitled to a fair and public hearing by a tribunal established by law.” (“Article 14, Para. 1”)

- **Special Criminal Trials**

North Korea has established and is operating military and railroad courts as special criminal courts (“Article 3” of the Court Composition Law). Military courts try criminal acts perpetrated by military personnel, people’s security agents, and the employees of military institutions, while railroad courts try criminal acts perpetrated by employees of the railroad shipping sector and criminal acts that infringe upon the railroad shipping industry (“Article 128” of the Criminal Procedure Law).

*<Military Courts>*

Defectors testified that trial procedures are followed in the case of military courts (that is, court martials). Defector XXX testified that he was arrested for going AWOL while serving at the General Bureau of Protective Force. While undergoing pretrial for four months at the detention point of the State Security Agency of Protective Force, he made an attempt to flee. In the process, he was shot in the leg, caught, and subsequently tortured. He had to undergo a military court (court martial), which sentenced him to 15 years in prison. A prosecutor and a defense attorney were present at the trial. He was imprisoned in a subunit of No. 4 Correctional Center in Hyongjesan District, Kangdong County, Pyongyang City. While serving out his sentence, he witnessed inmates serving anywhere from one to 18 years. Meanwhile, the maximum service

term was reduced from 20 to 15 years when the Penal Code was revised in 1992, automatically removing five years from all inmates' terms. His term was also reduced by five years, thus he was released upon completion of 10 years.<sup>117</sup>

### <Railroad Courts>

Railroads play a significant role in North Korea, carrying 60 percent of passenger traffic and 90 percent of freight transport. North Korea's emphasis on railway shipping officially emerged in the 2001 New Year's Joint Editorial and was formalized as a part of the Four Key Industries Policy. In 2007 and 2008, North Korea's New Year Commentaries stressed strong discipline and order regarding rail transport, and this continues today. Furthermore, North Korea stresses the importance of rail transport in the establishment of a strong and prosperous country, and urges strong oversight and legal controls over the railroad sector in order to establish an economically strong nation.<sup>118</sup> Accordingly, railroad trials appear to be common. North Korean defector XXX, who defected on March 4, 2011, testified that rampant corruption and frequent railroad accidents resulted in more railroad trials.<sup>119</sup>

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<sup>117</sup>—Interview with defector XXX in Seoul on March 10, 2007.

<sup>118</sup>—Kyu-chang Lee, "Establishment of Railroad Train Act and Human Rights of North Korean Residents," Korea Institute for National Unification Online Series CO 11-29, November 7, 2011.

<sup>119</sup>—NKHR2011000131 2011-06-07.



## B. Appeals and Petitions

- Appeals

### <The Appeals Period>

The ICCPR stipulates that “Everyone convicted of a crime shall have the right to have the conviction and sentence being reviewed by a higher tribunal according to law.” (“Article 14, Para. 5”) North Korea’s Criminal Procedure Law sets forth that a defendant, an attorney or a claimant of compensation, who disagrees with the decision or sentence of the lower court, may appeal to a higher court. (Art. 357) Anyone who wishes to file an appeal must submit a writ of appeal to the first court within ten days of receiving a copy of the ruling (“Article 361”). Once the period for the appeal has elapsed, the ruling becomes final (“Article 363”). However, rulings given by the Supreme Court or by second trial court or rulings resulting from an emergency appeal or retrial, may not be appealed (“Article 359”). This provision allows infringement on the right to a fair trial. In addition, there is a conflict of interest given that ICCPR is the one that guarantees the right of appeal (“Article 14, Para. 5”). According to the testimonies of North Korean defectors, convicts are notified of their right to appeal. In one instance, North Korean defector XXX testified to being tried and sentenced to a one-year disciplinary prison labor which excluded the pretrial period. He was given ten days to file an appeal.<sup>120</sup> It appears that the appeals procedure is generally respected. When North Korean defectors were questioned whether the appeals procedure was respected, twenty-two out of twenty-four responded in the affirmative.

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<sup>120</sup>-NKHR2009000018 2009-03-26; NKHR2009000067 2009-11-12.

### <The Reality of Appeals>

The purpose of the appeals process in North Korea is not to correct trial errors or to unify legal interpretation, but to monitor how faithfully the teachings of Kim Il-sung, the words of Kim Jung-il and the policies of the Korean Workers' Party are reflected in the ruling.<sup>121</sup>

Petitions and appeals are sometimes accepted. Defector XXX testified that XXX received a trial in 1994, but appealed the decision. He heard that his sentence was reduced from three and a half years of correctional prison labor to two years.<sup>122</sup> But this case appears to have been an exception. Petitions and appeals in North Korea are more likely to bring enormous harm to the petitioner(s) and the appellant(s). Due to these factors, it appears that appeals are rarely filed in reality.

Testimonies	Testifier ID
North Korean defector XXX testified that only a few defendants requested for an appeal because heavier penalties usually resulted in cases of appeal or petition.	NKHR2011000021 2010-06-07
North Korean defector XXX testified that he/she had seen a trial of a neighbor who was indicted on charges of human trafficking in July 2009 at a court in Yanggang Province. The neighbor received a heavier penalty on his appeal.	NKHR2011000148 2011-06-28
North Korean defector XXX testified that no one asked for an appeal because penalty would increase on an appeal.	NKHR2010000038 2010-11-02

A North Korean defector testified that appeals were impossible in the case of defection. Defector XXX testified that no appeals were allowed for illegal crossing of the border.<sup>123</sup>

<sup>121</sup> Ministry of Justice, *Systematic Review on North Korea's Law (II)* (Gwa-cheon: Ministry of Justice, 1993), pp. 734-735.

<sup>122</sup> NKHR2010000096 2010-06-22.

<sup>123</sup> NKHR2012000184 2012-09-11.

### <Appeals on Decisions of On-site Public Trials>

A North Korean defector testified that appeals were not allowed in the case of decisions of on-site public trials. He/she testified that in the case of an on-site public trial for serious crimes, a judge would state, “According to Article XX, Paragraph XX of the law, you are sentenced to death by a firing squad. No appeal is allowed against this decision.”<sup>124</sup> Defector XXX also testified that appeals were impossible in the case of an on-site public trial, because the decision to conduct an on-site trial would only be made if there is sufficient evidence to convict the accused.<sup>125</sup>

#### • Petition

The right of petition is granted under the North Korean Constitution (“Article 69”), and detailed procedures are set forth in the Petitions and Claims Law. North Korea’s Penal Code stipulates that if a management worker (bureaucrat) arbitrarily ignores or mishandles a petition or a claim, he/she shall be punished. (“Article 250”) The Administrative Penalty Law also stipulates administrative penalties if a petition or a claim is ignored or mishandled. Included in the penalties are warning, stern warning, unpaid labor, labor education, demotion, reassignment, and removal from position (firing). (“Article 177”) The People’s Administration Law also stipulates “The people’s committee and relevant agencies shall accept all petitions and claims of citizens and responsibly and accurately dispose of them in a timely manner” (“Article 27”). It appears that

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<sup>124</sup> NKHR2011000131 2011-06-07.

<sup>125</sup> Result of a consultation with Defector Hyeon-wook Song, Director of Human Rights Research, Committee for Democratization of North Korea, Date of consultation, November 8, 2011.

the petition system is a part of activities to protect and recognize the independent rights and interests of the North Korean people. But the petitions must comport with the requirements of the laws and KWP policies. Petitions that go against the laws and national policies are not accepted or approved.

“The petition project of the Republic’s courts is essentially an activity to thoroughly protect and realize the people’s independent rights and interests by promoting and controlling the trials so that they will proceed in conformity with Party’s policies and the laws.”<sup>126</sup>

There are some successful cases, but they are the exception. Furthermore, the petition system does not function for the protection of human rights of the North Korean people. Anyone who submits a petition in North Korea is labeled as a petitioner and this label is recorded in his family registry, thus affecting the lives of his/her children. He/she will be known as a scary person, and classified as a person with a grudge. Subsequently, people who are trying to become a cadre (staff) will never petition. If one’s petition fails, others mentioned in the petition can retaliate, and sometimes he/she can be reassigned to a worse position/location. People fear that a failed petition can impact as many as three generations of a family.<sup>127</sup> The result of a survey (by questionnaires) of 500 North Korean defectors illustrated similar conclusions. There would be no problem if a petition was approved and one’s position justified, but if not, he/she would be labeled as an accuser, trouble maker or a harmful element. Most defectors testified that people hesitate to

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<sup>126</sup> Chol-sung Kim, “Essence of Petition Project of the Republic’s Courts,” *A Study of Law and Politics*, No. 4, 2011, p. 40.

<sup>127</sup> Keum-soon Lee and Hyun-joon Chon, *A Study on the Reality of North Korean Citizens’ Understanding of Human Rights* (Seoul: Korea Institute for National Unification, 2010), pp. 135-138.

even mention a petition in fear of disapproval from the authorities, and for fear that petitioning might harm their family members. As one defector explained, “Even if one wanted to petition, he/she would not do it.”<sup>128</sup> North Korea’s Penal Code stipulates that up to two years of labor training penalty would be imposed on the individual who submits an exaggerated or fabricated petition based on selfish purpose or cowardly motives. (“Article 244”) The Administrative Penalty Law also stipulates various administrative penalties on such petitions, including warning, stern warning, unpaid labor, labor education, demotion, reassignment, and removal from job (firing). (“Article 177”) For these reasons, North Koreans avoid petitioning. Another defector testified that in recent years one has to bribe the authorities in order to have his/her petition approved. North Korean defector XXX explained, “If you submit a petition it would be nothing but a piece of paper, so you should bribe the person accepting the petition.” He/she testified that he had once given two million won (North Korean currency).<sup>129</sup>

## C. The Right to an Attorney

### • The Right to Receive Legal Representation

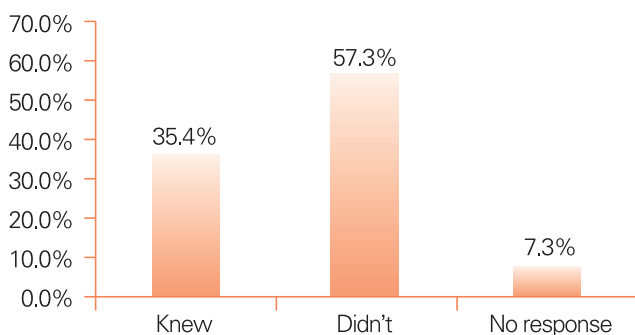
The ICCPR stipulates that “Everyone shall be entitled to defend himself in person or through legal assistance of his own choosing.” (“Article 14, Para. 3d”) In North Korea, “Article 164” of the Constitution stipulates that “Court cases are heard in public

<sup>128</sup> Dae-gyu Yun, *Research on Legal Awareness of North Korean Residents* (Seoul: Korea Legislation Research Institute, 2005), pp. 56-57.

<sup>129</sup> NKHR2009000021 2009-04-13.

and the accused is guaranteed the right to defend. Hearings may be closed to the public as stipulated by law.” “Article 106” of the Criminal Procedure Law also stipulates that “In criminal cases, the suspect’s right to an attorney is guaranteed.” The Criminal Procedure Law further provides that “Accused persons have the right to appoint counsel and receive legal assistance” (“Article 108”). If an indicted defendant does not have counsel, the court must appoint one from the bar association in his/her jurisdiction (“Article 111”). The Children’s Rights Protection Act, enacted December 22, 2010, also provides that children fourteen and older have the right to legal counsel (“Article 50”). However, according to a survey of North Korean defectors who entered South Korea between March and October 2010, 35.4 percent of participants knew they had the right to appoint counsel and receive legal assistance if they were on trial, while 57.3 percent were unaware of this information (7.3 percent did not respond).

<Figure III-9> Awareness among North Korean Residents of Their Right to Legal Representation<sup>130</sup>



<sup>130</sup> Keum-soon Lee and Hyun-joon Chon, *A Study on the Reality of North Korean Citizens' Understanding of Human Rights*, p. 79.

- **The Role and Duty of Legal Counsel**

The role of legal counsel is to “ensure that criminal cases are handled and disposed according to the law and to guarantee the rights of the accused” (“Article 10” of the Criminal Procedure Law). “Article 121” allows the right to an appeal: “If a defense attorney discovers that the suspect’s rights are not fully protected, he can appeal to the prosecutor or the court.” “Article 12” of the Attorney Law defines the attorney’s rights and duties by stipulating, “At the request of the court or the client, the attorney must try to protect the legal rights and interests of his client and assist a fair trial by accurately analyzing, assessing, and clarifying the truth of the case.”

Despite these rights stated in the Criminal Procedure Law, the mission of North Korean attorneys is not to protect individual rights, but the promotion and protection of the Party’s and state’s policies. “Article 11” of the Attorney Act provides that an attorney’s responsibility is to “explain the nation’s laws and regulations to the people, and help the people obey these laws and regulations.” This indicates that the duties of an attorney in North Korea are to make sure that the policies of the party and government are understood and carried out by the people. Lawyers usually attempt to persuade defendants to confess their crimes. Therefore, the attorney will try to persuade or induce his client to confess the crime, rather than defend the client. Even though “Article 6” of the Attorney Law guarantees the attorney’s independence, there appears to be a contradiction, as “Article 8” stipulates, “Attorneys shall perform their work under the guidance of their local Attorney Committees.” “Article 30, Paragraph 4” further stipulates that higher level attorney committees are required to exercise routine control and guidance

over the lower level committees and the attorneys belonging to them. This clearly indicates that attorneys in North Korea do not work as individual lawyers but serve as a member of a group under various attorney committees. A North Korean scholar confirmed that at criminal trials in North Korea, an attorney may protect the defendant's legal rights and interests, but the essence of an attorney's activity is to extend cooperation to the courts and criminal trial projects and to uphold the judicial policies of the Korean Workers' Party.

"Of course, in the trials of the Republic, the activity of an attorney is to protect the defendant's legal rights and interests in the face of prosecutor's indictment. However, the attorney's activity in the Republic's criminal trials is not to protect and support the defendant, but to cooperate with the court, so that the court may resolve the case accurately. In short, the attorney's role is not simply to protect the defendant's legal rights and interests based on his desires, but also to help the court, so that all court cases may be disposed of in conformity with the laws, which is the will of the state, and the rules and policies of the Party."<sup>131</sup>

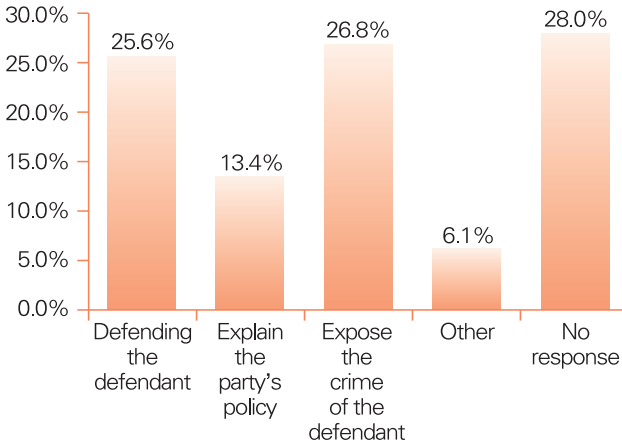
In a 2010 survey of North Korean defectors, 25.6 percent of the respondents thought the role of an attorney was defending the defendant, 13.4 percent said it was to explain the Party's policy, 26.8 percent said it was to expose the crime of the defendant, 6.1 percent responded other, and 28.0 percent did not respond. A total of 40.2 percent of the participants perceived the role of legal counsel to expose the defendant's crime or explain the Party's policy rather than representing or defending the defendant's position.

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<sup>131</sup>Young-tae Yoo, "The Essence of Attorney's Activity at the Republic's Criminal Trials," *A Study of Law and Politics*, No. 1, 2006, pp. 28-29.



<Figure III-10> The Role of Legal Counsel in North Korea<sup>132</sup>



• **Current Status of Right to Legal Representation**

As a rule, legal counsel must attend trial hearings (“Article 276” of the North Korean Criminal Procedure Law). Recent North Korean defectors testified that defense attorneys are present at most trials. However, even when they attend the trials they seldom provide legal assistance to the accused or offer strategies for the client. Consequently, most North Koreans are not aware of the proper role of defense attorneys.

Testimonies	Testifier ID
North Korean defector XXX testified that he had faced a trial on charges of video circulation in 2007 in Onsung County, North Hamgyoung Province, but no attorney was present.	NKHR2010000074 2010-04-20
North Korean defector XXX testified that “Attorneys in North Korea are not for the defendants. They only spoke as directed by the judge, and they never mentioned their defendant, because this is not allowed. I saw many trials, and was convinced that attorney has a useless job in North Korea.”	NKHR2011000148 2011-06-28

<sup>132</sup>–Keum-soon Lee and Hyun-joon Chon, *A Study on the Reality of North Korean Citizens’ Understanding of Human Rights*, p. 80.

But some defectors testified that their attorneys actually helped them.

Testimonies	Testifier ID
North Korean defector XXX testified that he had faced a trial on charges of border crossing in August 2009 at a people's court in Hyesan City. The attorney asked the court to consider the fact that the defendant was only a student (17 year old at the time).	NKHR2011000018 2010-10-06
North Korean defector XXX testified that he was tried in April 2006 on charges of watching and circulating video tapes at a people's court in Hyesan City. The prosecutor demanded a three-year term in a labor training camp, but the defense attorney asked the court to reconsider the penalty given the young age of the defendant. The final sentence was one year in labor training.	NKHR2012000032 2012-03-13

- **The Right to Receive Legal Assistance (Attorneys)**

In order to receive legal assistance, the right to meet with a defense attorney must be guaranteed. North Korea's Penal Code specifies that "An attorney selected is entitled to meet and talk to the accused or the defendant. The pretrial agent or the court must allow a meeting(s) if a defense attorney, defendant or the accused person request for a meeting." (Art. 117) In addition, North Korea's Attorney Law stipulates that defense attorneys are entitled to have personal conversations or private exchange of letters with the defendant or the accused. ("Article 9, Para. 1") Subsequently, the right to an attorney is enforced in North Korea, at least in part, but this practice appears to be rather perfunctory.

Testimonies	Testifier ID
North Korean defector XXX testified that he was facing an investigation in the security agency detention center in Musan County in 2007. An attorney or someone came over and asked, "Did anyone strike you? If so, you should appeal." But, talking to an attorney did not help, because it was nothing but a formality.	NKHR2012000089 2012-05-22

Testimonies	Testifier ID
North Korean defector XXX testified that when he was detained in February 2007, an attorney came to visit him.	NKHR2012000087 2012-05-22
North Korean defector XXX testified that during his pretrial an attorney came to him and asked "Is everything in your (criminal) record accurate?" "Were you harmed during the pretrial?"	NKHR2012000095 2012-05-29
North Korean defector XXX testified that an attorney came to him once to ask whether he was beaten. Because security guards were close by, he could not freely disclose the facts.	NKHR2012000184 2012-09-11

## D. North Korea's Tight Control over their People

- **Streamlining the Inhabitants Control Laws**<sup>133</sup>

A series of laws relating to the control of inhabitants have been enacted or revised and were made public at the end of 2012. North Korea revised their Penal Code three times in 2009: April 28, July 21, and October 19. The Administrative Penalty Law was revised on October 16, 2011 for the first time in three years since its first revision on May 20, 2008. The People's Administration Law was also enacted on July 8, 2010.

North Korea's People's Administration Law consists of 39 Articles in four chapters. It has classified rules already in practice among the people, including the registration of personal identification, the usage of living quarters, Inminban (people's group) activities, and rules about room and board. One particular enactment

<sup>133</sup> Kyu-chang Lee, "North Korea's Streamlining of Inhabitants Control Laws and the Regime Maintenance," Korea Institute for National Unification Online Series CO 12-45, December 31, 2012.

was that Inminban (people's group) are now required to have a leader and a deputy leader elected at committee meetings. ("Article 10") The law also mandated a new area management system, stipulating that "The people's committee shall assign the area of responsibility to various agencies, enterprises, and Inminban (people's group) within each district so that the areas can be managed." ("Article 21") Both the new deputy leader in Inminban (people's group) and the area management system appear to reflect the plans of North Korean authorities to tighten the control of their citizens.

North Korea revised their Penal Code in October 2009, and added a new penalty of fines to the existing category of punishments. ("Article 27"). This new penalty of fines is applied to anti-state and anti-people crimes as an additional penalty. ("Article 28") From a legal and institutional standpoint, this penalty seems to reflect the trend of tightening anti-state and anti-people laws.

The Administrative Penalty Law revised in October 2011 contains a total of 254 articles, which was expanded from a total of 199 articles. The revised law contains remarkable changes in terms of human rights guarantees and improvements. First, it stipulates the 'no-post facto' punishment by stating "For all law-violators, the law at the time of commission of crime shall be applied. However, if the violation or crime is legal under the currently revised law, even though it is under the previous law, and if the penalties have been lowered under this law, the provisions of this revised law shall be applied." ("Article 6") Second, a new provision on prohibiting human rights violations was introduced. It stipulates that "In the event a law enforcement official abuses human rights, he will be given a warning, stern warning, a three month unpaid labor penalty or labor education penalty." ("Article 165")

The most remarkable change in the Administrative Penalty

Law is the newly installed penalty provisions on crimes against the order and management of national defense, which comprises of 15 provisions in Chapter 2, Paragraph 1. The penalty provisions on crimes against national defense facilities as prescribed in the Administrative Penalty Law are similar to the relevant provisions stipulated in Chapter 4 of the Penal Code. The North Korean Penal Code lists a total of 16 crimes in connection with crimes against defense order and management.

With the revision of the Constitution on April 9, 2009, North Korea declared, “The DPRK considers Juche Ideology and the Military-first Ideology as the guiding principles on all activities.” (“Article 3”) On April 28, 2009, a major revision was made to the Penal Code, incorporating the military-first ideology in the law. Subsequently, the Administrative Penalty Law was also extensively revised, to accommodate various penalties on violations against defense order and management. In short, the military-first policy was added to the Penal Code, and subsequently it was also incorporated more specifically and extensively in the Administrative Penalty Law. Another new provision was that the prosecutors office would supervise the enforcement and implementation of these penalties. (“Article 254”) This meant that the implementation and enforcement of administrative penalties would be tightened through the strict surveillance of the prosecutors.

- **The Reality of Tightening Control on the Lives of the People**

*<Interdiction of Inflow of External Information and Culture>*

In an effort to prohibit the influx of foreign culture and information, North Korea constantly conducts surveillance and control over the use of cell phones, circulation of video tapes, and

the flow of merchandise at the marketplace. The authorities have tightened the communication network to control the use of cell phones. North Korean defector XXX testified that an electronic wall was installed in 2010 in Hyesan City, Yanggang Province, to monitor cell phone conversations. As a result, personal cell phone calls to China was effectively cut off. The installation of electronic wall was initiated by Kim Jong-un, and North Koreans refer to this new wall as 'the shield.'<sup>134</sup>

### **<Tightening Control on the Lives of the People since Kim Jong-il's Death>**

During the power transition from Kim Jong-il to Kim Jong-un, North Korea tightened control over their people. Some news media closely following new developments in North Korea reported that North Korean authorities were using so-called storm corps<sup>135</sup> for a tighter control over the population.<sup>136</sup> In early August 2011, the troops initiated a crackdown on illegal activities, including illegal border crossing, black market dealings, smuggling, and trafficking of drugs and people, specifically targeting officials and military officers stationed near the border.<sup>137</sup> Reports indicate that these troops have executed summary convictions during the crackdown.<sup>138</sup>

Since the death of Kim Jong-il on December 17, 2011, North Korea has imposed a policy of public control in 2012 and tightened

<sup>134</sup>\_NKHR2012000054 2012-04-03.

<sup>135</sup>\_These are squads made up of soldiers from the Escort Bureau of the Korean People's Army, State Security Agency, Kim Il-sung Military University, the Security Cadre Training Center of the People's Security Agency, Politics University of the Ministry of People's Security, the National Defense University, the Security Cadre Training Center, Political University and the Defense University.

<sup>136</sup>\_Radio Free Asia, "North Korea, Storm Force's crackdown made residents terrified," August 18, 2011.

<sup>137</sup>\_Good friends, "North Korea Today," No. 423 (October 5, 2011).

<sup>138</sup>\_Daily NK, "Storm Force sent to the border has summary conviction," August 9, 2011.

reign over their people. North Korea has also reformed their power structure through the Fourth Party Delegates Convention on April 11th and the Fifth Conference of the 12th Supreme People’s Assembly on April 13th. In particular, the Fourth Party Delegates Convention decided to appoint a number of experts trained in public safety and population control to frontline positions. Even the National Defense Commission was filled with two major groups: the military logistics experts and the public safety experts.<sup>139</sup> In addition, for the first time in 13 years, North Korea convened on November 23, 2012 a major conference in which chief security agents throughout the country had to attend, to reinforce the population control policy.<sup>140</sup> On December 5, 2012 a nationwide legal workers conference was held which emphasized that revolutionary legal order should be established throughout the society. This was the first time in five years (since 2007) that such a nationwide meeting of legal workers was held.<sup>141</sup> Most defectors agreed that social control has been tightened since the death of Kim Jong-il.

Testimonies	Testifier ID
Testimonies Testifier ID North Korean defector XXX testified that controls were tightened, and Kim Jong-un delegated all power to the State Security Agency.	NHR2012000042 2012-03-20
North Korean defector XXX testified that gatherings of three or more people were prohibited in the wake of Kim Jong-il’s death. Trade along the border was prohibited, surveillance against smuggling was reinforced, and the authorities had complete control over the people during the entire grieving period.	NKHR2012000102 2012-06-05

<sup>139</sup>–Hyeong-jung Park, “The Inauguration of Kim Jong-un’s Ruling Coalition and its Characteristics,” Korea Institute for National Unification Online Series CO 12-18, April 23, 2012.

<sup>140</sup>–*Yonhap News*, “Kim Jong-un’s First Year Emphasizes Reinforcement of Public Safety Control,” news report on November 24, 2012.

<sup>141</sup>–*Yonhap News*, “North Korea Calls for ‘Establishment of Revolutionary Legal Order throughout Society,’” news report on December 5, 2012.

Testimonies	Testifier ID
North Korean defector XXX testified that bed-checks became more frequent (from three to four times a year to twice a month), Inminban (people's group) enforced a new night guard duties, and new informers were assigned within Inminban (people's group) to follow up on intelligence provided by the local security agency.	NKHR2012000151 2012-07-24
North Korean defector XXX testified that controls at work and Inminban (people's group) were reinforced, and instructions such as wipe out three generations of defectors were issued. School principals were fired if anyone (students) in his/her school defected.	NKHR2012000109 2012-06-12

### <Emphasis on “Rule by Law”>

As part of his public safety control policy, Kim Jong-un emphasized the rule by law. North Korean defector XXX testified that Kim Il-sung implemented the virtuous politics and Kim Jong-il enforced the wide-based politics. Kim Jong-un advocated the so-called politics of law.<sup>142</sup> But the politics of law that Kim Jong-un seems to stress is not rule of law but rule by law, which he is using as a political tool. In this context, the Administrative Penalty Law, in the October 16, 2011 revision, stipulated that “law abiding education and lawful control shall be reinforced.” (“Article 2”) Discussing the strengthening of legal control functions, a North Korean scholar emphasized that the law was a basic tool of national management and argued that national management would be smoother when the legal control was tightened.

“The reinforcement of legal controls is an indispensable element for the management of a socialist state. The reason is first, because it is the only way the law as a basic tool of national management can fulfill its roles and missions. The second reason is that it is the only way national

<sup>142</sup>\_NKHR2012000004 2012-01-10.



management can proceed smoothly according to the nation’s laws and legal order.”<sup>143</sup>

North Korean defector XXX testified that since Kim Jong-un assumed power, even those convicted of misdemeanor were all duly punished according to the law.<sup>144</sup> Kim Jong-un’s politics of law has been reinforced since the death of Kim Jong-il.

Testimonies	Testifier ID
North Korean defector XXX testified that surveillance was tightened because Kim Jong-un declared he would enforce the rule by law.	NKHR2012000041 2012-03-20
North Korean defector XXX testified that law was tightened after the death of Kim Jong-il, perhaps four times greater.	NKHR2012000151 2012-07-24
North Korean defector XXX testified that as part of the rule by law, Kim Jong-un articulated his decision to eliminate black markets and smuggling from China.	NKHR2012000169 2012-08-21
North Korean defector XXX testified that since the death of Kim Jong-il, laws and controls have tightened, and inspections have increased.	NKHR2012000214 2012-10-23

## E. Assessment

The fact that North Korea did not legislate the ‘Criminal Indemnity according to the Law’ is a violation of “Article 14, Para. 6” of ICCPR. The fact that appeals against sentence or decision of preliminary trial of the Supreme Court is in breach of “Article 14, Para. 5” of ICCPR, which guarantees the right to appeal. The so-called

<sup>143</sup>Chol-nam Sohn, “Tightening Legal Control Functions of the People’s Government is an Indispensable Demand for the Management of a Socialist State,” *A Study of Law and Politics*, No. 1 (2011), p. 31.

<sup>144</sup>NKHR2012000004 2012-01-10.

comrade trial system violates “Article 14, Para. 1” of ICCPR, which guarantees that everyone is entitled to a fair trial at an independent tribunal. On the other hand, North Korea has stipulated in their Penal Code the no-post facto punishment clause, reflecting the ‘no crime unless prescribed by law’ defined in “Article 15” of ICCPR. They have also guaranteed the right to obtain legal assistance (“Article 14, Para. 3d” of ICCPR) by inserting a provision in their Attorney Law.

Today in North Korea, certain criminal trial procedures and prescribed durations are observed, which is in accordance with “Article 14, Para. 3” of ICCPR, which mandates the right to be tried without undue delay. The testimonies that a defendant who received legal assistance from an attorney, and another defendant interviewed by an attorney, seem to illustrate that some ICCPR provisions are fulfilled. However, North Korea’s criminal trial system is under the control of KWP (party), which runs counter to the interest of individual human rights. In fact, many North Korean defectors have testified that the criminal trial system, the appeals system, and the attorney system operate in a perfunctory manner.

In 2012, North Korea tightened controls over their people, and Kim Jong-un established a new ‘rule by law’ slogan as part of his tool of government and as a means of population control. Following the launch of a long-range missile, the Eunha No. 3, and the third nuclear test, the international community has tightened its sanctions against North Korea. In response, North Korea has intensified their internal cohesion and control. Consequently, it appears that North Korean authorities will continue to reinforce the internal control over their people.



# 4



## *The Right to Equality*

The Right to Equality is closely related with non-discrimination. Non-discrimination is one of the fundamental principles of human rights – along with equality before the law, and the right to equal treatment under the law.<sup>145</sup> In terms of the right to equality, the most serious breach of human rights for all North Koreans is discrimination based on personal or family background (the so-called personal foundation). Another serious breach of the right to equal treatment under the law is corruption, such as bribery. Corruption is the most serious impediment in the process of guaranteeing equality, non-discrimination, and fundamental human rights for North Koreans.<sup>146</sup>

We can discuss the issue of equality in terms of discrimination based on gender, disability, and other relevant topics. In this chapter, we will limit our analysis to issues of corruption and discrimination based on class. We will discuss the issues of discrimination based

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<sup>145</sup>–Human Rights Committee, General Comment No. 18 (Non-discrimination), para. 1.

<sup>146</sup>–Soo-am Kim, et al., *The Relationship between Human Rights and Corruption in North Korea* (Seoul: Korea Institute for National Unification, 2012), p. 190.

on gender and disability in Section 1 (Women) and Section 3 (the Disabled) of Chapter V. “Human Rights of Vulnerable Groups.”

## A. Discrimination based on Personal Background

### • Hierarchical Classification of Citizens

The Universal Declaration of Human Rights stipulates, “All are equal before the law and are entitled without any discrimination to equal protection of the law.” (“Article 7”) In addition, both the ICCPR and the ICESCR specifically mandate non-discrimination in all areas.

<Table III-10> International Human Rights Norms against Discrimination

UDHR (Article 7)	“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.”
ICESCR (Art. 2, Para. 2)	“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.”
ICCPR (Art. 2, Para. 1)	“Each State Party to the present Covenant undertake 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.”
ICCPR Art. 26	“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 their status.”

North Korea claims that their people have de jure rights and equal rights as their Socialist Constitution states that “Citizens enjoy equal rights in all spheres of State and public activity” (“Article 65”). Despite this argument, the regime strictly classifies every individual according to his or her family background (or class origin) and degree of loyalty to the regime. North Korea classifies the entire population into three categories: the core class, the basic masses, and the complex masses (wavering and hostile classes).<sup>147</sup> The core class, comprising of 28 percent of the population, is the ruling class that spearheads the North Korean system. The so-called basic class is composed of ordinary workers, technicians, farmers, office workers, teachers and their families who do not belong to the core class and who are not Party members. They represent about 45 percent of the population. The complex class consists of those branded as national enemies, impure elements and reactionaries. They are alienated from the rest of the society and their human rights are often abused. The complex class accounts for approximately 27 percent of the population.

The North Korean authorities exercise strict controls over their people according to these classifications. Those classified as part of complex class are discriminated against in all aspects of their daily lives which includes hiring, education, housing, medical benefits and criminal punishment. In general, members of the complex class are limited to laborious and hazardous manual work. For social management purposes, they are classified as targets of dictatorial control, isolation or absorption/indoctrination. Dictatorial control targets are kept separate from society; isolation targets live

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<sup>147</sup> For more specific details of North Korea’s residents classification based on personal and family background, refer to “*2011 White paper on Human Rights in North Korea*” (Seoul: Korea Institute for National Unification, 2011), pp. 168-173.

in society but are kept under close, round-the-clock surveillance. Absorption/indoctrination targets are intensively indoctrinated for possible absorption back into the system.

As stated above, North Korean authorities define the value of individuals based on his/her personal background.<sup>148</sup> Based on one's background, the entire population is categorized into classes and treated differently. Therefore, this policy is a clear violation of both ICCPR and ICESCR. As a signatory of these covenants, North Korea has obligations to observe the international human rights standards.<sup>149</sup>

#### • Hereditary Discrimination based on Crime-by-Association

North Korea utilizes crime by association as a major tool to maintain their ruling system. This is a system by which family members of individuals convicted of political or ideological crimes are also punished. This system works horizontally to include all members of one's immediate family, and vertically to affect one's children and grandchildren. The government still keeps these records and uses them as a means to maintain firm control over the people.<sup>150</sup>

One way to assess the extent to which the regime controls the people through this system is to examine families who have been forced to relocate. For example, North Korea has classified a significant portion of the population (25-30 percent) as members

<sup>148</sup> Robert Collins, *Marked for Life: Songbun, North Korea's Social Classification System* (Washington, D.C.: The Committee for Human Rights in North Korea, 2012), p. 6.

<sup>149</sup> *Ibid.*, p. 94.

<sup>150</sup> Special Rapporteur, Vitit Muntarbhorn, "Question of the Violation of Human Rights and Fundamental Freedom in Any Part of the World: Situation of Human Rights in the Democratic People's Republic of Korea" (January 10, 2005), p. 11.

of separated families, (i.e. relatives of people classified as traitors who defected to South Korea) and are relegated to the hostile class. These people are discriminated because of the behavior of their ancestors or events that occurred during the Japanese occupation or the Korean War. If one’s relative participated in police duties in South Korea during the Korean War or was a former POW, one may be exiled to a remote area or to a coal mine or lumber mill, forced to engage in hard physical labor. POWs formerly held by South Korea have had to endure various forms of repression. Their spouses and children are placed under constant surveillance. Additional disadvantages related to social advancement also takes place. But essentially what exists is a systematic conferring of discrimination to these people’s children and grandchildren based on family background.<sup>151</sup> Officially, North Korea does not agree to any social discrimination based on family background. Nevertheless, the discriminatory practice persists and many people are deprived of their political and social rights due to the background check policy.

• **Systematic Discrimination based on Family Background**

In recent years, the importance of personal background is diminishing amongst North Koreans, as corruption is widespread and personal wealth is respected across the society. Some North Korean defectors have testified that people can upgrade their personal background with the use of bribery.

Testimonies	Testifier ID
North Korean defector XXX who fled to South Korea in April 2010 testified that people can change their background by bribing and fabricating documents.	NKHR2011000243 2011-11-22

<sup>151</sup>—Interview with defector XXX in Seoul on May 23, 2000.

Testimonies	Testifier ID
North Korean defector XXX who fled to South Korea in September 2011 testified that people who had a defector in the family can change his/her status into a deceased person by bribing the agent in charge of inhabitant registration at the security agency.	NKHR2011000245 2011-12-20

However, personal background still has a significant impact on one's life in North Korea. A survey was conducted with North Korean defectors who came to South Korea during 2010 to 2012. The five-scale survey determined the levels of discrimination based on personal (family) background. A total of 75 percent of responses were concentrated in the very severe and severe discrimination categories, confirming that discriminations based on personal and family background continue to persist in the North Korean society.

<Table III-11> Levels of Discrimination based on Personal Background

Year of defection	Very severe	Severe	Normal	Somewhat weak	Very weak	Total
2010	31	20	11	15	2	79
2011	41	60	25	20	2	148
2012	37	39	14	15	4	109
Total	109	119	50	50	8	336

In an effort to clarify the levels of discrimination based on personal background, another survey was conducted focusing on areas such as employment as an official, Party membership, promotion, college admission and job assignment.



### <Employment as an Official>

Most North Koreans prefer to work for state organizations such as the Party, the Ministry of People's Security (MPS) and the State Security Agency (SSA). However, background checks are thoroughly conducted before anyone is assigned to a security related job. This practice is indistinguishable from social discrimination. For example, in order to work for the MPS, a thorough background check is mandatory, extending to one's second cousins. No relatives up to one's second cousins can have a record of serving in correctional centers (much less have been traitors). The background checks required to work for the SSA include investigations of an applicant's third cousins because workers at this agency handle classified information. According to defector XXX, he and everyone in his extended family received patriot's benefits, including the grandfather's siblings, his siblings, and their children and grandchildren. Most of them obtained good jobs such as positions at the Party. His own father was a teacher, but the government provided him with a nice house usually reserved for party secretaries, equipped with telephone service.<sup>152</sup> Another defector XXX testified that because her grandfather was an anti-Japanese resistance fighter, she was able to attend good schools and receive a number of special benefits while growing up. A provincial party chief secretary once stated at a meeting of bereaved families, "The parents should always remember ancestors and strive to become pillars of the country."<sup>153</sup>

Personal and family background is important to join the positions of power such as State Security Agency, state protection agency or to become a Party or law enforcement worker. North Korean defector XXX testified that anyone who had connections

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<sup>152</sup>\_NKHR2009000011 2009-03-03.

<sup>153</sup>\_NKHR2009000052 2009-08-27.

with South Korea cannot join any of the Party positions, even though background considerations were largely relaxed.<sup>154</sup> Defector XXX testified that personal background was still important in hiring Party officials, even though money (bribery) can play an important role.<sup>155</sup> However, personal background is relatively less important in hiring lower level positions or administrative workers. In a survey of North Korean defectors, a total of 78 percent of participants responded that discriminations based on personal background was either very severe or severe. Discriminations were more severe in the case of becoming a Party member. Some 56 percent said the discrimination was very severe in becoming a Party staff, while only 38 percent said it was very severe when one tried to become a Party member.

<Table III-12> Levels of Discrimination based on Background when hiring a Party Worker

Year of defection	Very severe	Severe	Normal	Somewhat weak	Very weak	Total
2010	46	11	8	6	0	71
2011	88	36	11	11	1	147
2012	71	32	4	3	0	110
Total	205	79	23	20	1	328

#### <Party Membership>

North Korean defectors testified that from the mid-2000s, people could join the Party by discreetly providing bribes, even if they had unfavorable personal background. Similar testimonies continue today.

<sup>154</sup> Interview with defector XXX in Seoul on January 23, 2007.

<sup>155</sup> NKHR2008000018 2008-09-11.

Testimonies	Testifier ID
TestimoniesTestifier IDNorth Korean defector XXX, who fled in March 2009, testified that he/she was able to join the Party even though he/she had a very bad personal background given that his/her uncle defected to South Korea.	NKHR2011000174 2011-07-26
North Korean defector who defected in March 2011 testified that personal background was important in becoming a Party member, but Party affiliation was possible if one provided 2-3 million won in North Korean currency.	NKHR2011000205 2011-09-20
North Korean defector XXX who left North Korea in June 2011 testified that the impact of personal background in the society had declined and one could join the Party by paying 500,000 won in North Korean currency.	NKHR2011000216 2011-10-04

Despite these testimonies, personal background continues to play an important role for anyone wanting to become a Party member. A total of 68 percent of participants stated that discrimination based on personal background was very severe or severe.

<Table III-13> Levels of Discrimination based on Personal Background when becoming a Party Member

Year of defection	Very severe	Severe	Normal	Somewhat weak	Very weak	Total
2010	38	15	11	9	2	75
2011	52	48	28	19	6	153
2012	37	39	14	15	4	109
Total	127	102	53	43	12	337

The following are people who can not become a Party member: family members of defectors to South Korea, wartime South Korean combat police, those who had attempted to flee to South Korea,<sup>156</sup>

<sup>156</sup>-NKHR2011000185 2011-08-16.

and former inmates in political prison camps.<sup>157</sup>

Recent North Korean defectors testified that many North Koreans would not seek a Party position by bribery because the advantage of being a Party member was rapidly diminishing.<sup>158</sup> The value of a Party membership has been diminishing since the Arduous March, so even Party members wish they could return their membership card.<sup>159</sup>

### <Promotions>

A total of 80 percent of respondents said there was very severe or severe discrimination when asked whether there was discrimination based on personal background in connection with promotions (development). The level of discrimination based on personal background was high, in addition to the cases of Party membership and Party position.

<Table III-14> Levels of Discrimination based on Personal Background at the time of Promotion (“development”)

Year of defection	Very severe	Severe	Normal	Somewhat weak	Very weak	Total
2010	31	27	6	8	1	73
2011	53	51	13	18	2	137
2012	47	40	5	9	2	103
Total	131	118	24	35	5	313

### <College Entrance, Job Assignment>

There is less discrimination based on personal background in regards to college entrance and job assignment compared to

<sup>157</sup>\_NKHR2011000184 2011-08-16.

<sup>158</sup>\_NKHR2011000239 2011-11-22.

<sup>159</sup>\_NKHR2011000233 2011-11-08.

Party membership or Party jobs. Perhaps this has a lot to do with the prevailing social trend in North Korea today which stresses wealth over personal background. Only 37 percent of the participants said discrimination based on personal background were very severe or severe in college admissions, and similarly 38 percent said somewhat weak or weak in this connection. As for the impact of personal background in job assignments, 40 percent of respondents said very severe or severe, while 34 percent of them said somewhat weak or weak, showing the level of severe discrimination was slightly higher.

The level of discrimination showed similar trends from 2010 to 2012. However, the level of very severe changed to severe over the years in the area of college admissions. This indicates that the level of discrimination based on personal background is gradually relaxed in the area of college admissions.

**<Table III-15> Levels of Discrimination based on Personal Background in College Admissions**

Year of defection	Very severe	Severe	Normal	Somewhat weak	Very weak	Total
2010	15	14	19	14	8	70
2011	14	30	41	48	13	146
2012	8	37	23	24	13	105
Total	37	81	83	86	34	321

<Table III-16> Levels of Discrimination based on Personal Background at the time of Job Assignment

Year of defection	Very severe	Severe	Normal	Somewhat weak	Very weak	Total
2010	3	25	17	12	9	66
2011	7	41	35	37	13	133
2012	8	37	27	22	12	106
Total	18	103	79	71	34	305

- **Social Discrimination based on Personal Background in Court Sentences and Marriage**

North Korea implements discriminatory measures on people according to personal backgrounds which can affect sentencing in court. For criminals facing the death penalty, this is particularly crucial, for a final judgment on whether or not to reduce a sentence may depend upon the person's family background. Criminals who have inferior backgrounds or origins, including orphans, are usually sentenced to death without hesitation or consideration. People who have witnessed executions and other sentencing express that they are unfair and arbitrarily decided by authorities based on one's background.

Defector XXX testified that during the investigation process at SSA, if a criminal charged is deemed to be warranted, the suspect's family records are returned from MPS from the suspect's hometown. The records are used as a reference in determining the terms of the penalty. In short, a person's family background is considered for the degree of punishment. If the suspect has many Party members in his family, the authorities may assume that the suspect can be reformed by his good family environment. Defector XXX testified that a security meeting was held prior to a trial. During

this meeting, the fate of the accused was decided. If someone (the accused or his family) can produce a so-called certificate of patriotism, then the terms of the sentence are usually reduced.<sup>160</sup>

For research on discrimination in marriages based on personal background, 42 percent answered very severe/severe, and 38 percent answered somewhat weak/very weak.

<Table III-17> Levels of Discrimination based on Personal Background in terms of Marriage

Year of defection	Very severe	Severe	Normal	Somewhat weak	Very weak	Total
2010	9	23	10	21	6	69
2011	8	48	36	31	9	132
2012	3	37	28	21	15	104
Total	20	108	74	73	30	305

• **Class Based Discrimination in Housing**

North Korea assigns housing to people according to their background and forcibly relocates people from one place to another. The North Korean authorities fear the possibility that people with unfavorable backgrounds, primarily those from South Korea or those who once belonged to the landlord or capitalist classes, may escape from North Korea because they secretly admire South Korea. For this reason the North Korean authorities limit the areas where these people are allowed to live. For example, people with unfavorable backgrounds are not allowed to live in Pyongyang, Nampo, near the coast or in other sensitive areas.<sup>161</sup>

<sup>160</sup>\_NKHR2009000066 2009-11-11.

<sup>161</sup>\_Defector XXX was born in Pyongyang, but his father was originally from South Korea. He was accused of some mistakes at work and had to relocate to Shinuiju. Interview with defector XXX in Seoul on February 4, 2003.

Even people with favorable backgrounds are frequently expelled from urban areas like Pyongyang to secluded places in the mountains because of mistakes made by their family members or relatives. People who are forcibly relocated due to their backgrounds are prohibited from serving as salaried members of the KWP or from holding important positions in administration. Instead, they can only be promoted to low-ranking public service positions. These people frequently gather together to sympathize with one another, complain about their situations, and resent the unfair treatment.<sup>162</sup>

The North Korean authorities forcibly relocate criminals, defectors, and families with unfavorable backgrounds to remote areas in the mountains. According to defector XXX, people who are ostracized and forcibly relocated to remote places are called Pyongyang evacuees. These people are deeply despised and discriminated against by the local population.<sup>163</sup>

#### • Other Social Discrimination

Provided below are some examples of discrimination against selected groups of North Koreans including border crossers, people with criminal records, former POWs, former residents of South Korea and their families, families of defectors, families with relatives or friends in China, returnees (repatriated Koreans from Japan), and Chinese residing in North Korea. As for the discrimination against the Korean War POWs and their families and the Korean War separated families, we will discuss in Chapter VII: Other Humanitarian Issues, Section 1 (Separated Families) and Section 3 (Korean War POWs).

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<sup>162</sup>–Interview with defector XXX in Seoul on January 18, 2005.

<sup>163</sup>–Interview with defector XXX in Seoul on August 3, 2002.



### <Defection and Criminal Record>

Many defectors testified that there is discrimination against those who have attempted defection or illegally crossed the border, and those who have served in political prison camps. The North Korean authorities treat defectors as missing persons. Those who are associated with a missing person are not admitted into the Party or the military. Former detainees of political prison camp and correctional center and their family members are discriminated against in marriage, graduate school admission, job promotion and military service.

Testimonies	Testifier ID
North Korean defector XXX testified that he was unable to advance to a Doctoral Program (Graduate School) because his uncle was detained in a political prison camp and his cousin's whereabouts were unknown.	NKHR2011000164 2011-07-12
North Korean defector XXX testified that her mother had a passport issued and went to China but did not return, so she was recorded as deceased. As a result her sister could not marry a security agent.	NKHR2011000060 2011-03-08
North Korean defector XXX testified that he/she could not become a Party member because his grandmother, mother and aunt were missing persons.	NKHR2011000155 2011-07-05
North Korean defector XXX testified that she was discriminated against because her brother was sent to political prison camp and she was detained in a correctional center.	NKHR 2011000244 2012-11-22

### <Former South Koreans and their families>

The most blatant forms of discrimination is against the residents of South Korea and their families. People with relatives in South Korea are also targets of discrimination. They are discriminated against mainly in Party membership, military service and promotion. However, their everyday lives are similar to North Korean citizens. North Korean authorities may regard former

South Koreans unfavorably, but ordinary North Korean citizens do not treat them differently. In short, there is no particular discrimination against former South Koreans and their families, and their everyday lives will differ from person to person.

#### *<North Koreans with relatives and friends in China>*

Some North Koreans are discriminated in Party membership, college admissions, promotion to managerial officials or marriage simply because they have relatives or acquaintances in China or because one or both parents are Chinese. In addition, those with relatives in China can not be admitted to the Ministry of People's Security and State Security Agency.

Testimonies	Testifier ID
North Korean defector XXX testified that his father had a good personal background, but his mother was a Korean-Chinese. For this reason, his father was discriminated in his promotion.	NKHR2011000005 2010-08-10
North Korean defector XXX testified that his father was discriminated against in his bid to become a Party member and promotions to a staff position because he came from China. He said people related to China in any way could not get married to a Party worker, a soldier or a political worker.	NKHR2011000055 2011-02-22
North Korean defector XXX testified that his father could not become an official because he came from China. He, too, was discriminated against in his college admission in 2003.	NKHR2011000128 2011-05-31
North Korean defector XXX testified that he wanted to get married to a woman, but her family opposed to the marriage because his father was from China and had acquaintances there.	NKHR2011000215 2011-10-04
North Korean defector XXX testified that anyone who had relatives in China could not become a security agent or a state protection agent.	NKHR2012000059 2011-04-10

### <Returnees from Japan and their Families>

The returnees (or repatriated former Korean Japanese compatriots) are treated with special favors. North Korean defector XXX, who left North Korea in 2007, testified that North Korea gave special favors to the returnees by allowing them to live in Pyongyang.<sup>164</sup> At the same time, other defectors testified that some returnees were sent to deep mountain villages or coal mines. The former returnees XXX, XXX and XXX were assigned to Liwon County, South Hamgyong Province,<sup>165</sup> and the mother of defector XXX was assigned to Sechon Coal Mine.<sup>166</sup> North Korean authorities discriminate against the returnees and their families.

Testimonies	Testifier ID
North Korean defector XXX testified that she was 20 years old in 1982, but could not get married to a soldier because her parents were returnees.	NKHR2011000089 2011-04-05
North Korean defector XXX testified that his father was a guidance agent at the Husbandry Section of Munduck County Management Committee, but was denied promotion to a chief position because he was the son of a returnee. He further said the children of returnees would not be allowed to travel overseas.	NKHR2011000115 2011-05-17
North Korean defector XXX testified that she was a returnee, and was discriminated against in marriage and college admission. She was also denied marriage with a soldier.	NKHR2011000089 2011-04-05
North Korean defector XXX testified that he/she was a returnee. Returnees could not become a security agent or party worker, and would not be assigned to positions abroad.	NKHR2011000113 2011-05-17
North Korean defector XXX testified that returnees would not be allowed to leave the country.	NKHR2012000038 2012-03-20

<sup>164</sup>\_NKHR2011000046 2011-02-08.

<sup>165</sup>\_NKHR2010000056 2010-11-16.

<sup>166</sup>\_NKHR2011000099 2011-04-26.

On the other hand, North Korean defector XXX testified that returnees were not hired as an official in the Party or administrative positions, but in recent years they could obtain administrative positions.<sup>167</sup> Another North Korean defector XXX testified that it was unclear whether the returnee himself could become a Party member, but his/her children were allowed to do so.<sup>168</sup>

### <Chinese citizens and their families>

According to North Korean defectors, North Korea operates special districts and schools for overseas Chinese.<sup>169</sup> Chinese people living in North Korea are also discriminated against, but other than Party membership, there is no legal or institutional framework for discrimination against them. This may have to do with their wealth. The Chinese living in North Korea are known to be generally wealthy.

Testimonies	Testifier ID
North Korean defector XXX testified that there was no discrimination against Chinese citizens in North Korea, except Party membership, and because they were usually wealthy, most North Koreans thought positively about them.	NKHR2011000072 2010-10-19
North Korean defector XXX testified that her husband was born in North Korea and mother-in-law was also North Korean, but her father-in-law was Chinese, so her husband received a foreigner ID instead of a North Korean one. Many North Koreans viewed them somewhat unfavorably, but there was no particular discrimination.	NKHR2011000023 2010-06-08
North Korean defector XXX testified that his/her father was the principal of a Chinese school in Chongjin City, and said most Chinese was wealthier than other North Koreans.	NKHR201000072 2010-10-19

<sup>167</sup>—Interview with North Korean defector XXX in Seoul on January 30, 2008.

<sup>168</sup>—NKHR2012000054 2011-04-03.

<sup>169</sup>—NKHR2011000073 2011-03-22.

Testimonies	Testifier ID
North Korean defector XXX testified that there were five Chinese families in Hoeryeong, and they were all wealthy. However, it would be difficult for them to become a Party members or receive promotions.	NKHR2010000162 2011-07-12
North Korean defector XXX testified that Chinese residents would not be discriminated against as they were generally wealthy, but becoming a Party member would be difficult. Chinese and returnees generally did not want to join the Party.	NKHR2010000172 2011-07-26

## B. Corruption and Human Rights

- **Corruption and the Right to Equality before the Law**

The Universal Declaration of Human Rights stipulates, “Everyone has the right to recognition everywhere as a person before the law (“Article 6”).” It further specifies “All are equal before the law and are entitled without any discrimination to equal protection of the law (“Article 7”).” The ICCPR also declares that “Everyone shall have the right to recognition everywhere as a person before the law (“Article 16”).” The Declaration also articulates, “All persons shall be equal before the courts and tribunals (“Article 14, Para.1”). Equal before the law means that everyone is entitled to equal treatment as a person and as equal human beings. In other words, everyone must be treated equally and with same standards before the law, regardless of their wealth or social status. However, North Koreans’ right to equality before the law is breached by rampant corruption and bribery.

The North Korean Penal Code legally sanctions bribery. If someone who is not a management worker takes bribe, he/she is

given up to two years of labor training sentence, and if the amount of the bribe is large, the penalty is up to three years of correctional labor (“Article 242”). If a management worker received a bribe, the penalty is up to two years of labor training, and if the amount of bribe is large or if he/she had demanded the bribe, the penalty can be up to four years in correctional labor. (“Article 257”) Under the Administrative Penalty Law, giving and receiving bribe or brokering bribes result in warning, stern warning, unpaid labor for three months or labor education, and in more serious cases the penalty could include unpaid labor for three months, labor education, demotion, reassignment or layoff (firing)(“Article 163”). Despite these legal sanctions, corruption and bribe-giving are widespread in the North Korean society. Giving and receiving bribes would hamper proper law enforcement and breach the rights of other citizens.

- **Corruption and Human Rights Violations**

*<The Process of Corruption Crackdown on North Koreans>*

Anti-socialist behaviors have increased as a result of the succession and economic difficulties. As North Korea tightened control over these issues, punishments have increased for anti-socialist activities. Accordingly, an increased number of North Koreans are committing acts of deviance, such as offering bribes to avoid punishment. Even those found using cell phones or distributing CDs during crackdowns can avoid punishment or receive lighter punishments by offering bribes. When punishments are not applied fairly, the rule of law is weakened and violations of human rights increased. For example, a person caught using a cell

phone may evade a correctional prison labor sentence if he/she can prove that the call was unrelated to South Korea. However, even in this case, the person must offer between 500,000 and 1,000,000 KPW as a bribe in order to avoid punishment.<sup>170</sup>

In the process of checking and inspecting travelers, security agents sometimes demand money. For example, a soldier at a guard unit in Musan, North Hamgyong Province demanded money from the family of a river-crossing offender. Because the poor family could not meet the bribe demand, the offender was penalized with appropriate penalties.<sup>171</sup> In the past, bribes offered to security agents were in the form of cigarettes or cash, but recently, people offer narcotics (ice) as a bribe.<sup>172</sup> However, in serious cases of crime such as talking to South Koreans on a cell phone, it would be difficult even for the security agent to overlook the case with bribes.<sup>173</sup> In some cases, people offer a good amount of bribe to the agent(s) and are able to talk to family members in South Korea without being penalized.<sup>174</sup> This type of corruption clearly violates the principle of fairness.<sup>175</sup>

### <Corruption in Investigation and Pretrial Procedures>

Other human rights violations occur during the pretrial examination process at the Ministry of People's Security detention centers. In order to ensure that those in detention centers receive food, their families make every effort to contact prison guard,

<sup>170</sup>\_NKHR2009000064 2009-11-04.

<sup>171</sup>\_NKHR2012000024 2012-02-21.

<sup>172</sup>\_NKHR2012000118 2012-06-19.

<sup>173</sup>\_NKHR2012000139 2012-07-10, and other testimonies.

<sup>174</sup>\_NKHR2012000015 2012-02-07.

<sup>175</sup>\_Soo-am Kim, et al., *The Relationship between Human Rights and Corruption in North Korea*, pp. 94-95.

pretrial agent or even an acquaintance in the Ministry of People's Security and offer money or other forms of bribe. For example, the phenomenon of bribing agents to avoid detainment at the State Security Agency detention center is prevalent and bribes must be shared among agents at all levels of the Agency.<sup>176</sup>

Some people bribe the agents during the investigation stage and are released after completing a self-criticism form.<sup>177</sup> There have been numerous corruption cases in which the suspects bribe the pretrial agents who would then lower the applicable penalty level. This is done all before the formal trial. Many pretrial agents fabricate details on a similar case in order to allow the suspect of concern receive reduced penalty. For example, pretrial agents fabricate details such as the frequency and purpose of border-crossing, and the suspect's activities in China, so that the suspect can receive minimum penalty. In extreme cases, the pretrial agents can fabricate the time of arrest and the duration of detention. Even for cases related to smuggling and underground transaction, they will complete forms in a way that the criminal can avoid the most severe punishment such as reducing the amount or the number of items under investigation. In rare cases, some pretrial agents can make a profit by agreeing not to forward the relevant files to the chain of command. For example, the parents of a forcibly deported defector bribed an agent. This defector was somehow about to obtain a diagnosis of mental disorder, and was released in the process of the investigation.<sup>178</sup> In very rare cases, privilege will be given to those who provide bribes on special occasions such as the founding day of the Party when criminals are released on com-

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<sup>176</sup>\_NKHR2009000006 2009-02-05.

<sup>177</sup>\_NKHR2011000197 2011-06-06.

<sup>178</sup>\_NKHR2011000155 2011-07-05.



passionate release.<sup>179</sup> However, if the timing of the arrest is during the central Party inspections or if the arrest was made during a special inspection, then avoiding punishment or fabrication of documents is difficult even with bribes.<sup>180</sup> The principle of non-discrimination is often breached in North Korea because decisions on the level of punishment or indictment depends on whether there was bribery or not during the investigation process or the pretrial stage.<sup>181</sup>

**<Corruption in Detention and Correctional Facilities>**

The following are testimonies from North Korean defectors who gave bribes to agents at correctional centers, short-term labor detention, detention facilities and labor training camps in order to have their penalty removed or reduced.

Testimonies	Testifier ID
North Korean defector XXX testified that he was detained at a Provincial Collection Point in Chongjin for about a month in June 2010. He bribed 10,000 Chinese yuan to the security agent and was released and his record was changed to indicate that he had fled.	NKHR2011000038 2011-01-11
North Korean defector XXX testified that in June 2010, his friend xxx was detained at the Dukchon City security agency detention center after an arrest by a 109 agent for singing South Korean songs and carrying a notebook with lyrics. He was due to get transferred to a labor training camp. But he was released in 10 days after providing bribes and completing a self-criticism form.	NKHR2011000197 2011-09-06
North Korean defector XXX testified that he was detained in Musan labor training camp in September 2010 serving a six-month sentence. He gave bribes and served only a little over one month. However, the record still indicated that he served the full six months.	NKHR2011000186 2011-08-16

<sup>179</sup>\_NKHR2011000186 2011-08-16.

<sup>180</sup>\_Soo-am Kim, et al., *The Relationship between Human Rights and Corruption in North Korea*, pp. 96-97.

<sup>181</sup>\_Ibid., p. 97.

Testimonies	Testifier ID
North Korean defector XXX testified that he was detained at Pyongsong City labor training camp in January 2011, digging holes for tree planting along the city streets. He heard from an inmate, xxx, that the inmates could receive a one month reduction every time he/she paid 600,000 won to the chief of training camp.	NKHR2011000115 2011-05-17

### <Corruption in Criminal Trials>

Punishments and prison terms are frequently reduced through bribery. Some testimonies indicate that people have been released after social education.

Testimonies	Testifier ID
North Korean defector XXX testified that even if an individual commits a serious crime subject to correctional labor such as dealing with narcotics, the individual can be exempt from serving time by offering bribes. In some cases, even capital punishment can be avoided by offering bribes.	NKHR2008000023 2008-11-11
North Korean defector XXX testified that he provided bribes to a pretrial agent and the judge. As a result, his punishment was reduced to social education instead of correctional labor or labor training.	NKHR2010000018 2010-10-05
North Korean defector XXX testified that his mother was forcibly deported from China on May 3, 2008. In late September 2008, she was tried at a court in Hoeryeong City and sentenced to a five year correctional labor. She paid 2 million won in bribes and was released on probation.	NKHR2011000187 2011-08-16
North Korean defector XXX testified that he was tried at a people's court in Hyesan in August 2009 on border-crossing charges. He provided bribes to a pretrial agent and the judge, and was released on social education penalty.	NKHR2011000018 2010-10-05

If one is able to provide bribes, the corrupt exchange allows him to avoid punishment or reduction of time in jail. However, it is unfair to others who have to serve their full sentence because they are unable to provide bribes. This is a clear violation of the

principle of non-discrimination, the right to a fair trial and the right to equal protection of the law. If the case involves a victim, it would also violate the fairness doctrine.<sup>182</sup>

### <Divorce Trials and Corruption>

Divorce cases are also fraught with corruption and human rights problems. North Korea witnessed a rise in divorce rates related to domestic violence, women's active involvement in business to make a living, and marital discord. Those who wish to divorce must see a lawyer and file a suit. They then undergo a pretrial in court overseen by a judge. The pretrial provides the couple an opportunity to drop the case if possible. After the pretrial, they are seen by a chief justice.<sup>183</sup> In order to get a divorce trial, one has to pay several hundred thousand won in bribes. North Korean defector XXX testified that he had to bribe the judge in order to have his divorce justified. In April 2008, the judge acknowledged the conditions for a divorce, but stated the case needed further consideration. He thought this comment was an indication that the judge wanted money, so he paid 100,000 won.<sup>184</sup> In the case of women, however, divorce proceedings are rarely granted.<sup>185</sup>

Furthermore, the North Korean authorities are known to take coercive measures to curb the rising divorce rate by imposing disciplinary prison labor on those who file for divorce.

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<sup>182</sup>–Soo-am Kim, et al., *The Relationship between Human Rights and Corruption in North Korea*, pp. 99-100.

<sup>183</sup>–Interview with North Korean defector XXX in Seoul on January 17, 2008.

<sup>184</sup>–NKHR2009000054 2009-09-17.

<sup>185</sup>–NKHR2009000060 2009-10-06; NKHR2009000062 2009-10-20; NKHR2009000063 2009-11-03.

Testimonies	Testifier ID
North Korean defector XXX testified that there were too many divorce cases in Hoeryeong City, North Hamgyoung province in April 2010, resulting in sanctions for the previous two years from the Provincial Court. The testifier explained that if an individual got a divorce, both parties, without exception, served six-month terms at a labor training camp.	NKHR2010000133 2010-10-12
North Korean defector XXX testified that in 2009, only the person who brought the divorce case had to serve in a labor training camp. Since 2010, however, both parties regarding the divorce have to serve six months in a labor training camp.	NKHR2012000014 2012-01-31
North Korean defector XXX testified that as of April 2011, North Korean authorities would not allow divorce. If an individual were to divorce, both parties had to serve time at a labor training camp as a punishment.	NKHR2011000162 2011-07-12
North Korean defector XXX testified that his parents were divorced. As a result, the children could not join the military.	NKHR2011000116 2011-05-17

In order to get a divorce in North Korea, one must have a trial (“Article 20,” Family Act). However, if one of the spouse is a known defector or a missing person, then it is possible to get a divorce without a trial. North Korean defector XXX said that while she was staying in China after illegally crossing the border, her husband filed for a divorce; therefore, she is currently divorced.<sup>186</sup>

### C. Assessment

Classifying citizens into categories according to their personal or family background and treating them in a socially discriminatory manner is against the letter and spirit of the Universal Declaration

<sup>186</sup> NKHR2011000020 2010-05-18.

of Human Rights that prohibits discrimination of any kind. North Korea's policy in this area of human rights also is in contradiction with their obligation to respect various provisions of international covenants (ICCPR and ICESCR) that forbid discrimination of any kind. North Korea is also in violation of their obligation to guarantee their citizens the right to equality before the law and equal protection of the right to a fair trial, by permitting rampant corruption in the process of investigation at detention facilities and arbitrary reduction of penalty and release of criminals through the practice of bribery.

Currently in North Korea, two values seem to be in opposition: the tradition of classifying individuals based on his/her personal background, and the new trend of favoring wealth. The latter seems to be spreading rapidly, and this trend is likely to continue in 2013 as it did in 2012. This trend seems to have an impact even in areas such as access to Party membership and promotions to staff positions. This indicates that the practice of discrimination based on personal background appears to be diminishing. However, corruption is spreading rapidly over the entire North Korean society, even though penalty provisions designed to prevent corruption have been placed in the Penal Code and the Administrative Penalty Law. As this report has indicated in Section 3 of Chapter 3, North Korea in 2012 reinforced varying levels of punishment and social controls in order to safeguard their political system and regime security, and this policy is likely to continue in 2013. However, the practice of bribery and corruption is likely to spread in 2013. In short, the tighter the political and social control, the larger the amount of bribery.



# 5



## *Freedom of Residence, Movement and Travel*

### **A. Freedom of Residence, Movement and Travel in North Korea**

The Universal Declaration of Human Rights clearly articulates the right to freedom of movement and residence. (“Article 13”) “Article 12” of ICCPR also emphasizes the right to freedom of movement and residence. To choose one’s place of residence and to travel freely is a basic right for all human beings. In addition to traveling freely, this is also a right which is essential for the dignity of person as a free individual.

In promoting their socialist economic system, North Korea has restricted the citizens’ right to freedom of residence and movement through systems such as grain rationing and the registration of personal background. However, under persistent international pressures, North Korea decided to insert a provision guaranteeing the right to freedom of residence and travel during the Constitutional revision in September 1998. “Article 75” of the current North Korean Constitution stipulates, “Citizens shall have the freedom of

residence and travel.” Despite this stipulation in the Constitution, North Korean authorities continue to restrict, systematically and realistically, the citizens’ right to freedom of residence, movement and travel.

## **B. The Reality of Domestic Travel**

According to “Article 6” of North Korea’s Travel Regulations, North Koreans must obtain a travel permit when traveling to a location other than their registered area of residence. North Korean authorities claim that restricting travel is for reasons of national security; however, the fundamental reason the North Korean government restricts travel and movement is to prevent the people from being exposed to external information that might cause them to develop ideas contrary to the regime. The freedom to travel within and outside the country enables the public to obtain information from other regions, which in turn can foster critical attitudes against the regime.

The travel permit system restricts citizens’ freedom of travel and movement. This is demonstrated by the fact that violators are thrown into a labor detention facility. As a part of the regime’s social safety control measures, “Article 30” of North Korea’s People’s Security Control Act stipulates, “The People’s Security Agency shall exercise control over violations regarding rules for traveling and walking the streets.” Individuals who disobey the People’s Security Control Act or enter unauthorized areas are subject to warnings, fines and penalties such as unpaid labor (“Article 194”).

Under-aged persons who are too young to have the people’s registration card cannot obtain travel permits and must be accom-

panied by an adult who has a registration card. In principle, one who plans to attend a funeral or wedding of a close relative may travel as far as the city or county of the event. However, additional personal travel to any neighboring region is not allowed. For those traveling for official business may travel to any of the destinations indicated on the permit. If a soldier, government employee or a factory worker is ordered to go on a business trip, he or she can travel anywhere in the country, according to the travel order. If a patient has a diagnostic document, he/she can travel to any major clinic or hospital in the city or province of his residence or he/she can travel to the residence of a close relative who is able to take care of the patient.

Those without a Pyongyang residence card<sup>187</sup> or a temporary residence permit<sup>188</sup> may only enter the city after obtaining a travel permit stamped with a Pyongyang city permit number. In order for ordinary citizens to travel to cities and counties near the border regions such as the DMZ (Demilitarized Zone), the Amnok River and the Duman River, they must carry travel permits issued by their province of residence and bearing permit numbers issued by Section 2 Office of the provincial people's committee of their destination, such as the North Pyongan Province, Jagang Province, Yanggang Province or the North Hamgyoung Province. Those who wish to

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<sup>187</sup>—North Korean authorities make a distinction between the people's registration card, which are issued to the general public and the Pyongyang resident permit, which are issued to the residents of Pyongyang (Democratic People's Republic of Korea People's Registration Law Article 7 was passed at the Supreme People's Assembly).

<sup>188</sup>—Permits for temporary stay in Pyongyang are provided to students from the provinces, attending Pyongyang universities or the Pyongyang No. 1 Middle School, soldiers deployed in Pyongyang, and civil servants or business workers assigned to Pyongyang. The length of stay is allotted according to the period of study, work or service.



travel to Pyongyang, the border region or military areas near the enemy border must obtain an approval number from the security guidance office.<sup>189</sup> North Korean defectors in South Korea testified that it is more difficult to obtain a travel permit from inland to the border area rather than the reverse situation.<sup>190</sup>

Even citizens living in the provinces bordering the Duman and Amnok Rivers must carry travel permits if they wish to travel to other provinces. These permits are issued by the Section 2 Office of the People's Committee of the traveller's province of residence. People planning to travel must submit an application to their supervisor through the Accounting section two weeks in advance. Approval depends on a review of the applicant's ideology and his or her "voluntary labor contribution" records. After this preliminary procedure, the traveller has to apply again three days in advance at the permit section of the local Ministry of People's Security (police department). The Agency will review the applicant in terms of whether he/she is a dangerous person, is under surveillance or has any criminal record. After confirmation by the Local Security Agency, the applicant is issued a travel permit through the party secretary at his or her place of employment. However, most defectors testified that they received travel permits from Section 2 of the People's Committee through their workplace. The application process is as follows: from the office supervisor, to the office statistician (recording date of birth, destination, purpose, etc.), to the Kiyoweon (a corporate worker who deals with high-level secrets),<sup>191</sup> to Section 2 of the People's committee. Each region or province is assigned to a limited number of travel permits, and these are issued within the

<sup>189</sup>\_NKHR2011000236 2011-11-22.

<sup>190</sup>\_NKHR2012000009 2012-01-31; NKHR2012000015 2012-02-07.

<sup>191</sup>\_'Kiyō' means top secret information.

assigned limit. Thus, security agents can check the permit number against the list of numbers to see if the permit is genuine.<sup>192</sup> Those who do not have jobs must obtain travel permits through their Inminban (which means people's group and is the most basic administrative unit in North Korea). In this case, they must obtain the approval of the local branch of People's Security Agency (police), and a guarantor.<sup>193</sup>

Ordinary citizens have to wait approximately two to three days to travel to non-restricted areas and seven to fifteen days to restricted areas.<sup>194</sup> However in the provinces, different set of procedures seem to exist, depending on agencies and localities. Furthermore, the color of diagonal lines on the pass will vary from region to region, and the authorities will frequently change the color of those lines, presumably to prevent fake passes or forgery. After arrival, the traveler must report to the head of local Inminban (people's group) and register on the travel roster, and obtain his or her travel pass stamped by a local MPS official. If a traveler is without a permit, Inminban (people's group) leader is required to report the case to the local security agent. Upon arrival, the traveler must report to the security agency. The travel permit system allows timely control of all people. In general, ten days are given for round-trip, and a traveler must report to the local security agency four days in advance to purchase a return ticket.<sup>195</sup>

This travel permit system is still maintained; however, significant changes are taking place in traveling styles due to the economic hardship. Despite official regulations, it appears that

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<sup>192</sup>\_NKHR2010000069 2010-10-26.

<sup>193</sup>\_NKHR2010000022 2010-06-24.

<sup>194</sup>\_NKHR2012000018 2012-02-07.

<sup>195</sup>\_NKHR2010000061 2010-05-18.

control over travel is becoming less restrictive in light of the current realities in the country. In principle, domestic travel permits are issued free of charge; however in reality, if the Kiyoweon is not offered a bribe, the process is often delayed. Thus, it takes a long time to obtain a travel permit if an individual only follows the proper procedures. As the need for quick peddling trips has increased, people often resort to bribes of money, cigarettes, etc.<sup>196</sup> Since the Kiyoweon helps to fill out the application forms and obtain approval of various sections, people usually provide gifts or bribes to him/her. The amount of the under-the-table money will vary according to the reason and destination of the trip. However in recent years, it became possible to purchase a travel permit directly at Department 2, which handles all travel permits.<sup>197</sup> The Kiyoweon will issue the permit to those citizens who offer money through their acquaintances even if they don't have jobs. In other words, the Kiyoweons make money by selling travel permit forms.<sup>198</sup> Many defectors described that 5,000 won in cash is required to obtain a travel permit.<sup>199</sup> However, since the currency reform of November 30, 2009, the fee for an unlawful travel permit has slightly decreased, although the amount vary in different regions. More than 20,000 won is needed to obtain a travel permit for Pyongyang, and additional bribes such as cigarettes are needed to obtain an approval number.<sup>200</sup> Since 2010, obtaining a travel permit has become very difficult and complicated.<sup>201</sup> As a result, more money is needed since a prospective traveler needs to hire a broker.

<sup>196</sup>\_NKHR2012000100 2012-06-05 and other testimonies.

<sup>197</sup>\_NKHR2012000230 2012-10-30 and other testimonies.

<sup>198</sup>\_NKHR2010000087 2010-08-03.

<sup>199</sup>\_NKHR2012000038 2012-03-20 and other testimonies.

<sup>200</sup>\_NKHR2012000072 2012-04-26; NKHR2012000059 2012-4-10.

<sup>201</sup>\_NKHR2012000099 2012-05-29.

Since 2000, people prefer buses or trucks over trains as a means of transportation. People's perceptions about the necessity of travel permits have also changed. Obtaining a travel permit takes a long time and requires complicated procedures, and one's movements are easily revealed through them. Thus, an increasing number of people are traveling without permits and offering bribes when challenged by security agents. Some North Korean defectors testified that many people pay cash for their travels without permits, and only two or three out of 100 obtain formal travel permits.<sup>202</sup> Furthermore, people travel based on citizen ID instead of travel permits when they are moving around within the same province.<sup>203</sup> The following table illustrates illegal cases involving travel permits.

<Table III-18> Unlawful Incidents Involving Travel Permits

Date	Place	Incident	Testifier ID
February 2009	Bukchang County, South Pyongan Province	Received a permit to Chongjin City paying 5,000 won under pretext of vending. However, real purpose was to cross the border. The travel took one day and paid 5,000 won for a train trip. Paid 1,000 won for overnight stay at an unauthorized private home. (Meals not included).	NKHR2012000172 2012-08-21
2010	Duksung County, South Hamgyoung Province/ Hyesan City, Yanggang Province	Needed to offer a pack of Kumkangsan cigarettes to get a permit. This pack is considered high quality along with Chilibosan cigarettes. Both brands came after the Goyang-i cigarettes.	NKHR2012000050 2012-03-27
2010	Unknown	Permits for Pyongyang became very difficult since 2010. Previously, one used to get permits from Dept. 2. Since 2010, signature of Inminban (people's group) leader is required.	NKHR2012000099 2012-05-29
2010	Hyesan City, Yanggang Province	Traveling to another province required 5,000 won. (extra 2,000 won for broker) Returning to Hyesan from another province was very difficult. Needed extra 50,000 won to return.	NKHR2012000239 2012-11-06

<sup>202</sup>\_NKHR2012000036 2012-03-13.

<sup>203</sup>\_NKHR2012000021 2012-02-07 and other testimonies.

Date	Place	Incident	Testifier ID
January 2010	Hyesan City, Yanggang Province	Obtained “blue-strip” permit to go to Shinuiju, North Pyongan Province. Got a permit in one day by paying 30,000 won to a broker. It was his full-time job.	NKHR2012000046 2012-03-23
March 2010	Pyongyang City	Obtained a permit by paying 25,000 won to meet brother and grandmother in Pyongyang. Stayed at the relative’s home. Did not register to travel and did not receive bed-check or inspection. In general, strict inspections when entering Pyongyang, but no checks when exiting.	NKHR2012000072 2012-04-26
October 2010	Hoeryeong, North Hamgyoung Province	Received a permit to visit relatives in Sariwon, North Hamgyoung Province. Paid 20,000 won and received travel permit immediately. If the agent is male, wine and cigarettes are needed. Spent a total of 100,000 won for train trips	NKHR2012000168 2012-08-21
2011	Musan County, North Hamgyoung Province	Permit is required, but citizen ID and an approval letter (signed by Inminban (people’s group) leader and local official) will substitute a permit. If the security agent demands, the individual must to pay 500 won per person regardless of the letter. As for the luggage, must pay according to the demands of the agent.	NKHR2012000043 2012-03-20
2011	Hyesan City, Yanggang Province	Received a permit through the deputy engineer of factory. If you pay him 10,000 won, he would bribe one or two packs of cigarettes to Dept. 2 agent, and obtain permit.	NKHR2012000151 2012-07-24
June 2011	Chongjin City, North Hamgyoung Province	Received a permit from Chongjin to Giljuo for vending purpose, paying 15,000 won. Spent 25,000 won for train and bus fare to Hyesan City.	NKHR2012000052 2012-03-28
October 2011	Baekam County, Yanggang Province	As of August 2011, bed-check registration is not a mandatory, and Inminban (people’s group) leaders do not check closely. Received a permit from a Dept. 2 agent paying 5,000 won bribe for a trip from Baekam County to Daekwan County, North Pyongan Province.	NKHR2012000040 2012-03-20
October 2011	Hamhung City, South Hamgyoung Province	Received a permit to Pyongyang for an eye operation from Provincial Dept. 2. Spent US\$55 for transportation. (“Servicars” will ask 35,000 won). The permit allowed 40 days for the eye operation. Stayed at a private home paying 10,000 won/day for food and lodging.	NKHR2012000149 2012-07-24

Date	Place	Incident	Testifier ID
October 2011	Hyesan City, Yanggang Province	Received a permit from City Dept. 2 to go to Buryong County, North Hamgyoung Province. Paid 15,000 won and received permit the same day. Spent 10,000 won for train trip. Stayed at private home for 1,000 won per day.	NKHR2012000162 2012-08-07
2012	Wonsan City, Gangwon Province	Paid 30,000 won for a permit. Must pay 30,000-50,000 won to travel to the border and 50,000-70,000 won for Pyongyang. Bribe needed for boarding registration.	NKHR2012000134 2012-07-10
2012	Hoeryoung City, North Hamgyoung Province	No one is allowed into the city without permits, but leaving the city without a permit is possible. The reason is because tension is mounting in this area, such as the rising number of defectors and narcotics smuggling.	NKHR2012000198 2012-09-25
May 2012	Hyesan City, Yanggang Province	Received a permit on an excuse to visit relatives. Paid 5,000 won to an agent at the Allied Enterprise who received it from Dept. 2 of Yanggang Province.	NKHR2012000223 2012-10-23
June 2012	North Hamgyoung Province	Permits normally cost 30,000 won.	NKHR2012000185 2012-09-11
June 2012	Chongjin City, North Hamgyoung Province	Received a permit paying 15,000 won to attend nephew's party celebration in Baekam.	NKHR2012000211 2012-10-16
Unknown	Musan County, North Hamgyoung Province	Permit needed to take a train. If no permit, must pay 3,000-5,000 won to a security agent. (As of September 2008)	NKHR2012000051 2012-03-27
Unknown	Namyang Dist. Onsung County, North Hamgyoung Province	Permits are regarded as merchandise and in Namyang district. Onsung County, people will pay "Goyang-i (cat)" cigarettes.	NKHR2012000100 2012-06-05
Unknown	Hyesan City, Yanggang Province	Received a permit by paying a pack of "Goyang-i" cigarettes in order to travel to Hamhung, South Hamgyoung Province for vending. Took the train by paying 5,000 won as a bribe. An approval number is needed to get a permit to Pyongyang, but it is very difficult and must pay a lot of bribes.	NKHR2012000112 2012-06-12
Unknown	Chongjing City, South Hamgyoung Province	Paying cash costs less than getting a permit. Security chief, Safety Agency platoons, and railroad police check travelers. Paid 5,000 won for the trip. (Must pay 10,000 won to go to the border region.)	NKHR2012000126 2012-06-29

Date	Place	Incident	Testifier ID
Unknown	North Pyongan Province	When moving in groups, each group consists of 5 people. The group leader pays cash to the train safety agent.	NKHR2012000163 2012-08-07
Unknown	Unknown	Permit to Pyongyang is available if 15,000 won is paid to a clerk at the local district.	NKHR2012000159 2012-08-07
Unknown	Hungwon County, South Hamgyoung Province	Need to pay 5,000 won to travel within a province and 10,000 won to travel outside of a province. To travel near the border area, 20,000-30,000 won must be paid.	NKHR2012000167 2012-08-21
Unknown	Hyesan City, North Pyongan Province	Under the law, no fee is needed for a permit. But if you submit an application and cash to Dept. 2, permit is issued on the spot.	NKHR2012000178 2012-09-04
Unknown	Unknown	Can obtain travel permits by illegally paying cash. Money is paid to legal worker and security agent.	NKHR2012000184 2012-09-11
Unknown	Gowon, South Hamgyoung Province	Need approval number to travel near the border area or to a military facility.	NKHR2012000204 2012-10-09
Unknown	Chongjin City, North Hamgyoung Province	Must pay chief of Dept. 2 to get a permit. Recently, about 20,000 won is needed.	NKHR2012000222 2012-10-23
Unknown	Daehungdan County, Yanggang Province	Permit is directly available from Dept. 2 by paying cash. As of 2012, approximately 10,000 won is needed.	NKHR2012000230 2012-10-30
Unknown	Hyesan City, Yanggang Province	Recently, a joint military and security agency surveillance system was launched to arrest spies and reactionaries.	NKHR2012000256 2012-11-27
Unknown	Chongjin City, North Hamgyoung Province	The returnees (from Japan) are not issued single permits. They can travel based on a tag-along document on someone else's permit.	NKHR2012000283 2012-12-18

Despite the growing number of travellers, the train is one of the few modes of transportation available in North Korea. For this reason, various organizations will use their own cars and trucks to earn extra money. These vehicles are called the servi-cars (or, service cars). The servi-cars are not officially approved vehicles. They belong to private organizations or agencies. The drivers of

these servi-cars will receive fares from individual passengers and drive them to their destination or to the center of major cities. It appears that most people will take advantage of these vehicles for transportation rather than obtaining travel permits that require a lot of time and expenses.<sup>204</sup> As a result, fewer travel permits are issued in recent years. Even some private servi-cars began to appear. The drivers and security agents in cooperation will try to avoid traffic checks on the road.<sup>205</sup> The increased number of servi-cars seem to show the changing means of transportation in North Korea, and the deepening relationship between the state agencies and the private sector. An alternative option to travel in North Korea are bus whips, who help fill buses and trucks. Anyone trying to get transportation between Hamhung and Sariwon is bound to come across these whips, individuals who try to attract passengers to fill up vehicles. Once a vehicle is full with passengers, a whip will be paid anywhere from 5,000 to 8,000 KPW in cash. Each bus or truck will hire one to three whips to load more passengers. There is said to be fierce competition for passengers among the servi-cars.

The traveling person is subject to inspection with respect to not only transportation but also accommodation. The violators of room and board registration rules are penalized with warning, stern warning, fines or up to a three months of unpaid labor or labor education. (Administrative Penalty Law “Article 173”) The People’s Security Agency will enforce the law. (People’s Security Enforcement Law “Article 33”) In addition, the People’s Administrative Law stipulates, “If anyone wants to provide room and board

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<sup>204</sup>\_NKHR2012000198 2012-09-25.

<sup>205</sup>\_NKHR2012000201 2012-09-25. Testifier said it has gone up to 6,000 won in Hamhung.



at his/her own home for a visitor, he/she should obtain an approval from relevant agencies according to the established rules.” (“Article 32”) The agency will enforce the law against unauthorized private homes. The military’s People’s Security agents conduct bed-checks to investigate if there is anyone staying at a private home without registering for the stay or if anyone is staying without a citizen’s ID or travel permit.<sup>206</sup> These inspections are usually conducted during special alert periods, and during these periods inspections are conducted every day.<sup>207</sup>

Some North Korean defectors testified that the registration and bed-checks have not been mandatory in recent years. Due to the economic hardship, relevant documents are not closely checked and Inminban (people’s group) leaders do not carefully monitor these practices.<sup>208</sup> Even if inspectors bed-check private homes, people avoid penalties by providing cash or cigarettes.<sup>209</sup>

### C. The Reality of Overseas Travel

Travelling overseas for North Koreans is divided into two categories: long-term travel for work or official business, and short-term travel for visiting relatives. With the increase in overseas employment opportunities in industries such as logging, construction, sewing and restaurants, long-term stay overseas have also

<sup>206</sup> NKHR2011000017 2010-06-08.

<sup>207</sup> The “special alert” periods include the following dates: New Year’s Day, Lunar New Year’s Day, birthdays of Kim Jong-il (16 February) and Kim Il-sung (15 April), Korean Armistice Day (27 July), Youth Day (28 August), Government Anniversary (9 September), and KWP Party Anniversary (10 October).

<sup>208</sup> NKHR2012000040 2012-03-20.

<sup>209</sup> NKHR2012000009 2012-01-31.

become frequent. However, this type of opportunity is granted very selectively and only to those whose ideological integrity has been proven without a doubt. In most cases, ordinary people who travel to China do so in order to visit their relatives or for vending and peddling. Overseas travel is possible only with a border-area travel permit or a passport. “Article 2” of North Korea’s Immigration Law of 1999 stipulates that “Citizens and foreigners entering or exiting North Korea should have appropriate exit/entry permits such as a passport, overseas North Korean certificate, boat crew certificate or a visa.” “Article 9” of the law stipulates, “Citizens may enter or exit on official or personal business. Those entering or exiting must obtain exit/entry certificates through appropriate agencies, including the foreign ministry or agencies responsible for the entry/exist authorization.”

North Koreans are only allowed to visit their relatives in China, and personal information of their relatives are recorded in the traveler’s personal file (official file), including the relative’s name, address and other relevant information. Currently, anyone over the age of 45 who has a citizen ID and no criminal record can apply for a passport for the purpose of visiting his or her relatives in China. However, the foreign affairs section of the Security Agency (City·Province) are reportedly maintaining internal regulations prohibiting overseas travels by family groups and by people over the age of 70.<sup>210</sup> There are three types of passports in North Korea: diplomatic, official and travelers’ passports. Diplomatic passports are only carried by diplomats or special agency personnel such as Party officials or officials of government agencies. When operatives from the Party and spy agencies are sent abroad, they are given

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<sup>210</sup>–Database Center for North Korean Human Rights, “Travelers’ Circumstances in North Korea,” (2007 Closed documents).

diplomatic passports.

In fact, one must obtain a letter of invitation from China in order to receive a passport. In addition, confirmation must be made by the manager of one's agency or enterprise as well as by the local security agency and the State Security Agency. A final review must be approved by the foreign affairs agent at the SSA. Passports are issued by the Vice Minister of the State Security Agency. Upon receipt of the passport, the citizen must submit a written oath promising that he/she will not defame the honor of the Democratic People's Republic of Korea (DPRK) and will return home at the appointed date. One North Korean defector testified that in an effort to obtain a passport, he/she had to provide bribes for three years to the Foreign Affairs Section, and spent US\$220 and 900,000 won in North Korean currency.<sup>211</sup> As the economic hardship deepened and the shortage of foreign currency was exacerbated, most North Koreans tried to obtain passports by paying cash instead of going through the normal procedure. However, even paying cash sometimes took a long time. According to one testimony, most passport applications in 2006 were for trips to China, and the duration of stay was about three months. As of 2008, the amount of under-the-table cash for a passport was US\$200. Many travelers did not return home within the permitted duration; therefore, the authorities did not re-issue passports to those who failed to return home within four months.<sup>212</sup>

If a North Korean resident in the border region wants to visit China for a short trip, a river-crossing pass may be issued. For anyone engaged in cross-border trade, a 24-hour or 48-hour pass is issued. A letter of invitation from China is not required for this

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<sup>211</sup>\_NKHR2012000103 2012-06-05.

<sup>212</sup>\_NKHR2012000003 2012-01-10.

type of river-crossing permit, and these are issued immediately upon application. According to one testimony, he/she received a river-crossing permit in 2011 after waiting for four years. He waited to receive his permit for four years even though he legally applied for the permit at the Foreign Affairs Section of Kyunghung County Security Agency in North Hamgyong Province and also paid one million won under the table.<sup>213</sup> Since 2005, those who have relatives in China are required to register their names. If the Chinese relatives are not registered on North Korea's electronic list, they cannot meet their North Korean relatives, and likewise their North Korean relatives cannot travel to China. As the request for border-crossing document increased, North Koreans visiting China tried to recover the money they invested. However if it was difficult to recover the money invested even with the help from relatives, he/she would often decide to remain in China.

#### **D. The Reality of Residence Regulations and Forced Relocation**

In North Korea, people are not allowed to move their residence without government permission. Similar policy is the restriction placed on freedom of travel. According to North Korea's Penal Code "Article 149" (On Illegal Change in Hands over for State-owned Private Houses), "Those who unlawfully turn over, control or rent state-owned private house shall be sentenced up to two years in labor training." Since the economic hardship during the 1990s, transactions of private homes are discreetly taking place, in part as

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<sup>213</sup>\_NKHR2012000062 2012-04-17.

a result of capitalist influences and in part because North Korean society is undergoing change. A North Korean defector from Chongjin, North Hamgyoung province testified that housing transactions are illegal in principle, but people buy and sell homes freely without worrying about the law.<sup>214</sup> First, they have to ask the housing unit manager for help and provide bribes to the housing guidance official. Then they can exchange a large unit with a smaller unit or buy and sell their units.<sup>215</sup> They also have to give something to the unit manager, for example, cigarettes and a couple of small bags of grocery. Then the manager will obtain necessary documentation including the certificate of approval to occupy the unit.<sup>216</sup> The unit occupants have to pay monthly fees for the use of unit, including water and electricity bills, to the local people's committees.

On the other hand, there is the practice of forcible expulsion in North Korea, which is a flagrant violation of the freedom of residence. North Korean authorities have been utilizing forcible expulsion as a policy tool against political reactionaries and anti-government individuals and their families. In particular, the authorities have expelled people with disreputable personal background from Pyongyang to remote provinces. This policy still takes place although testimonies on this issue are somewhat inconsistent. The reason for expulsion varies widely given the rapid changes in North Korean society since the 1990s. During the 2000s, most cases of expulsion involved defection, smuggling and illegal circulation of information. If a family member escapes from North Korea, his/her family remaining in North Korea is forcibly expelled (banished).

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<sup>214</sup>\_NKHR2012000222 2012-10-23.

<sup>215</sup>\_NKHR2012000110 2012-06-12.

<sup>216</sup>\_NKHR2012000239 2012-11-06.

One North Korean defector testified that in border areas as Hyesan City in Yanggang Province, forcible expulsion has increased due to many incidents of smuggling, black-market and human trafficking.<sup>217</sup> Incidents of anti-socialist behaviors such as the use of cell phones also contributed to the increase in forcible expulsion.<sup>218</sup>

On the other hand, relatives in South Korea can come to their rescue if their family is expelled to a remote area. For this reason, a defector stated that forcible expulsion appears to be decreasing for fear of such rescue operations.<sup>219</sup> Wide spread practices of corruption and bribe giving may also have contributed to the decreasing trend of forcible expulsion.<sup>220</sup> Some defectors testified that most expulsions since 2010 are related to prostitution.<sup>221</sup> In addition, since 2012, expulsions for dealing with narcotics are on the rise.<sup>222</sup> Until 2011, when a family member was found missing, the remaining family would be expelled to a farming village. However since 2012, expulsions take place only when the facts are confirmed.<sup>223</sup> Forcible expulsions usually take place without warning in the early morning hours, and the neighbors are left guessing the reasons and destination of expulsion.<sup>224</sup> Some defectors testified that some expulsions had taken place to provide housing for the newly arrived people, and other defectors testified that a few expelled families were able to return to their hometown.<sup>225</sup>

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<sup>217</sup>\_NKHR2012000155 2012-07-31.

<sup>218</sup>\_NKHR2012000253 2012-11-20.

<sup>219</sup>\_NKHR2012000260 2012-12-04 and other testimonies.

<sup>220</sup>\_NKHR2012000249 2012-11-20.

<sup>221</sup>\_NKHR2012000239 2012-11-06.

<sup>222</sup>\_NKHR2012000201 2012-09-25.

<sup>223</sup>\_NKHR2012000221 2012-10-23.

<sup>224</sup>\_NKHR2012000198 2012-09-25.

<sup>225</sup>\_NKHR2012000178 2012-09-04.

<Table III-19> Cases of Forcible Expulsion

Time	Date & Place	Testimonies	Testifier ID
1976	Pyongyang City	Families with unclear background were sent to Musan, North Hamgyoung province as "evacuees." They were not allowed to mingle with local people, but had to live among themselves. Today, the situation has greatly changed.	NKHR2012000014 2012-01-31
early 2000	Musan County, North Hamgyoung Province	In the past, many were expelled due to "speech violations." Today, expulsions are reduced, as a new trend is not to pay attention to what others have to say.	NKHR2012000051 2012-03-27
2002	Musan County, North Hamgyoung Province	50 families in a neighborhood were expelled for illegal use of cell phones.	NKHR2012000056 2012-04-10
November 2007	Dalchon, South Hwanghae Province	Witnessed expulsion of the Woo-ho Jong (49) and Jong-ok Ho(42) couple at Dalchon hot-springs, South Hwanghae province. Together with their children (two daughters and a son), they were expelled to a farm village in South Hwanghae province. The reason was because they lived in a large house and were wealthy.	NKHR2012000072 2012-04-26
2008	Hyesan City, Yanggang Province	Someone with a family of two were expelled to a remote village, but later returned home.	NKHR20012000044 2012-03-19
November 2008	Wonsan City, Gangwon Province	Of the 30 families in a Inminban (people's group), 20 of them had defectors. The number of expulsion was reduced because there were too many to expel.	NKHR2012000045 2012-03-23
November 2008	Sunchon County, North Pyongan Province	I was arrested for river-crossing in November 2008, was expelled to Jindo-ri from Shinmi-ri of Sunchon County. Shinmi-ri is an island, whereas Jindo-ri is inland. My mother and brother were expelled to inland for fear that I might flee by boat with them.	NKHR2012000278 2012-12-18
2009	Sambongku, Musan County, North Hamgyoung Province	I saw a river-crossing broker (plus his wife and child) being expelled to Banchon-ri, Musan County. His crime was subject to correctional training, but the entire family was expelled by bribing the officials.	NKHR2012000011 2012-01-31
2009	Hyesan City, Yanggang Province	A neighbor was expelled from Hyesan to Woonyoung County because his daughter crossed the river. Until June 2005, defectors and their families were not linked. As permits increased and non-returnees increased, families were now expelled.	NKHR2012000046 2012-03-23

Time	Date & Place	Testimonies	Testifier ID
October 2010	Sakju County, North Pyongan Province	After the testifier (defector) was forcibly expelled, he found a document describing that his brother had fled to South Korea and received remittances from the brother, thus he was at risk for attempting to escape.	NKHR2001200012 2012-07-24
2011	Hoeryeong City, North Hamgyoung Province	Recently, many people who were caught watching CD-R were expelled to farming villages.	NKHR2012000015 2012-02-07
2011	Musan County, North Hamgyoung Province	Subject to expulsion are families of a defector, border broker and human trafficker. In Musan, more than 70 percent were defectors' families. Had heard about an 'Open Musan County Plan' to expel all defector families from Musan, and fill the city with people unfamiliar with border regions.	NKHR2012000043 2012-03-20
2011	Musan City, North Hamgyoung Province	Fewer people were expelled to Musan, but more people were expelled out of Musan. In this case, they are sent to remote villages, but most people avoided expulsion by paying money.	NKHR2012000024 2012-02-21
2011	Baekam County, Yanggang Province	About 10 neighboring families were expelled in 2011 alone. Most of them were economic crime cases. Expulsion was a one-sided order. They were sent from Hyesan City to Shinhungr, Bochon County, Yanggang Province.	NKHR2012000155 2012-07-31
February 2011	Chongjin City, North Hamgyoung Province	Witnessed in mid-February 2011 a family of four taken to an unknown location. This was a period of decreasing expulsion, so it was due to fear of public opinion in the wake of new leadership under Kim Jong-un.	NKHR2012000052 2012-03-28
April 2011	Shinchon County, South Hwanghae Province	In 2011, forcible expulsions were on the rise because even minor grain violators were expelled under dire grain shortage. If an individual stole four ears of corn, that individual was expelled. If more than four ears of corn were stolen, then the individual was sent to a correctional center.	NKHR2012000004 2012-01-10
September 2011	Hyesan City, Yanggang Province	The storm corps inspection came and set a target of expelling 1,000 families. At the time the witness defected approximately 30 families were expelled.	NKHR2012000002 2012-01-10



Time	Date & Place	Testimonies	Testifier ID
October 2011	Hoeryeong City, North Hamgyoung Province	In 2011, it was advertised during public education that forcible expulsion was decreasing. In fact forcible expulsion was decreasing. People surmised that in light of world opinions, expulsions were reduced, but many were covertly sent to "management centers" instead.	NKHR2012000020 2012-02-07
October 2011	Baekam County	Expulsions increased in Baekam County due to increase of illegal acts. One or two out of 200 families were so poor that they had to be expelled.	NKHR2012000040 2012-03-20
November 2011	Hoeryeong City, North Hamgyoung Province	In November 2011, expulsions were increasing due to increases in political crimes after the currency reform, and also an increase in defectors and human traffickers.	NKHR2012000041 2012-03-20
2012	Baekam County, Yanggang Province	In Baekam County, people expelled from Pyongyang and Nampo were working in nine to ten farms.	NKHR2012000212 2012-10-16
Unknown	Bangwonri, Hoeryeong City, North Hamgyoung Province	No expelled family came here because this is a border region. But some in Hoeryeong City were expelled to remote villages.	NKHR2012000025 2012-02-21
Unknown	Kilju County, North Hamgyoung Province	Almost no case of expulsion, but the ratio of going to correctional center was high.	NKHR2012000036 2012-03-13
Unknown	Hyesan City, Yanggang Province	In 2007, the number of river-crossing increased because smugglers bribed security guards. Families of defectors expelled in great numbers.	NKHR2012000042 2012-03-20
Unknown	Unknown	In 2009, expulsions decreased. Expulsions were decreasing since 2003, because there were too many defectors in the border region to expel.	NKHR2012000047 2012-03-25
Unknown	North Hamgyoung Province	Families related to South Korea are expelled. Other reasons were river-crossing and watching videotapes.	NKHR2012000065 2012-04-17
Unknown	Onsung, North Hamgyoung Province	Had heard that a major project of expulsion was launched after the death of Kim Jong-il.	NKHR2012000073 2012-05-08
Unknown	Hyesan City, Yanggang Province	If parents were sent to correctional labor, their children are expelled.	NKHR2012000080 2012-05-15
Unknown	Haeju City, South Hwanghae Province	Perceived that expulsion policy would be reinforced since Kim Jong-un implemented a slogan of 'rule by law.'	NKHR2012000084 2012-05-15

Time	Date & Place	Testimonies	Testifier ID
Unknown	Hyesan City, Yanggang Province	Had heard that if anyone crossed the river and went to China, his/her family would be expelled because there were many South Korean Christians.	NKHR2012000086 2012-05-15
Unknown	Pyongyang City	One safety agent and a deputy party secretary at sub-County level had drinks together and broke into the Party Central Headquarters. Both were sent to political prison camp, and their families were expelled to a mine in North Hamgyoung province.	NKHR2012000093 2012-05-25
Unknown	Hoeryeong City, North Hamgyoung Province	Main reason for expulsion is river-crossing by a family member. Number of expulsions decreased as the number of illegal river-crossing increased. Impossible to expel all of them.	NKHR2012000098 2012-05-29
Unknown	Onsung County, North Hamgyoung Province	If a family member were to defect to South Korea, the remaining family is expelled. From Onsung, many would be expelled to Bujon.	NKHR2012000100 2012-06-05
Unknown	Sunchon City, South Pyongan Province	If a missing person was found to have defected to South Korea, the family is expelled.	NKHR2012000103 2012-06-05
Unknown	Hoeryeong City, North Hamgyoung Province	Had heard that Keum-chol Kim and Kyong-chol Kim murdered a protection agency guard as he tried to intercept their cell phones, and their family was expelled.	NKHR2012000106 2012-06-12
Unknown	Hyesan City, Yanggang Province	Witnessed during the winter of 2011 a 35-year old woman being expelled after a South Korean phone number appeared on her cell phone. Expelled despite bribing.	NKHR2012000112 2012-06-12
Unknown	Wonsan City, Gangwon Province	Kim Jong-il pledged to make Wonsan as a second city next to Pyongyang. All the senior citizens, the disabled, and criminals were expelled. People who were rich in the provinces bribed officials to remain in Wonsan, utilizing the registry of the expelled people.	NKHR2012000134 2012-07-10
Unknown	Hyesan City, Yanggang Province	Had heard that criminals are expelled to make room for people coming from Pyongyang.	NKHR2012000151 2012-07-24
Unknown	Unknown	Expulsions reached the highest number in 2004 as people watched many South Korean CD-R. Today, the number has significantly decreased.	NKHR2012000168 2012-08-21

Time	Date & Place	Testimonies	Testifier ID
Unknown	Yanggang Province	The reason for the decrease in expulsion is because the number of defectors increased. If a family was expelled for crossing the river, they sold their property and moved to the expelled location. After conspiring with the driver, they would re-defect.	NKHR2012000252 2012-11-20

## E. Assessment

Currently, the North Korean society is experiencing a variety of changes. Included in these changes are the collapse of travel permit system due to corruption, the relaxation of control over the use of private homes for lodging, the appearance of new mode of transportation due to the increase in public traveling, and illegal housing transactions. These are examples of the impact of capitalist influences in the North Korean society. North Korea under the Constitution recognizes the right to freedom of residence and travel. But in reality, a policy of strict control over the population is maintained legally and systematically. However, the continuation of the economic hardship, the changes in public perceptions and changes in the society contributed to increases in mobility of the people and stimulated cash transactions among the people, as well as to the promotion of their liberty rights, albeit limited. The forcible expulsion is a serious breach to the right to freedom of residence. Forcible expulsion may be on the decline due to people participating in corruption (i.e. bribing) and defections. However, there are a variety of other contributing factors such as prostitution and narcotic use, thus it is difficult to conclude that forcible expulsion is on the decline. In short, the North Korean authorities attempt to

tighten internal control, while the citizens tend to take more or less a loose, if not liberal, attitude in many areas. This phenomenon reveals a North Korean paradox: the state and the society are running in the opposite direction, and this seems to show the reality in North Korea.



# 6



## *Freedom of Religion and Conscience*

### **A. Freedom of Religion**

The Universal Declaration of Human Rights stipulates, “Everyone has the right to freedom of thought, conscience and religion: this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance (“Article 18”).” The ICCPR also declares in “Article 18,” “Everyone shall have the right to freedom of thought, conscience and religion (“Para. 1”).” “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice (“Para. 2”).” And, “Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and necessary to protect public safety, order, health or morals or the fundamental rights and freedom of others (“Para. 3”).”<sup>226</sup>

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<sup>226</sup> “Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and necessary to protect public safety, order, health or morals or the fundamental rights and freedom of others.”

Even in North Korea, freedom of religion is stipulated in the law. But the reality is entirely different. According to North Korea's official statistics, about two million or 22.2 percent of North Korea's 9.16 million population participated in a religious practice following the liberation of Korea in 1945. This number is approximately 1.5 million Chondokyo (Heavenly Way), 370,000 Buddhists, 200,000 Christians and 57,000 Catholics.<sup>227</sup> Since the establishment of its government in 1948, North Korea has constantly persecuted religion in the name of Kim Il-sung's teaching that religion is opium for the people.<sup>228</sup> The North Korean government views religion as a tool for 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>229</sup>

Many religiously active people in North Korea are branded as disloyal and are brutally tortured or executed for their beliefs. Most religiously active people are categorized as anti-state and counter-revolutionary hostile elements and subjected to ruthless persecution. Christians in particular were purged because they are regarded as tools of imperialist aggression. Taking advantage of the anti-American sentiment developed during the Korean War, North Korea reinforced religious persecution and stigmatized all religious persons and their families as anti-revolutionary elements based on

<sup>227</sup>—Korean Central News Agency, *Chosun Central Almanac 1950* (Pyongyang: Korean Central News Agency, 1950), p. 365.

<sup>228</sup>—"Religion is a reactionary and unscientific world-view. Religion is like opium." See *Selections from Kim Il-sung's Writings* (Pyongyang: Korean Workers' Party Publishers, 1972), p. 154.

<sup>229</sup>—The Academy of Social Science Philosophy Institute, *The Dictionary of Philosophy* (Pyongyang: The Academy of Social Science Press Philosophy Institute, 1985), p. 490.

personal background checks.

In 1958, North Korea launched the so-called Major Guidance Project of the Central Party claiming to flush out and punish impure (unfaithful) elements. Under this project North Korea conducted a massive background survey on all North Koreans, and classified them into three major categories: core class, wavering class and hostile class. The classes were further divided into 51 groups or types. Religious followers such as Christians, Buddhists, Chondokyo (Heavenly Way) and members of Chongwoo Party were branded as impure or reactionary elements along with pro-Japanese, pro-American reactionary bureaucrats and enemy agency workers. These people were then banished from society and placed in one of 21 sub-groups of “hostile class.” Confucius scholars, followers of shamanism, families of defectors to South Korea, prostitutes and other indolent drifters were placed in one of the 18 subgroups of wavering class.

Subsequently, almost all religious followers disappeared in North Korea. Only 60 out of a total of 400 or so Buddhist temples survived. The 1,600 monks and nuns and their 35 thousand Buddhist followers vanished. In addition, approximately 1,500 Protestant churches and some 300 thousand followers, three Catholic dioceses and 50 thousand Catholic followers, and 120 thousand followers of Chondokyo have disappeared. In a speech made at the Ministry of People’s Security in 1962, Kim Il-sung stated the reason for their extermination:

“(We) cannot carry such religiously active people along our march toward a communist society. Therefore, we have tried and executed all religious leaders higher than a deacon in the Protestant and Catholic churches. Among other religiously active people, those deemed malignant were all put to trial. Among ordinary religious believers, those who

recanted were given jobs while those who did not were held in prison camps.”<sup>230</sup>

However, since the start of inter-Korean talks during the 1970s, the North Korean authorities have reinstated some religious organizations for external propaganda purposes. For example, North Korea revised their socialist Constitution in 1972 and stipulated in “Article 54,” “Citizens shall have freedom of religion and freedom of anti-religious propaganda.” In reality, North Korea has failed to guarantee complete freedom of religion. North Korea also created new religious organizations by reviving defunct religious organizations such as the Chosun Christians Federation, the Chosun Buddhist Federation and the Chosun Chondokyo Central Guidance Committee. Through these bodies, North Korea sought to form a united front with progressive South Korean religious leaders to promote their unification formula and anti-South Korean position.<sup>231</sup> In short, North Korea is using religion as a tool for political propaganda aimed at South Korea.

The transformation of religious policy began with a constitutional amendment. In the 1992 revision, North Korea stipulated in “Article 68,” “Citizens have freedom of religious beliefs. This right is granted by approving religious ceremonies and the construction of religious buildings. No one may use religion as a pretext for drawing foreign forces or for harming the state and social order.” The phrase freedom of anti-religious propaganda was deleted from

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<sup>230</sup> Tae-woo Koh, *North Korea's Policy on Religion* (Seoul: Minjok Cultural Publishing Company, 1989), p. 79.

<sup>231</sup> The Chosun (North Korean) Catholic Association was formed in 1988. And, North Korea has organized in 1989 the “Chosun Religious Followers Association” comprising the Chosun Buddhist League (1945), Chosun Christian League (1946), and Chosun Chondokyo Central Guidance Committee (1946).



“Article 54” of the 1972 Constitution. The revised North Korean Constitution shows some progress. Legal steps have been taken; superficially allowing freedom of religion, construction of religious buildings and observance of religious ceremonies.

However, the Constitutional provision prescribing “Religion shall not be used in bringing outside forces or in harming the state and social order”, is a restriction on freedom of religion, because it is evident that North Korea prevents the spread of any religion in the society other than the Juche Ideology. In the Constitutional revision of 1998, the expression of “anyone” was deleted, and it stands unchanged today. The following table illustrates how the provision on religion has changed over time.

**<Table III-20> The Changes in Articles Related to Religion in the Socialist Constitution of North Korea**

Year of Establishment and Amendment	Articles Related to Religion
Adopted DPRK Constitution, September 8, 1948	Chapter 2. The fundamental rights and duties of citizens Article 14. Citizens have freedom of religion and religious worship.
Adopted DPRK Socialist Constitution, December 27, 1972	Chapter 4. The fundamental rights and duties of citizens Article 54. Citizens have freedom of religion and freedom from religious propaganda.
Revised DPRK Socialist Constitution, April 9, 1992	Chapter 5. The fundamental rights and duties of citizens Article 68. Public citizens have freedom of religion. This right is advocated to build religious buildings or permit religious services.
Revised DPRK Socialist Constitution, September 5, 1998	Chapter 5. The fundamental rights and duties of citizens Article 68. Citizens have freedom of religion. This guarantees the right to build religious buildings or hold religious services. Religion shall not be allowed to attract foreign intervention or disrupt the state’s social order.
Revised DPRK Socialist Constitution, April 9, 2009	
Revised DPRK Socialist Constitution, April 9, 2010	
Revised DPRK Socialist Constitution, April 13, 2012	

### • Religious Buildings

North Korea completed the construction of Bongsu Church and Jangchoong Cathedral at the end of 1988 and Chilgol Church in 1989. Chairman Kim Jong-il paid a visit to a Russian Orthodox church during his tour of the Russian Far East in August 2002. Subsequently, North Korea began construction of a Russian Orthodox Church in June, 2003. On August 13, 2006, the Jungbaik Church, a Russian Orthodox Church, was completed in Jungbaik-dong, Nakrang District of Pyongyang. In April, 2003, four North Koreans began studying at the Russian Orthodox Seminary in Moscow to serve dedication to the Orthodox church in Pyongyang.<sup>232</sup> Currently, two of the four have been baptized as church fathers, and are serving at the church.

North Korea also has a number of religious educational institutions. According to the Second Regular Report North Korea submitted to the UN Committee on Civil and Political Rights in 2000, the Kim Il-sung University added Department of Religion under the History Department in 1989, and has been teaching religious doctrines of five major religions, such as Christianity, Catholicism, Buddhism, Chondokyo (Heavenly Way) and Islam. There are also other religious educational institutions that provide education and training for religious leaders. The report stated, "There are religious educational facilities run by religious organizations. The Chosun Christian Federation operates the Pyongyang Theological Seminary and the Chosun Buddhist Federation Central Committee is running a Buddhist school, and the Chosun Catholic Association Central Committee also operates a Chondokyo middle

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<sup>232</sup> Korean Central Television, June 25, 2003; *Yonhap News*, June 24 and 27, 2003.

school and teaches students.” In 2003 North Korea sent graduates of Kim Il-sung University to Moscow to study theology.<sup>233</sup>

It appears that North Korea is taking positive steps by permitting South Korean religious groups to reconstruct or newly construct religious facilities in North Korea. Some examples are the restoration of Youngtongsa Temple in Kaesong, which started in 2002 with the support of South Korea’s Chontaejong Buddhist denomination, the restoration of Shinkeisa Temple in Mt. Kumgang, started in 2004 with the support of Jokeijong Buddhist denomination, and Pyongyang Je-il Church, launched in November 2005 with the support of the United Assembly of South Korean Presbyterian Churches.<sup>234</sup> From December 2002, North Korea has begun an extensive re-painting project for 59 temples across the country.

During personal interviews, North Korean defectors reported that the Chosun Christian League insisted that there were 14,000 religious practitioners in North Korea, including 300 at Bongsu Church and 150 at Chilgol Church in Pyongyang and 500 “family churches.”<sup>235</sup> As for these churches, many Pyongyang citizens were aware of their existence, but most people living outside of Pyongyang were not even aware of the fact that there were such religious facilities in Pyongyang. Even if they did, they did not realize the facilities were places of worship. Instead, they thought these places were restricted areas, and they could not distinguish between a church and a cathedral. Furthermore, only a few of them knew anything about a cathedral. Most North Koreans did not realize Buddhist temples were religious facilities, and did not recognize Buddhist monks as religious practitioners. The following

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<sup>233</sup>–*Yonhap News*, March 31, 2003.

<sup>234</sup>–The Pyongyang Je-il Church reportedly is not functioning as a church at this time.

<sup>235</sup>–*Nocut News*, November 10, 2010.

table is a collection of testimonies on religious facilities in North Korea.

<Table III-21> Testimonies on Religious Facilities

Time of event	Place	Testimony	Testifier ID
2003	Pyongan Province	Seen a temple called Bohyonsa in Mt. Myohyang	NKHR2011000103 2011-05-03
2009	Kosan County, Gangwon Province	Been to Sokwangsa temple in Kosan County, Gangwon province, but there was no monk.	NKHR2012000002 2012-01-10
Unknown	Pyongyang City	Seen a church in Pyongyang while serving in the military, but could not tell whether it's a church or cathedral.	NKHR2011000070 2011-03-15
Unknown	Pyongyang City	Seen a cathedral in Sonkyo, Pyongyang. Seen some religious people during the "13th World Youth Festival" in 1989. They were mobilized to show to foreign visitors.	NKHR2011000088 2011-04-05
Unknown	Kyongwon County, North Hamgyong Province	Never heard of the word "religion." Only heard about "kwansang," or "fortune-telling by face."	NKHR2011000145 2011-06-21
Unknown	Unknown	Never heard of the word 'religion'.	NKHR2011000157 2011-07-05
Unknown	Hyesan City, Yanggang Province	Seen a small temple in a Goat Ranch in Hyesan City. There was no monk.	NKHR2011000237 2011-11-22
Unknown	Musan County, North Hamgyong Province	Heard about religion after seeing a play entitled Sung-hwangdang in North Korea. The play was designed to criticize religion by showing a monk and a pastor arguing their faith was superior.	NKHR2011000250 2011-12-20
Unknown	Pyongyang City	Seen a church on Tong-il street in Pyongyang.	NKHR2012000093 2012-05-25
Unknown	Poongso County, Yanggang Province	Seen a temple and a monk in Poongseo County, Yanggang province	NKHR2012000154 2012-07-31

### • Religious Ceremonies

The North Korean authorities began to permit religious ceremonies. Buddhist temples were allowed to conduct formal

ceremonies on Buddha's birthday, as well as on major Buddhist holidays. Sometimes even Buddhist ceremonies of a political nature such as the Buddhist Prayer Meeting for the Unification of Fatherland have been allowed. When the United States designated North Korea as a nation persecuting religious freedom, North Korea complained and responded through articles in the *Chosun Shinbo* (in Japan), pointing out that 200-300 Christians were attending church services at the Bongsu Church every Sunday and church services were observed in the form of family churches in 500 locations across North Korea every Sunday.<sup>236</sup>

During the period when inter-Korean exchanges were active, joint religious ceremonies were also held. Every year since 1997, South and North Korean Buddhist leaders have conducted joint inter-Korean Buddhist ceremonies and prayers in accordance with an agreement. Christians have also observed inter-Korean Joint Easter Prayers since 1997. South Korea's "Catholic Fathers Association for the Realization of Justice" visited North Korea in August 1998 and observed a joint mass on August 15 to celebrate St. Mary's Ascension. Subsequently, the association led a series of joint masses, including the Mt. Kumkang Joint Mass. A group from the Chondokyo (Heavenly Way) Central Committee led by Grand Master Chol Kim visited North Korea in 2001 and jointly observed an inter-Korean ceremony celebrating the Open Sky Day. Subsequently, many similar events followed. In 2003, religious leaders of South and North Korea were invited to attend the March 1 National Ceremony, in the wake of the June 15 inter-Korean summit meeting.

Many North Koreans are aware of the existence of the Bible

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<sup>236</sup>—Ministry of Unification, "Weekly North Korean Trends," No. 569 (Seoul: Ministry of Unification, 2001), pp. 9-10.

and religious ceremonies through Lecture Series as “Let us resolutely crush the enemy’s cunning conspiracy and malicious agitation to spread religion in our society.”<sup>237</sup> According to North Korean defectors, the authorities treat possession of the Bible as a serious crime because they believe the Bible is an essential tool of ideological and cultural intrusion.<sup>238</sup> Most North Korean defectors said they had never heard of Buddhist scriptures, but they had heard about the Bible even though they never saw it personally.<sup>239</sup>

Concurrently, scenes of Christian worship in an underground church in North Korea were reported in the media for the first time. The scenes showed three Christians praying and conducting ceremonies at a private home in Chongjin City, North Hamgyong Province. They said “My Father in Heaven, why don’t you have mercy on us, even though the future of our people is becoming more and more treacherous? As long as Kim Jong-il is alive, the people of this country will never see the light of day. Every day the

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<sup>237</sup>\_NKHR2009000013 2009-03-11; In the “Lecture Series” North Korea insisted that religion, including Christianity, is a tool designed to “overturn our system,” “breach our people’s right to self-reliance,” and “abuse our human rights.” The series accused the South Korean Government for buying over travelers, illegal border-crossing persons, and traders with money and bribes. It argued that South Korea was attempting through them to bring into North Korea various religious publications, including the Bible, videotapes, and recordings. The lecture series also argued that most children will not easily forget what they have seen or heard when they were young. Taking advantage of this children’s psychological vulnerability, South Korea was giving intensive religious education and would return them back to North Korean families so that they could in turn influence their parents, and that “underground religious cells” might spread widely. It further said “South Korea’s anti-Republic agitations are increasing by the day, and now are reaching the unbearable limit... Blocking out religious intrusions is not simply an administrative task, but is a serious ideological struggle to politically and ideologically protect and safeguard our General Kim Il-sung.” Good Friends Magazine, April 2008.

<sup>238</sup>\_NKHR2009000017 2009-03-24.

<sup>239</sup>\_NKHR2009000020 2009-04-07; NKHR2009000024 2009-04-20.

government says ‘tomorrow will be better’,” “Tomorrow. We have been praying for over a year, but where is your mercy?” The Christians in the video were arrested in 2007 and were never seen again; it is likely that they were executed.<sup>240</sup>

### • Religious Organizations

Various religious groups have organized and are operating in North Korea today. North Korea has been emphasizing that freedom of religion is guaranteed, especially in connection with the freedom of assembly and association. North Korea’s Second Regular Report on the implementation of ICCPR submitted in 2000 insisted that there were no restrictions against the practitioners of religion in their activities or organizing religious groups. This is due to the fact that “Article. 67, Para. 2” of the Socialist Constitution guarantees “Conditions for free activities of democratic political parties and social organizations.” The list included the Chosun Christian Federation, Chosun Buddhist Federation, Chosun Catholic Association, Chosun Chondokyo Central Guidance Committee and Chosun Religionists Association.

The North Korean delegation boasted that religion was completely separate from the state, thus no religion was discriminated against or interfered. People were free to choose and freely practice the religion of their choice. However, it is impossible to ascertain whether religious organizations such as Chosun Buddhist League, Chosun Christian League, Chosun Catholic Association, Chosun Chondokyo (Heavenly Way) Central Committee and Chosun Orthodox Committee are actually in operation, and whether the

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<sup>240</sup>—TV Chosun (Seoul) and Christians Today, January 2, 2013.

central association of these organizations, the Chosun Religious Practitioners Association, is operating with regional branches. Thus far, none of the North Korean defectors interviewed were aware of any local religious organizations in North Korea.<sup>241</sup>

<Table III-22> The Present Status of Religious Organization in North Korea

Organization	Period	Present Status
Korean Council of Religionists (KCR)	1989.05	<ul style="list-style-type: none"> <li>• A consultative body of religious organizations</li> <li>• Chairman: Jae-un Jang.</li> </ul>
Chosun Buddhist Federation	1945.1.2	<ul style="list-style-type: none"> <li>• Originally called the North Korea Buddhist Federation, it was organized in 1945, but did not operate from 1965 to 1971.</li> </ul>
	1972	<ul style="list-style-type: none"> <li>• Name changed to the Chosun Buddhist Federation</li> <li>• Chairman: Sang-jin Sim.</li> <li>• There are about 60 temples, 300 monks (married priests), and 10,000 believers.</li> <li>• Its education facility, a Buddhist school, was located in the Jung-Heung-sa Temple in Yanggang Province in 1989, but later it was transferred to Pyeong-hwa-gwang-beop-sa Temple in 1991.</li> </ul>
Chosun Christian Federation (Josun grisdo yeonmaeng)	1946.11	<ul style="list-style-type: none"> <li>• Originally called the The North Korean Christian Federation of North Korea, it was organized in 1946, but did not operate from 1964 to 1973.</li> </ul>
	1974	<ul style="list-style-type: none"> <li>• Establishment of the Chosun Christian Federation (Josun Kidokkyo Yeonmaeng).</li> </ul>
	1992.02	<ul style="list-style-type: none"> <li>• Name changed to the present name (Josun grisdo yeonmaeng)</li> <li>• Chairman: the late Yeong-sup Gang (Died in 2012).</li> </ul>
Chosun Catholic Association	1988.06.	<ul style="list-style-type: none"> <li>• There are two main churches (Bongsu Church built in 1988 and Chilgol Church built in 1989) and 520 house churches.</li> <li>• It published old and New Testaments and a hymnal from 1983 to 1984. It published Bibles and hymnals in 1990.</li> <li>• There are about 10.000 believers in North Korea; 800 live in Pyongyang.</li> </ul>

<sup>241</sup>David Hawk, "Thank you Father Kim Il Sung," U.S. Commission on International Religious Freedom (2005), p. 88.



Organization	Period	Present Status
Chosun Catholic Association	1999.06.	<ul style="list-style-type: none"> <li>• The Chosun Catholic Association was organized.</li> <li>• Its name was changed to the Chosun Catholic Association</li> <li>• Chairman: Jae-un Jang (Jae-cheol Jang)</li> <li>• One Roman Catholic Church (Jangchung Catholic Church in 1988), Four parishes, 4,000 believers</li> <li>• No Catholic priests and nuns</li> </ul>
Chosun Chondokyo	1952.02.	<ul style="list-style-type: none"> <li>• North Korean Chondokyo Religious Affairs was organized, but it did not operate from 1952 to 1973.</li> </ul>
Central Committee	1974.02.	<ul style="list-style-type: none"> <li>• Chosun Chondokyo Church was organized. Chairman: Mi-yeong Ryu</li> <li>• There are about 14,000 believers.</li> </ul>
Chosun Russian Orthodox Church Committee	2003.06.	<ul style="list-style-type: none"> <li>• Chairman: Il-jin Heo.</li> <li>• Jeong-baek-sa-won, a Russian Catholic Church, was built on August 24, 2006.</li> </ul>

Source: Korea Institute for National Unification, Introduction to North Korea 2009 (Seoul: Korea Institute for National Unification, 2010), p. 439.

Meanwhile, North Korea is permitting religious organizations to engage in international exchanges. These religious organizations have attempted frequent contacts with their overseas counterparts during the 1990s. In an attempt to improve relations with the United States, they invited US religious missions to Pyongyang in 1995. A North Korean Christian delegation led by Kang Young-sup, the Chairman of the Christian League's Central Committee, paid a month-long visit to the United States.<sup>242</sup> In addition, Chosun Buddhist League sent a delegation to the Asia Buddhist Peace Conference held in Laos.<sup>243</sup>

North Korean religious organizations seem to more focus on playing a counterpart role vis-a-vis foreign religious organizations

<sup>242</sup> Byung-ro Kim, *Changes of North Korea's Policy on Religion and Realities of Religion* (Seoul: Korea Institute for National Unification, 2002), p. 48.

<sup>243</sup> *Korean Central News Agency*, February 10, 2003.

or international humanitarian groups, rather than attempting to promote and support freedom of religion in North Korea. As the food shortage exacerbated and social control became unwieldy in the aftermath of Kim Il-sung's death, North Korea decided to allow the religious organizations to contact their foreign counterparts, while still maintaining oppressive policies over religious activities. It was apparently an attempt to secure more foreign currencies through the expansion of humanitarian contacts with the West, while blocking the influence of its specific religion. This policy may be gleaned from the changes of religious terminology as shown in <Table III-23> below.

<Table III-23> Comparison of Changes in Religious Terminology in North Korea

Religion	Hyeon-dai-jo-seon-mal-sa-jeon (Modern Korean Dictionary, 1981)	Jo-seon-mal-dae-sa-jeon (Korean Dictionary, 1992)	Jo-seon-dae-bae-gyoa-sa-jeon (Korean Bibliographical Dictionary, 2000)
Christianity	It conceals and legitimizes the abuse and inequality of previous eras and uses the ridiculous idea of heaven to persuade people to obey the ruling class.	The major ideology of the church is equality and philanthropy. It preaches that people may go to heaven if they observe the lessons of Christianity well.	It is a religion that preaches the salvation of human beings through Jesus Christ, called the son of God.
Church	A place where poisonous anti-revolutionary ideology is used to abuse people under the mask of religion.	A building where propaganda is created to make people believe in Christianity and provide them with various religious services.	A gathering place to administer ceremonies for believers, such as religious services, baptisms and sacraments.
Bible	A book about the fictitious and deceitful religious doctrine of Christianity.	A book mainly about the religious doctrine of Christianity.	
Buddhism	It preaches the principles of non-resistance and servile submission, teaching people to tolerate and endure all pain in the real world in order to go to the abode of perfect bliss after death.	Based on the idea that mercy for others liberates human beings from agony, it preaches that those who renounce the mundane world and keep moral principles shall reach the abode of perfect bliss.	It preaches that people who are not obsessed with material attachments and abstain from selfish pursuits will, through mental training, be emancipated from everything and reach Nirvana.

Source: Korea Institute for National Unification, *Buk-han-Gae-yeo 2009 (Introduction to North Korea 2009)*, (Seoul: Korea Institute for National Unification, 2009), p. 437.

## • Testimonies on the Reality of Religious Freedom

Religion is a very serious matter because North Korea cannot permit any ideology other than the Juche.<sup>244</sup> North Korea teaches their people that religion is superstition, like a narcotic. If anyone is caught in a religious act, he/she is sent to a management center.<sup>245</sup> As these facts indicate, North Korea has taken legal and institutional measures to allow freedom of religion and permit the construction of religious buildings and the holding of religious ceremonies, and to establish religious organizations and conduct religious education. Nonetheless, freedom of religion in its fullest sense is not granted in reality.

First, no Protestant or Catholic churches exist in North Korea except in Pyongyang. As for the family churches that North Korea said existed across North Korea, it is questionable how freely they are allowed to practice religious activities in the provincial towns, even if a church existed. In all the personal interviews with defectors from North Korea, not one person was aware of a family church anywhere in North Korea.<sup>246</sup>

Second, North Korea manipulates Protestant churches, Catholic churches and temples for external propaganda and political purposes by allowing foreign religious leaders and other occasional visitors to these religious facilities. The entry or the use of the facilities by local citizens is strictly prohibited. Not surprisingly, ordinary citizens generally perceive these religious places as sightseeing spots for foreigners. In the case of the Bongsu Protestant Church in Pyongyang, built in September 1988, only the building supervisor

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<sup>244</sup>\_NKHR2008000016 2008-09-02.

<sup>245</sup>\_NKHR2008000017 2008-09-04.

<sup>246</sup>\_Interview with defector XXX in Seoul on January 24, 2007.

and his family live there. When foreign guests come to visit, several hundred carefully selected 40 to 50-year-old citizens are gathered to conduct false church services. Foreign Christians testified that while visiting North Korea, they stopped by a church on Easter Sunday without prior consultation and discovered that the doors were locked. Many foreign visitors said that church activities were apparently staged.

Third, all defectors consistently testified that one would certainly be persecuted for practicing religion on a personal level. The fundamental reason for North Korea's difficulty in guaranteeing the freedom of religion is in accordance with the Socialist Constitution, which stems from the belief that religion is a means of foreign encroachment and inflicts harm on North Korea's social disciplines. Even when a large number of the population was forced to roam around in search of food during the famine in the 1990s, North Korea tried to suppress the promotion or propagation of Christianity in the belief that Christianity was detrimental to the integrity of the North Korean regime. Since 1997, North Korean citizens have received education designed to prevent the spread of Christianity. The education emphasized the necessity of detecting the individuals engaged in spreading Christianity and how to identify them. A defector testified that some individuals who used to practice religion before the liberation of Korea from Japan (1945) were known to continue their practice discreetly. Defector XXX testified that there are approximate 2000 secret believers in certain provinces.<sup>247</sup>

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<sup>247</sup>\_NKHR2011000086 2011-04-05.

## • Punishment for Religious Activity

Freedom of religion is indeed restricted in North Korea except as a part of officially sanctioned events and at designated facilities. This reality is clearly demonstrated when we look at the punishments imposed on citizens who practice religion and forcibly deported defectors. As the food shortage became exacerbated and as the number of defectors rapidly increased, the North Korean authorities began to relax punishment for those defecting to China in search of food. Authorities continued to impose heavy penalties on those who had contacts with religious South Koreans in China.<sup>248</sup> However, it appears that the North Korean authorities are no longer treating religion related to defectors automatically as political criminals. The reason the North Korean authorities are trying to curb the spread of religion via defectors is because most defectors return to North Korea with significant knowledge and understanding of religious beliefs even if they do not actually practice any religion.<sup>249</sup> Some examples of punishments for superstitious practices are detailed in <Table III-24>.

<Table III-24> Testimony Related to Religious Persecution

Time of event	Place	Testimonies	Testifier ID
1995	Unknown	During a lecture, party secretaries told us to be careful, as South Korea was sending in Bibles, and said if we saw the Bible we should turn it in to authorities.	NKHR2012000045 2012-03-23
2002	Musan City, North Hamgyoung Province	A woman (52) was forcibly expelled for possession of a Bible.	NKHR2012000050 2012-03-27

<sup>248</sup>—Interview with defector XXX in Seoul on April 15, 2010.

<sup>249</sup>—NKHR2009000011 2009-03-03.

Time of event	Place	Testimonies	Testifier ID
2002	Unknown	Went to the "State Security Agency War Display" as part of Youth League program. Saw a picture of execution of 16 members of reactionary group (underground group) from Guryongri, Sariwon City in 1992. It looked like a family. In retrospect, the group was an underground religious group.	NKHR2012000072 2012-04-26
2005	Hyesan City, Yanggang Province	Heard a person was missing because of the Bible. He/she was probably sent to a political prison camp.	NKHR2012000002 2012-01-10
2006	Musan County, North Hamgyoung Province	The source heard of a person who was caught praying. The person was sentenced to correctional prison labor at Musan County, North Hamgyoung Province, in 2006.	NKHR2011000098 2011-04-19
2008-07	Unknown	The source was detained at the Onsung Security Agency (County) Detention Facility after being deported from China. During processing, a Bible was found among the belongings of a fellow female deportee. As soon as the Bible was found, the woman was placed in another line and disappeared from the Detention Facility. The woman was from Wonsan and was about 65 years old. Nobody knows what kind of punishment she received.	NKHR2011000194 2011-08-23
2008	Unknown	During an investigation, it was discovered that one woman had illegally crossed the border and attended a protestant church in China. She was detained in a political prison camp, but later she was found to be mentally ill. The source saw her detained in the Jongori No. 12 Correctional Center in 2008, after being sentenced to three years of correctional prison labor.	NKHR2011000201 2011-09-06
2008 Fall	Pihyon County, North Pyongan Province	Heard a grandmother was taken away at night because she had a Bible. Assumed that she was sent to a political prison camp.	NKHR2012000018 2012-02-07
2008	Musan County, North Hamgyoung Province	A Korean-Chinese pastor said one must have a religion in order to survive while handing out clothes during his visit to his relatives. His identity was revealed and was taken away. Subsequently, he was denied travel permits.	NKHR2012000261 2012-12-04

Time of event	Place	Testimonies	Testifier ID
2009	Junghwa County, North Hamgyoung Province	The wife of a tactical staff officer of Air Command in China's military, North Hamgyoung Province was publicly executed for possessing a Bible around 2009.	NKHR2011000209 2011-09-20
2009 Summer	Sunchon County, North Pyongan Province	Heard many Christians existed in Sunchon County from the days of Japanese occupation. As the missionaries were expelled, they promised to return when "azaleas bloomed." Some of their children retained Bibles. A grandmother asked a neighbor to cut off a tree nearby, but when the tree was cut down, a bible fell off of the magpie nest. All five of the family (grandmother, son, daughter in law, and two sons) were sent to a place of no return. Assumed it was a political prison camp.	NKHR2012000104 2012-06-05
November 2011	Hoeryeong City, North Hamgyoung Province	Heard religious activities would be punished. So religious people would disguise themselves as patients from mental asylum to avoid punishment.	NKHR2012000041 2012-03-20
2011	Hyesan City, Yanggang Province	A neighbor (mother of Bok-nam) received a pretrial for a year for contacting a religious person in China. She was released on illness, but then sent to a management center.	NKHR2012000240 2012-11-06
Unknown	Unknown	The source heard from a prison inmate in the Jongori Long-term Correctional Center at Hoeryeong about how an inmate's mother, who used to play the organ in a secret church, was taken to a political prison camp.	NKHR2011000119 2011-05-24
Unknown	Onsung County, North Hamgyoung Province	The source heard from her mother that three family members, including a husband, wife and son who had lived in Sambong-gu, Onsung County, North Hamgyoung Province, were caught conducting a family worship service and taken to a political prison camp.	NKHR2011000201 2011-09-06
Unknown	Unknown	Religion is inconceivable in North Korea. Seen a woman getting life-term correctional sentence for possession of the Bible while detained in Hoeryeong security agency detention center.	NKHR2012000036 2012-03-13
Unknown	Onsung County, North Hamgyoung Province	Seen a woman taken away while detained in a detention center. She was praying "Good God, please help me."	NKHR2012000044 2012-03-19

Time of event	Place	Testimonies	Testifier ID
Unknown	Musan County, North Hamgyoung Province	Received education with Lecture Series print-out. It said "Let us totally root out religion and superstition."	NKHR2012000051 2012-03-27
Unknown	Sampo, Yanggang Province	Heard a woman was caught bringing a Bible from China. She tried to kill herself by swallowing nails. She was taken to a hospital, but never heard about her afterward.	NKHR2012000179 2012-09-04
Unknown	Sunchon County, North Pyongan Province	There was an underground religious group. The people were taken away by Security Agents. Never heard anything afterwards.	NKHR2012000278 2012-12-18

North Korean authorities also punish all superstitious activities, such as fortune-telling. North Korea has classified followers of superstition into the wavering class, and stipulated in the Penal Code "Article 267" (as revised in 2009) that "Those who receive money or other forms of payment and provide any act of superstition shall be penalized up to two years of labor training, and in more serious cases up to five years. "Article 268" (Aiding Acts of Superstition) prescribes, "Those who promote any act of superstition for profit or other motives shall be penalized up to two years of labor training. Furthermore, if superstitious activity involved participation of several people, the penalty was increased to three years. In a more serious case, the penalty can be three to seven years in correctional labor." In addition, "Article 219" (Superstition and Spreading Rumors) of the Administrative Penalty Law, as revised in 2009, prescribes, "Those who engaged in an act of superstition or spread false rumors or hearsay that can cause social confusion or undermine confidence in the government will be penalized with fines or labor education for at least three months." Everyone must pay absolute allegiance to the state in accordance with the ten principles of unitary ideology, and no other beliefs or



ideology is allowed.

Despite the strict guidelines, acts of superstition appear to be rampant in North Korea, and people share information on which fortune teller is good. Going to see a fortune teller will normally be penalized, but state safety protection agents, party officials and State Security Agents also visit fortune tellers if their predictions are known to be accurate. Thus most people who visit fortune-tellers are not penalized. However, fortune-tellers who refused to give money (bribe) to security agents and those who are too popular are likely to be penalized.<sup>250</sup> Incidents of penalty related to superstition are shown in <Table III-25> below.

<Table III-25> Testimony Related to Punishment for Superstitious Behavior

Time	Place	Testimonies	Testifier ID
2000-2001	Musan County, North Hamgyoung Province	Heard about a 7-year old child in the neighborhood who was skilled in fortune telling. He disappeared one day, and later plain-clothes men came to obtain his picture from his parents. People believed he was serving some role in the government. It is common for fortune tellers to disappear in North Korea.	NKHR2012000030 2012-02-21
2007	Hyesan City, Yanggang Province	Testified that poor and down trodden people rely on fortune-telling. If caught, he/she is forcibly expelled.	NKHR2012000038 2012-03-20
2009	Gimchaek City, North Hamgyoung Province	The source witnessed a man receiving three months of disciplinary prison labor for superstitious practices in Gimchaek, North Hamgyoung Province in 2009.	NKHR2011000108 2011-05-11
2009-10	Pyongseong City, South Pyongan Province	The source witnessed the punishment of a person for superstitious behavior (three months of disciplinary prison labor) at Pyongseong, South Pyongan Province in October 2009.	NKHR2011000111 2011-05-17

<sup>250</sup>\_NKHR2008000023 2008-11-11.

Time	Place	Testimonies	Testifier ID
2009-10	Unknown	In 2009 the source witnessed a person detained at the Jongori Correctional Center after being sentenced to one and a half years of correctional prison labor for superstitious practices.	NKHR2011000052 2011-02-15
2009	Chongjin City, North Hamgyoung Province	Testified that a 34-year old woman was penalized for a five-year correctional labor for fortune telling by face. Testified that the penalty for superstition was harsh.	NKHR2012000056 2012-04-10
2010	Musan County, North Hamgyoung Province	The source witnessed a person punished for fortune-telling for people planning to illegally cross the Chinese border. The person was sentenced to three years of correctional prison labor in 2010 in Musan County, North Hamgyoung Province.	NKHR2011000179 2011-08-02
2010-03	Baekam County Yanggang Province	The source witnessed a person being punished for believing in superstition, instead of the Party. This happened in Baekam County, Yanggang Province. The person was sentenced to six months of disciplinary prison labor in March 2010.	NKHR2011000235 2011-11-08
2010	Hyesan City, Yanggang Province	The source witnessed a person sentenced to seven years of correctional prison labor in 2010 for superstitious practices in Hyesan-si, Yanggang Province.	NKHR2011000240 2011-11-22
2011	Onsung City, North Hamgyoung Province	Caught for fortune-telling, but bribed the judge and received a not guilty verdict. Paid 15,000 won to the fortune-teller.	NKHR2012000010 2012-01-31
2011-12	Hungwon County, South Hamgyoung Province	Witnessed a fortune-teller (woman, 40s) getting penalized for six months at a labor training camp for practicing superstition.	NKHR2012000201 2012-09-25
Unknown	Musan County, North Hamgyoung Province	A fortune teller asked a prospective customer not to report the him/her to the Imminban (people's group). Fortune-tellers ask their customers in advance to keep confidentiality before providing a reading.	NKHR2011000119 2011-05-24
Unknown	Chongjin City, North Hamgyoung Province	Via advertisements and lectures given by Imminban (people's group) or workplaces, the North Korean government warned people not to visit fortune tellers.	NKHR2011000226 2011-10-19
Unknown	Musan County, North Hamgyoung Province	Individuals who serve time at a correctional center for superstition becomes popular. Officials also use his service. People are careful in engaging in superstitious activities since it is difficult to find help if caught. Penalty is serving time at a labor training camp.	NKHR2012000021 2012-02-07

Time	Place	Testimonies	Testifier ID
Unknown	Unknown	People believe in superstition even though they do not believe in religion. Over 80 percent of visitors are officials or judicial workers. Judges use fortune tellers as their spy agents, because people will use them before committing illegal acts (river-crossing, narcotics). Both parties committing acts of superstition are penalized.	NKHR2012000043 2012-03-20
Unknown	Unknown	A friend brought home a good fortune teller. Paid 300 Chinese Yuan for a table full of food to exorcise bad luck. Heard later that the fortune teller was sent to a labor training camp.	NKHR2012000046 2012-03-23
Unknown	Hoeryeong City, North Hamgyoung Province	Testified that he/she saw a proclamation listing penalties on superstition, including a hexagonal box used for fortune telling. One item on the list said a penalty of one to five years of correctional labor is imposed if caught for practicing superstition.	NKHR2012000079 2012-05-08
Unknown	Hoeryeong City, North Hamgyoung Province	If fortune telling involves anything related to South Korea (defection, etc.), both parties are penalized. If not, only the fortune teller is penalized.	NKHR2012000198 2012-09-25

## B. Freedom of Conscience

Freedom of conscience means freedom to freely develop individual thoughts and moral standards that form the internal basis of human dignity and personal value system. It also includes freedom to hold opinions without interference and the right to act according to the individual's beliefs and moral standards. Conscience also comprises an individual's own world-view and personal philosophy of life, beliefs, and principles. More broadly, conscience includes a person's own internal value system and moral standards that provide the basis of one's personality and character. Compared to freedom of thought and religion, conscience

is a broader concept than faith in religious beliefs. Accordingly, the Constitution of the Republic of Korea (South Korea) sets forth, “All citizens shall have freedom of conscience”; in “Article 19” before stipulating, “All citizens shall have freedom of religion” in “Article 20.” The Constitution does not separately guarantee freedom of thought because freedom of conscience and freedom of thought are the same. Freedom of thought and conscience is also prescribed in “Article 18” of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR).

- **The Unitary Suryong Ruling System and the Ten Principles of Unitary Ideology**

Unlike South Korea, North Korea’s Constitution does not guarantee freedom of conscience. The reason North Korea does not guarantee freedom of conscience is because of personality cult based on the Unitary Suryong Ruling System. In North Korea, Kim Il-sung and Kim Jong-il are viewed as God. As a result, North Korea shuns religion of any kind as a potential cause for the disruption of public order and a tool of foreign influence. The principal reason is due to the fact that religion tends to undermine the integrity of the Unitary Suryong Ruling System. Consequently, accommodating any ideology other than Juche that Kim Il-sung devised and Kim Jong-il inherited, seriously hinders the enforcement of Unitary Suryong Ruling System.

The North Korean Constitution declares that the DPRK is a state that embodies the idea and leadership of Kim Il-sung. Furthermore, Juche ideology is the basic guarantee for government operation, and that Juche ideology is the guiding principle for all activities in the country (Preamble and “Article 3”). Based on this

Juche, North Korea has developed a theory of socio-political being in order to justify Kim Il-sung and Kim Jong-il's Unitary Ruling System. Under this theory, Suryong is defined as the father, the Korean Workers' Party (KWP) as the mother, and the working masses (people) as the children. Suryong, then, is in charge of issuing all directions and methods for the realization of wishes and demands of the masses. This theory of socio-political being thus seeks to justify the unitary ruling system and absolute authority of Kim Il-sung and Kim Jong-il. As long as absolute worship of Suryong (Kim Il-sung and Kim Jong-il) is mandatory, no other values or ideas are permissible.

Worshipping and solidifying the Unitary Suryong Ruling System of Kim Il-sung and Kim Jong-il based on the theory of socio-political being are implemented in the form of Ten Principles of Unitary Ideology. Allegiance to Kim Il-sung and his instructions is mandated as absolute guidelines. In addition, the principle is stipulated in the Ten Principles. The articulation of the Ten Principles in 1974 deified the great leader Kim Il-sung, and the Ten Principles took precedence over the Socialist Constitution and the law as a higher norm for all North Koreans.<sup>251</sup>

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<sup>251</sup>—The Ten Great Principles are as follows:

1. Struggle with all your life to paint the entire society with the one color of the Great Leader Kim Il-sung's revolutionary thought.
2. Respect and revere highly and with loyalty the Great Leader Kim Il-sung.
3. Make absolute the authority of the Great Leader Kim Il-sung.
4. Accept the Great Leader Kim Il-sung's revolutionary thought as your belief and take the Great Leader's instructions as your creed.
5. Observe absolutely the principle of unconditional execution in carrying out the instructions of the Great Leader Kim Il-sung.
6. Rally the unity of ideological intellect and revolutionary solidarity around the Great Leader Kim Il-sung.
7. Learn from the Great Leader Kim Il-sung and master communist dignity, the methods of revolutionary projects, and the people's work styles.

Since the Ten Principles are open to arbitrary interpretation, North Korean authorities will frequently utilize them to penalize those with political grudges as political or ideological criminals. For example, two entire families disappeared: one because a nine-year old second grade elementary student in the family scribbled on the faces of Kim Il-sung and Kim Jong-il in his text book; the second family because the elderly grandmother used issues of the Rodong Shinmun which contained pictures of Kim Il-sung and Kim Jong-il as wallpaper. Both families were punished on the basis of the Ten Great Principles.

This inhumane practice of forcing people to sacrifice their lives to save portraits of Kim Il-sung and Kim Jong-il happens because of the Ten Great Principles which continues to be enforced in North Korea. A book titled “Revolutionary Optimism” written by Chang-hwan Ahn was published in 1991 by the Pyongyang Working People’s Organizations Publishing House. According to the book, there is a story of a person named Young-duk Park who sacrificed his life to protect a portrait of Kim Il-sung. It is reported that while working in the Yellow Sea Park, Young-duk drowned when his boat capsized. However, as the boat was on the verge of sinking, Park carefully wrapped a portrait of Kim Il-sung with a plastic cover, attached a heavy weight to himself, and jumped into the sea.

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8. Preserve dearly the political life the Great Leader Kim Il-sung has bestowed upon you, and loyally repay the Great Leader’s boundless political trust and consideration with high political awareness and skill.
  9. Establish strong organizational discipline so that the entire Party, the entire people, and the entire military operate uniformly under the sole leadership of the Great Leader Kim Il-sung.
  10. The great revolutionary accomplishments pioneered by the Great Leader Kim Il-sung must be succeeded and perfected by hereditary successions until the end.

At a Inminban (people's group) meeting on October 11, 2007, it was suggested that people should follow the spirit of those who had saved the portraits of Kim Il-sung/Kim Jong-il during the flood emergency. There were people during the flood emergency in Gangwon Province and South Hwanghae Province who protected portraits of Kim Il-sung and Kim Jong-il even as their houses were sinking under water and they had to abandon everything. In one instance, a parent could not rescue her daughter from drowning in the flood because she had to hang on to the portraits. The lecturers said everyone should follow the level of devotion and political values of these people.<sup>252</sup>

On May 15, 2007, the Organization Bureau of the Central Party issued instructions on "Overall Inspections on How to Carry out Respect for the Portraits of Great Leader and Beloved General." From this day, the agents of the Party's Organization Bureau began to thoroughly inspect home and workplace across the nation, including major cities, provinces, Wonsan City, Gangwon Province, Sariwon City in North Hwanghae Province, Kangkei City of Jagang Province, Hyesan City of Yanggang Province, Chongjin of North Hamgyoung Province, Hamhung City of South Hamgyoung Province, and Pyongyang. The inspection included not only the homes of party officials but also the homes of ordinary citizens were thoroughly inspected. If the portraits were not respectfully taken care of or if dust was found on them, the person's name was recorded on the black list. Subsequently, the security agency would call the offenders and give lectures on how to handle the portraits. In some cases, people had to spend two or three days in a detention facility.<sup>253</sup> If one admitted to mishandling the portraits

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<sup>252</sup>—*Good Friends*, "North Korea Today," No. 94 (October 17, 2007).

<sup>253</sup>—*Ibid.*

on purpose, punishment was administered; however, if one told them the damage was the result of unconscious neglect, they would pardon the insult.<sup>254</sup>

Defector XXX testified that in December 2004, there was a fire in the labor training camp where she was detained. As she escaped from her cell with her belongings, she saw the (Kim Jong-il) portrait, so she dropped her things and grabbed three portraits and exited the building. This made her a model inmate; her six-month sentence was decreased to three months and she was released from prison.<sup>255</sup> Defector XXX testified that a neighboring woman made her living by making and selling tofu at home. This always made her room humid and caused the portraits of the great leaders turn brown. She was ordered to write a statement of self-criticism at a local party office and was locked up for ten days for not replacing the portraits.<sup>256</sup> North Korean defector XXX testified that if anyone failed to properly hang or handle portraits of the great leaders, he/she would be put to hard labor at construction sites for one day.<sup>257</sup>

In an effort to enforce the level of loyalty to Suryong, the authorities stressed the ten principles on a daily basis through occasions such as daily assembly. Everyone making a presentation at KWP daily assembly is required to quote one or more of the ten principles in his/her speech. Even presenters at the ordinary daily assembly must cite specific articles and sections of the ten principles during the presentation.<sup>258</sup> Some defectors equated the Ten Principles to the Ten Commandments for Christians.<sup>259</sup> The

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<sup>254</sup>\_NKHR2010000062 2010-10-12.

<sup>255</sup>\_NKHR2008000010 2008-08-08.

<sup>256</sup>\_NKHR2009000053 2009-09-08.

<sup>257</sup>\_NKHR2012000128 2012-07-03.

<sup>258</sup>\_Interview with defector XXX in Seoul on April 16, 2010.



inmates at training camps who could not recite the ten principles were not sent to bed.<sup>260</sup>

As the economic hardship exacerbated, most people did not pay too much attention to the ten principles even though they did not willfully violate them. North Korean defectors testified that daily assembly of ordinary citizens were turning into a formality as food shortage persisted. The following is a collection of defector testimonies on this subject.

<Table III-26> Testimony Regarding the Ten Principles (for the Establishment of the One-Ideology System) and Lifestyle Review Meetings

Time	Place	Testimony	Testifier ID
2005	Chongjin City, North Hamgyoung Province	A couple had to serve correctional penalty for burning a portrait while quarreling.	NKHR2012000052 2012-03-28
2010-07	Shinchon County, North Pyongan Province	Was detained for a month at a boys' training camp for mishandling portraits during an inspection.	NKHR2012000104 2012-06-05
2011	Onsung County, North Hamgyoung Province	An inspection of portraits was conducted by officials of Women's League and Farmers' League.	NKHR2012000010 2012-01-31
Unknown	Onsung County, North Hamgyoung Province	People who were suffering from poverty did not bother to memorize the Ten Principles. They did not care about being punished, saying "If you want to arrest me, just do it."	NKHR2011000114 2011-05-17
Unknown	Unknown	People can avoid lifestyle review meeting or industrial mobilization by offering 20,000-30,000 KPW in bribe to the leader of Korean Democratic Women's Union.	NKHR2011000185 2011-08-16
Unknown	Hoeryeong City, North Hamgyoung Province	Absences from lifestyle review meetings are allowed if there is a good reason. Even if one is absent from the meeting, one can make up for the absence by doing other hard work.	NKHR2011000242 2011-11-22
Unknown	Unknown	Even if portrait inspectors point out a violation, people can avoid penalty by bribing them. The inspectors will pick on tiny things to extort more bribes.	NKHR2012000002 2012-01-10

<sup>259</sup> Interview with defector XXX in Seoul on March 31, 2010.

<sup>260</sup> NKHR2012000039 2012-03-20.

Time	Place	Testimony	Testifier ID
Unknown	Kyongsung County, North Hamgyoung Province	Testified that most North Koreans do not have anything against the Ten Principles. Said he didn't realize it in North Korea, but he could now see how seriously the Ten Principles had an impact in his daily life.	NKHR2012000026 2012-02-21
Unknown	Hyesan City, Yanggang Province	At training camps, you'd be required to recite the Ten Principles repeatedly. If someone is unable to recite the principles, the authorities do not allow the person to go to bed.	NKHR2012000039 2012-03-20
Unknown	Hyesan City, Yanggang Province	After Kim Jong-il died, soldiers went around to inspect the portraits.	NKHR2012000102 2012-06-05
Unknown	Unknown	If anyone did not hang or handle the portraits properly, he/she was penalized by forced labor at a construction site for a day.	NKHR2012000128 2012-07-03

### C. Assessment

At least in formality, North Korea has met the legal mandate for freedom of religion by inserting a provision in their Constitution. But their attitude towards religion has not changed and they continue to treat religion as a tool designed to ill-affect North Korea and to destroy the Unitary Ideology System. Instead of providing necessary measures to facilitate freedom of religion for their citizens, North Korea is actively blocking and prohibiting all religious activities. They classify religious believers into the hostile class and followers of superstition into the wavering class. For example, the <Lecture Series> advocates, "Let us resolutely crush the enemy's guileful conspiracy and agitation to spread religion in our society." The state, which supposedly guarantees freedom of religion by law, is restricting the exercise of right to freedom of religion. On the other hand, North Korean authorities have been utilizing religious facilities and religious leaders for the purpose of

improving North Korea's international image and to extort more humanitarian assistance from the international community.

In terms of freedom of conscience, North Korea does not respect freedom of conscience in their law. Instead, they have taken all necessary legal and administrative measures to enforce Party's Ten Principles for the Protection of Unitary Ideology System in an effort to protect and maintain the Unitary Suryong Ruling System. Furthermore, any breach of the guidelines is penalized. Through the enforcement of these principles, North Korea attempts to seize and control all organizations, as well as the thoughts and lives of all North Koreans. The authorities brainwash their citizens by enforcing Q&A classes at the daily assembly and by requiring the attendants to repeat the Ten Principles in class.



# 7



## *Freedom of Speech, Press, Assembly and Association*

### **A. The Freedom of Opinion and Expression**

The Universal Declaration of Human Rights states, “Everyone has the right to freedom of opinion and expression; 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”) Freedom of press and publication includes first, the fundamental right to hold opinions. Second, the right to express opinions and thoughts in any media or methods. “Article 19” of ICCPR also stipulates, “Everyone shall have the right to freedom of expression: this right shall include freedom to seek, receive and impart information and ideas of any kind.”

North Korea recognizes freedom of press and publication; however, the recognition is insignificant. The Socialist Constitution stipulates, “Citizens shall have freedom of speech, press, assembly, demonstration, and association.” (“Article 67”) However in reality, the Constitution is controlling citizens’ right to freedom of information, publication and press through a variety of laws, institu-

tions and custom. In the 2012 World Report on Freedom of Press, (released on May 2, 2012), the Freedom House from the United States announced that North Korea's situation on freedom of press was the worst among 197 countries in the world. North Korea's media concentrates on propagandas of Juche Ideology and deification of Kim Il-sung and Kim Jong-il. All North Korean publication and broadcast service contains some element that eulogizes Kim Il-sung and praises Kim Jong-il and Kim Jong-un. Reports on the two Kims occupy the front pages of the newspapers, and their names are printed in special bold fonts. All news is written for the purpose of infiltrating the supremacy of the North Korean system to the minds of the people. There are no critical reports or discussions on sensitive issues regarding the system. Of course, any and all data that could provide citizens with information on the right to know or contribute to their critical thinking is strictly prohibited.

## **B. The Press and Information Control**

Despite strict government controls, a vast majority of North Koreans are listening to South Korean radio broadcasts and watching CD-Roms since the 1990s. Since North Korean press and media do not play their roles properly, North Korean people have been trying to fulfill their right to know under the radar of government surveillance. Some North Korean defectors testified that in recent years, many North Koreans seemed to prefer USBs and other smaller types of external device to avoid detection, instead of relatively large CD-Roms.<sup>261</sup> In addition to illegal video tapes,

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<sup>261</sup>—NKHR2012000239 2012-11-06.

there are legal videos called the mokran video, which people can purchase at sale counters. But they are expensive, so people still prefer illegal videos.<sup>262</sup>

After the Yongchon Railway Station Explosion in April 2004,<sup>263</sup> mobile communication service in North Korea was restored in December 2008 through a joint project with Orascom, an Egyptian communication firm. On February 2, 2012, Orascom Telecom announced in a public release that the number of cell phone users in North Korea passed the one-million mark. The widespread use of cell phones in North Korea has contributed to alleviating social controls, alarming the authorities concerned about regime security. Under Kim Jong-un's regime, North Korean authorities have tightened controls on the illegal use of cell phones by jamming radio/TV signals along the regions bordering China. In the border villages, anyone can place calls to South Korea using Chinese cell phones. For this reason, the security agencies and People's Army have been conducting joint operations to remove illegal use of cell phones. In spite of these countermeasures, cell phone users are on the rise, particularly because violators avoid penalties such as labor training or correctional labor by offering bribes. Many defectors testified that the amount of money offered in bribes can be anywhere from 500,000 won to three million won.

The widespread use of cell phones and the tightening of official controls against cell phone use appeared to have some impact on the freedom of press in North Korea. Widespread use of cell phones implied that outside news and information was

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<sup>262</sup> NKHR2012000187 2012-09-11.

<sup>263</sup> The 2004 Yongchon Railway Station Explosion is known to assassinate Kim Jong-il, and mobile phones were used for major plans such as identifying the exact time of Kim's arrival.

flowing into North Korea.<sup>264</sup> This flow of information can contribute to the promotion of North Korean people's right to know. In the aftermath of Kim Jong-il's death in December 2011, North Korea strengthened controls over the use of cell phones by installing radio/TV signal jamming devices along the border regions, such as Hyesan City, Yanggang Province.<sup>265</sup> If anyone was caught using cell phones, the phones would normally be confiscated.<sup>266</sup> But there were instances where the phones were not confiscated.<sup>267</sup> Penalties for illegal use can be avoided if the user offer some money. Some defectors explained that the purpose of surveillance was not so much to impose penalty, but as a way to collect bribes.<sup>268</sup> If the illegal user cannot afford money, he/she would have to undergo six months of labor training.<sup>269</sup> Furthermore, depending on where and the call was placed, the penalty could vary. Making calls to people in China was one thing, but calling those in South Korea was a far more serious crime and the offers of bribe was not necessarily effective because it was treated as a political crime.<sup>270</sup> Calls to China often involved smuggling, and many people would use cell phones for brokering business. Many people along the border regions made brokering their main business, and security agents were well aware of the activities, hence many violators were released by offering cigarettes and other bribes.<sup>271</sup> The main use of illegal cell phones was to gain livelihood in North Korea;

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<sup>264</sup>\_NKHR2012000111 2012-06-12.

<sup>265</sup>\_NKHR2012000203 2012-10-09 and other testimonies.

<sup>266</sup>\_NKHR2012000126 2012-06-29; NKHR2012000129 2012-07-03.

<sup>267</sup>\_NKHR2012000130 2012-07-03.

<sup>268</sup>\_NKHR2012000184 2012-09-11.

<sup>269</sup>\_NKHR2012000138 2012-07-10.

<sup>270</sup>\_NKHR2012000139 2012-07-10 and other testimonies.

<sup>271</sup>\_NKHR2012000178 2012-09-04.

therefore, as long as one had money, he/she could avoid penalty.<sup>272</sup> North Korean defectors testified that young North Koreans envied the use of cell phones.<sup>273</sup> It appears that use of cell phones among North Koreans will continue to spread. Following is a collection of cases for illegal use of cell phones and the penalties.

### C. The Reality of Penalties involving Videos

In North Korea where freedom of expression and the right to hold opinions are restricted, it is understandable that the free flow of information is also restricted. Most North Koreans are able to gain limited access to outside information through videos that are illegally obtained. North Korean authorities strictly penalize these illegal activities through policies, laws and systems. The authorities react more sensitively to illegal videos and films and their circulation. The North Korean Penal Code revised in 2004 added provisions such as the Crime of Circulating, Possessing, and Bringing in Corrupt and Decadent Culture (“Article 193”) and Crime of Decadent Acts (“Article 194”). Serious penalties are imposed if anyone brings photographs, videos, drawings, dances or electronic media containing corrupt, sensual or inappropriate contents from foreign countries. Penalties are imposed for those who produce, circulate or possess videos or watch or listen to depraved acts. Violators are sent to labor training camps or correctional centers. Following is a collection of cases involving penalties imposed by the North Korean authorities for crimes related to videos and films.

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<sup>272</sup>\_NKHR2012000182 2012-09-11.

<sup>273</sup>\_NKHR2012000107 2012-06-12.



The North Korean authorities operate separate units to enforce the law against CD/DVD related crimes. Defector XXX testified that in the early days, a joint group consisting of agents from the State Security Agency, the Ministry of People's Security, the Prosecutors' Office, the Party and other administrative units conducted joint inspections. But as the illegal circulation and viewing of DVDs and CDs increased, separate groups called 109 units were organized. These units are stationed in strategic locations to conduct inspections.<sup>274</sup> Defector XXX testified that the primary purpose of these units is to recover circulating CDs and to punish those who watch them.<sup>275</sup> Despite these surveillance and control measures, most defectors consistently testified that discreet viewing of South Korean CDs and videos is widespread. North Koreans purchased inexpensive Chinese videos and shared them with their neighbors. Some defectors testified that people watched South Korean videos with local security chief and other State Security agents.<sup>276</sup> Despite constant surveillance, many North Koreans knew other ways to watch South Korean or Chinese videos. They could avoid penalties by providing some bribes if caught watching Chinese or Russian videos, but watching or circulating South Korean videos was considered a political crime and the penalty was to serve time at a correctional center.<sup>277</sup>

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<sup>274</sup>\_NKHR2012000126 2012-06-29.

<sup>275</sup>\_NKHR2012000111 2012-06-11.

<sup>276</sup>\_NKHR2008000006 2008-07-22; NKHR2008000027 2008-12-02.

<sup>277</sup>\_NKHR2012000249 2012-11-20; NKHR2012000263 2012-12-04.

## D. The Reality of Freedom of Press

North Korea first enacted the Publication Law in 1975, and revised it in 1995 and 1999, respectively. The law stipulates, “Citizens shall have the right to freely engage in writing and creative activities (“Article 6, Para. 1”).” But the purpose of these activities was limited to “Safeguarding and promoting great Socialist projects based on a revolutionary tradition of publication (“Article 2”).” In order to operate a publishing (printing) business, the publisher must register with the Cabinet or the publication guidance agency; (“Article 12”) and all unregistered printing facilities were shut down (“Article 49”). Publishing is further restricted by “Article 47” of the law, which stipulates, “The publishing guidance agency and related agencies must ensure the registration of all publishing facilities and supervise their use so that state secrets are not leaked and any reactionary ideas, culture and life-styles are not circulated.” “Article 48” further specifies, “All printed matter that can disclose state secrets or spread reactionary ideas, culture and life-styles shall be confiscated and its production, publication, supply and transportation shall be suspended.” This is an example of the authorities arbitrarily censoring and controlling all printed matter in North Korea. Private citizens or responsible workers at agencies, enterprises, organizations, who have caused serious consequences by violating the publication law shall be charged with administrative or criminal responsibilities (“Article 50”). The Administrative Penalty Law mandates the imposition of administrative punishment on those who violate the rules and laws on publishing, printing, and circulation. (“Article 143”) Administrative penalties are also imposed on those who smuggle sensual and corrupt photos, drawings or books into North Korea. The same applies to those who

produce or circulate them (“Article 152”). North Korean Penal Code also stipulates that up to two years of labor training penalty may be imposed on those who violate publication laws, and in more serious cases, up to three years of correctional labor (“Article 226”). Consequently, all writings are ultimately subject to the censorship of the Party’s Propaganda Department. If a North Korean citizen were to publish something in violation of censorship standards, the authorities can charge them with anti-State propaganda and agitation criminal charges and impose up to five years of correctional prison labor penalty or five to ten years of correctional prison labor penalty in serious cases. In reality, it is impossible to publish any criticism of Kim Il-sung, Kim Jong-il or the Korean Workers’ Party.

North Korean defector XXX testified that only those with good family background can engage in any creative activity within the purview of KWP. Therefore, only the children of high-ranking officials can have the opportunity in engaging in creative activity.<sup>278</sup> Discrimination exists even if the opportunity to engage in publishing activities is allowed by the Party. Perceptions on printing varied among the defectors. Defector XXX whose hometown was in Jinam-ri, Shinchon County, South Hwanghae Province, testified that people in his/her hometown had a favorable impression of North Korean publications.<sup>279</sup> Another defector testified, however, that those who had seen foreign publications smuggled into the border regions, could not trust North Korean publications since they could tell the difference.<sup>280</sup> Two defectors offered different testimonies: One said that one’s knowledge (talent) was important to work as a writer;<sup>281</sup> but another defector said that one had to be

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<sup>278</sup>\_NKHR2012000007 2012-01-10.

<sup>279</sup>\_NKHR2012000006 2012-01-10.

<sup>280</sup>\_NKHR2012000002 2012-01-10.

<sup>281</sup>\_NKHR2012000019 2012-02-07; NKHR2012000034 2012-03-13.

working for money business at cultural agencies to work as a writer, regardless of talent.<sup>282</sup> Among the people in Hoeryeong, North Hamgyoung province, there was an individual who made a monthly deposit of 15,000-20,000 won to the People's Committee Deposit Office and ran a book loan store (mobile store). He used to loan out a variety of books, including novels, history books, general interest books and traditional world classic best sellers.<sup>283</sup> Other defectors testified that in the border regions where people were easily exposed to foreign influences, they were able to read a lot of novels, though not foreign videos.<sup>284</sup> Another defector said there were many book stores run by private owners.<sup>285</sup> In short, North Koreans are able to come in contact with a variety of books circulated in the marketplace, despite strict surveillance and control. In particular, people living in the border regions rarely believed in what they are told by the Central Authority.<sup>286</sup>

## E. Freedom of Assembly and Association

Freedom of assembly and association means that individuals are entitled to enjoy freedom to assemble and express his or her opinion. The Universal Declaration of Human Rights stipulates, "Everyone has the right to freedom of peaceful assembly and association." "No one may be compelled to belong to an association ("Article 20, Para. 1&2")." ICCPR also defines, the right to peaceful assembly shall be recognized. ("Article 21") And everyone shall

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<sup>282</sup>\_NKHR2012000017 2012-02-07.

<sup>283</sup>\_NKHR2012000041 2012-03-20.

<sup>284</sup>\_NKHR2012000039 2012-03-20.

<sup>285</sup>\_NKHR2012000059 2012-04-10.

<sup>286</sup>\_NKHR2012000030 2012-02-21.

have the right to freedom of association with others (“Article 22”).

“Article 67” of the North Korean Constitution (as revised in April 2009) stipulates, “Citizens shall have freedom of speech, press, assembly, demonstration and association. The state shall guarantee conditions for the free activities of democratic political parties and social organizations.” In reality, however, only the assemblies and associations required by the Korean Workers’ Party (KWP) are permitted. North Korea’s Penal Code stipulates, “Those who collectively refuse to follow the instructions of the state agencies and resist against them shall be given up to five years of correctional labor, even if their motives are not anti-state” (“Article 219”). This provision is an effective legal measure to block any mass demonstration on North Korea. Administrative Penalty Law also has a similar stipulation. According to this law, if someone does not comply with the instructions of the State agency, he/she is given up to three months of labor education penalty, and in more serious cases, over three months of labor education. (“Art. 175”) Thus, North Korean authorities legally and systematically prohibit any unauthorized assembly or association. All associations in North Korea remain and operate under the complete control of the Party, including diverse associations such as the Unified Employees League, League of Agricultural Workers, Youth League, Democratic Women’s League, Unified Culture and Arts League, Democratic Attorneys’ Association, Christians’ League, Buddhists’ League, Anti-Nuclear Peace Committee, and Africa-Asia Coalition Committee. These organizations are clearly the external arm of Korean Workers’ Party that faithfully follow Party instructions and a safety belt connecting the Party and the People as outlined in “Article 56, Chapter 9” of KWP Statute.

All North Koreans are required to participate in various

organizations from the age of six to retirement. These include kindergarten, the Children's Union, various educational institutions, the Socialist Working Youth League, the Chosun (Korea) General Federation of Trade Union, the Chosun Agricultural Workers Union, the Chosun Democratic Women's Union, the Korean Workers' Party, etc. Outsiders may think that North Koreans enjoy freedom of assembly to some extent since they are able to join organized activities, but the reality is completely the opposite. Many North Korean defectors testified that they were deprived of their individual freedom as they were directed to join organizations controlled by the Party. As the economic hardship deepened and the foundation of North Korean regime began to crumble in many sectors, the tight control over the people such as the daily assembly and political indoctrination appeared to slowly weaken. The perception that money can solve or achieve anything is rapidly spreading among the people, and the mandatory meetings such as the daily assembly and official meetings began to lose their sense of obligation. More and more people avoided attending mobilized assemblies by paying others who could attend on their behalf. These individuals who attend meetings on behalf of someone else are known as the rear-area units, and their livelihood is based on the money they receive for their substitute role.<sup>287</sup>

The Jasmine revolution that swept across the Middle East in 2011 did not have a significant impact on North Korea. The government authorities deprived North Koreans of their right to freedom of assembly and association for so long that many of them believed that voluntary assembly of any kind was impossible. North Korean defector XXX testified that once he/she saw a peddler

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<sup>287</sup>\_NKHR2012000167 2012-08-21.

on the market protest against an agent for unfair treatment, but never saw any assembly of protest of any size.<sup>288</sup> Many defectors testified, however, that since the failed currency reform of November 2009, significant changes took place in the people's attitude. In particular, people began to speak up and complain against the regime more freely and publicly. In the past, these words would have viewed as criminal penalties, but this was no longer the case.<sup>289</sup> In the aftermath of currency reform, the authorities openly restricted assembly of people of any kind, and tightened surveillance.<sup>290</sup> If anyone failed to participate in a mobilized assembly, he/she would be penalized. But many people today choose not to attend, paying money to be exempted from participating in the assembly.<sup>291</sup> Some defectors testified that complaints and critical comments increased during the 2012 campaign for "strong and prosperous nation."<sup>292</sup>

## F. Assessment

In North Korea, all unauthorized assemblies are viewed as reactionary meetings; thus people are deprived of the right to form any voluntary assembly or association. As many sectors of the North Korean society experienced changes in recent years, peoples' enlightenment towards freedom of assembly and association began to expand. Changes in the people's perception was apparent in the aftermath of the failed currency reform. In other words,

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<sup>288</sup>\_NKHR2012000018 2012-02-07.

<sup>289</sup>\_NKHR2012000071 2012-04-24.

<sup>290</sup>\_NKHR2012000072 2012-04-26; NKHR2012000081 2012-05-15.

<sup>291</sup>\_NKHR2012000103 2012-06-05.

<sup>292</sup>\_NKHR2012000090 2012-05-22; NKHR2012000111 2012-06-12.

North Koreans began to realize the “power of money” and the perception that “money solves everything” was spreading all over North Korea. In addition to proscribing freedom of assembly and association, the authorities were also enforcing tight surveillance and control over freedom of press and publication, despite clear stipulations guaranteeing these freedoms in the Constitution. Nevertheless, North Koreans are obtaining and circulating outside information through tools, such as Chinese cell phones, CD-Roms and USBs. Since Kim Jong-un came to power, North Korea has tightened control along borders and handling of illegal videos, in addition to raising the wall for radio/TV signal jamming devices. These examples of tightening social control illustrates that North Koreans will continue to desire to access outside information, thus the inflow of external information will likely increase and continue to expand in North Korea, despite government restriction.





# 8



## *The Right of Political Participation*

The right to political participation encompasses the civil right of the people to participate directly or indirectly in the policies and politics in their country. This includes the right to vote, the right to be elected and the right to run for public office. Article 21 of the Universal Declaration of Human Rights (UDHR) stipulates the right to political participation as follows: (1) Everyone has the right to take part in the government of his/her country, directly or through freely chosen representatives; (2) Everyone has the right to equal access to public services in his/her country; and (3) The will of the people shall be the basis of the authority of the government, this demonstrated in periodic and general elections utilizing universal and equal ballot system, held by a secret vote or by a free voting procedure.

“Article 25” of ICCPR stipulates the following: “Every citizen shall have the right and opportunity:(1) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected in genuine and periodic elections held on the principle of universal and equal suffrage by secret ballot,

guaranteeing free expression and of the will of the electors; and (3) To have access on general terms of equality, to public services in his/her country.” Exceptions to these rights may include legally defined minimum age restrictions, mental dysfunction, and certain criminals, so long as they do not violate the nondiscriminatory principles outlined in “Article 2” of ICCPR.<sup>293</sup> For the people who reside within the sovereign borders, a liberal democratic nation guarantees a system for electing their representatives who will determine the national policy. It also guarantees the distribution of powers into the legislative, judicial, and administrative branches to provide checks and balances of power. In theory, North Korea has a representative system as the basic principle of government and elects deputies of provincial, municipal and county peoples’ assemblies as well as the Supreme People’s Assembly, which fulfills the role of legislative bodies. However, North Korea has rejected the division of power but instead established a one-party dictatorship, and the election is fundamentally different from that of a liberal democratic country.

North Korea’s Socialist Constitution stipulates that the working people exercise power through their representative organs, the Supreme People’s Assembly (SPA) and the local people’s assembly at all levels (“Article 4”). It also states that the organs of state power at all levels, from the County people’s assemblies to the SPA, are elected on the principle of universal, equal and direct suffrage by secret ballot (Article 6). The Election Act of North Korea stipulates

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<sup>293</sup> Human Rights Committee, General Comment 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25), (Fifty-seventh session, 1996), UN Doc. CCPR/21/Rev.1/Add.7 (1996), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.6 at 168 (2003).

that the SPA representatives are elected to a term of five years, and representatives of the local people's assembly at the province (or direct-governed municipality), district, and county levels serve four-year terms.<sup>294</sup> However, the Socialist Constitution states the national organs in North Korea are formed and function on the principle of democratic centralism ("Article 5"), and all activities are conducted under the leadership of the Korean Workers' Party ("Article 1"1). These articles show that both local people's assemblies and the SPA are in fact under the control of the Party.

The election for the 11th Supreme People's Assembly and the provincial (or direct-governed municipality), district and county local people's assemblies were held on August 3, 2003. 99.9 percent of the electorate voted in favor of the 686 deputies of the SPA and 26,650 deputies at all levels of local people's assemblies.<sup>295</sup> The newly elected deputies of the SPA included Kim Jong-il, the general secretary of the Workers' Party of Korea and supreme commander of the Korean People's Army, and other incumbent officials of the Party, the government and the military. Kim Jong-il was reappointed as the chairman of the DPRK National Defense Commission at the first session of the 11th Supreme People's Assembly, held on September 3, 2003.<sup>296</sup> It has been reported that out of all the deputies of the 12th Supreme People's Assembly elected on March 8, 2009, 16.9 percent of them were military officers.<sup>297</sup> Thus, the SPA can

<sup>294</sup> "DPRK Local Levels of People's Assemblies Election Law" amended and added by the decree 321 of the Presidium of the Supreme People's Assembly in December 29, 1998.

<sup>295</sup> *Rodong Shinmun*, August 5, 2003.

<sup>296</sup> *Rodong Shinmun*, September 4, 2003.

<sup>297</sup> Text of speech given by Representative Guk-tae Kim, Chairman of the SPA Representatives' Qualification Screening Committee, at the 1st Session of the 12th Supreme People's Assembly on April 9, 2009. "Report of Qualification Screening Committee of the 12th SPA of the DPRK," *Rodong Shinmun*, April 10, 2009.

be viewed as a legislative organ of the Korean Workers' Party rather than as a decision-making body representing the people.

The Socialist Constitution stipulates that "All citizens who reaches the age of 17 have the right to elect and to be elected, irrespective of sex, race, occupation, length of residence, property status, education, party affiliation, political views or religion" ("Article 66"). However, elections for the Supreme People's Assembly and people's assemblies are conducted under the control of the Korean Workers' Party. These characteristics are obvious if one considers the manner in which candidates are nominated, registered and elected, and the loss of suffrage rights based on guilt by association.

One candidate in each electoral district is nominated for the election, and the KWP carefully selects each candidate in advance. The KWP also carefully pre-screens the candidates from the Social Democratic Party and the Chung Woo Party. For all intents and purposes, the KWP controls all these candidates. Election committees are organized one month ahead of the actual elections. Each election committee compiles a list of the voters in their district and manages the district elections. An election committee usually consists of representatives of the Party, the People's Committee, the security agencies and the local community.<sup>298</sup>

Under the principle of universal, equal and direct voting, the law requires secret ballots. However in reality, voters are instructed to cast a yes or no vote for a single candidate nominated by the KWP. The elections are conducted under the strict surveillance of the State Security Agency, and the entire voting procedure consists of simply receiving a ballot and casting a yes or a no ballot box. In an effort to demonstrate local loyalty to the party by raising voting

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<sup>298</sup> Korean Central News Agency, January 12, 2009.

rates, each electoral district operates a “moving ballot box” system for those who are unable to come to the voting booths because of illness or old age.

Elections where political forces freely contend on the basis of ideas and policies are not a part of the political process in North Korea. Rather, it is a part of a political mobilization to reinforce the people with a sense of political participation and provide a pro forma and post facto approval of the power structure and the method of elite recruitment designed by the KWP. This process was repeated during the election of deputies for the 11th Supreme People’s Assembly conducted on March 8, 2009. The results of the election indicated that “approximately 99.98 percent of those listed on the eligible voter registry participated in the election and 100 percent of those voting submitted a yes for the candidate nominated by the district.<sup>299</sup> North Korean defectors testified that the authorities counted a patient’s vote as an affirmative even though the patient was unable to cast a vote.<sup>300</sup> In another case, a grandfather submitted a vote for his wife who could not come to the polling booth.<sup>301</sup>

During the elections, agents from the agents of the State Security Agency and the Ministry of People’s Security exercise strict control over the people. Anyone who fails to participate in voting or refuses to vote is suspected of harboring political motives, and is treated with suspicion and discrimination on a daily basis. Some defectors testified that this was the reason for always voting in the elections. The Inminban (people’s group) leader would visit each household, forcing everyone to vote. There is also a People’s Security agent in charge of elections, thus no one is excused from voting.<sup>302</sup>

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<sup>299</sup>—*Rodong Shinmun*, March 10, 2009.

<sup>300</sup>—NKHR2012000003 2012-01-10.

<sup>301</sup>—NKHR2012000123 2012-06-26.

<sup>302</sup>—Interview with defector XXX in Seoul on May 7, 2010.

“Article 64” of North Korea’s Local People’s Assemblies Election Law stipulates that “The people are to vote by a secret ballot. To vote for a candidate, one simply leaves the ballot unmarked, but to vote against someone, one draws a horizontal line on the candidate’s name on the ballot.” However, voting is so closely supervised that casting a negative vote is unimaginable.<sup>303</sup> North Korean defectors testified that a ballot box to submit negative votes was not available.<sup>304</sup> The stark reality of the right to political participation in North Korea is that voters themselves can not even imagine casting a negative vote. The following table illustrates a few examples:

<Table III-27> Testimonies on Breaches of the Right to Vote

Time	Place	Testimonies	Testifier ID
2002	Songpyopng Dist. Chongjin City, North Hamgyoung Province	On election day, election officials, security guidance agents and three to four security branch agents supervise the election. Patrols check people with bad family background before, during and after the election day. There is only one ballot box, and no other tool to cast negative ballots.	NKHR2012000110 2012-06-12
2003	Wonsan City, Gangwon Province	When casting a ballot, people are told to submit an affirmative vote in a large box and negative vote in a small box. During the election period, major cleaning detail is in order, so movement is restricted.	NKHR2012000045 2012-03-23
March 2009	Hoeryeong City, North Hamgyoung Province	Everyone is given a number and one must put the number in the ballot box, without making any mark or using a seal.	NKHR2012000047 2012-03-25
2009	Gangkei City, Jagang Province	You can indicate negative vote by using a slash mark (/) and there is a pencil for the purpose. This is only a formality, and it is impossible to cast a negative ballot.	NKHR2012000115 2012-06-26
2010	Chongjin City, North Hamgyoung Province	No one is allowed to cast a negative vote in North Korea. It is allowed in theory, but the officials are watching, so a voter is expected to put an affirmative vote in the ballot box.	NKHR2012000052 2012-03-28

<sup>303</sup> Interview with defector XXX in Seoul on April 16, 2010.

<sup>304</sup> NKHR2012000066 2012-04-20.

Time	Place	Testimonies	Testifier ID
July 24, 2011	Jinam-ri, Shinchon County, South Hwanghae Province	There is a curtain in the polling station, but an official is watching behind the ballot box.	NKHR2012000006 2012-01-10
July 2011	Hoeryeong City, North Hamgyoung Province	Everyone must vote, because refusing to vote is viewed as "reactionary."	NKHR2012000015 2012-02-07
Unknown	Chongjin City, North Hamgyoung Province	My brother had spinal problem, so he could not vote, but they counted him as an affirmative vote.	NKHR2012000003 2012-01-10
Unknown	Musan County, North Hamgyoung Province	First time I voted, there were two boxes. I thought they were watching to see if anyone put a ballot in the negative box. Cannot remember when only one box was placed in elections.	NKHR2012000021 2012-02-07
Unknown	Hyesan City, Yanggang Province	Never thought about election itself. Voted because I was told to vote. "Simply do it, you're 'reactionary' if you don't put the ballot in the box."	NKHR2012000022 2012-02-07
Unknown	Chongjin City, North Hamgyoung Province	Election is to "put a ballot in the box," and if you "do not insert a ballot you will be branded as a "reactionary." Never thought "I do not want to put it in."	NKHR2012000023 2012-02-07
Unknown	Musan County, North Hamgyoung Province	There is a pencil next to the ballot box and you can slash it for a negative vote, but to actually do this is impossible. For an affirmative vote, you simply put the vote in the box without any marking.	NKHR2012000024 2012-02-21
Unknown	Hyesan City, Yanggang Province	Never thought about placing a negative vote. There was no pencil and no one told you how to cast a negative vote.	NKHR2012000033 2012-03-13
Unknown	Unknown	They said "We will not disclose it, so tell us your opinion if you are against it." But if you cast a negative vote, you will be classified as a "complex mass." So no one cast a negative vote even if he/she wanted to.	NKHR2012000040 2012-03-20
Unknown	Unknown	There is a box for a negative ballot, but it did not have an opening.	NKHR2012000066 2012-04-20
Unknown	Unknown	There is a negative ballot box, but it is located in the far corner of the room and you cannot go near it.	NKHR2012000072 2012-04-26
Unknown	Unknown	Grandmother could not go to the polls, so her husband voted on her behalf.	NKHR2012000123 2012-06-26

Time	Place	Testimonies	Testifier ID
Unknown	Hamhung City, South Hamgyoung Province	They tell you to cast negative votes as you please, but no one will do so for fear of what may happen.	NKHR2012000131 2012-07-03
Unknown	Sunchon County, North Pyongan Province	Curtains are around the polling booth, but since there is only one box, you can only put the ballot in the one box and come out.	NKHR2012000278 2012-12-18
Unknown	Yanggang Province	There was a pencil to mark a negative vote, and you are supposedly to be able to cast a negative vote, but you cannot cast a negative vote because many are watching.	NKHR2012000230 2012-10-30

North Korea conducts elections every four years to elect delegates for the provincial assemblies. On July 24, 2011, North Korea conducted a nationwide state and local elections for the provincial (and direct-control city) and city (district) people's assemblies and a total of 28,116 delegates were elected. North Korea's Central Elections Guidance Committee announced that "99.97 percent of those on the national voter registry participated in elections and 100 percent of them submitted affirmative votes for the candidates for all levels of people's committee delegates."<sup>305</sup> The reason for North Korean authorities' great emphasis on the near unanimous vote depends on their attempt to interpret the meaning of the vote. They seem to consider a ballot not just as a ballot for a candidate but as a ballot for a unanimous decision to honor and admire the Great Leader Kim Il-sung and the Dear General Kim Jong-il.<sup>306</sup> Even if there is a low voter turnout or an opposing ballot, the Election Management Committee, in this political culture, is unable to report it.

<sup>305</sup>—*Rodong Shinmun*, July 26, 2011.

<sup>306</sup>—Won-sik Ham, "A View on Vote," *Rodong Shinmun*, July 21, 2011.



- **Assessment**

Legally, North Korea appears to respect the right and opportunity to take part in the conduct of public affairs and to vote and to be elected at elections by universal and equal suffrage and secret ballot. In reality however, North Koreans have no choice but to cast affirmative votes for the single candidate carefully pre-selected by the KWP. The voting is conducted under strict supervision and control of security agents and officials of the State (National) Safety Protection Agency. For fear of threats to daily livelihood, North Koreans must comply with the mobilization for voting, and they are forced to cast affirmative votes at the polls. The unfairness of the election process in North Korea is obvious from the election laws that mandate voters to mark a slash for a negative vote and no marks for an affirmative vote, and the fact that no tools (such as pencils or ballot box) are provided for those who wish to cast a negative vote. The people's right to take part in the conduct of public affairs is actively violated by the government rather than protected.



# IV

## The Reality of Economic, Social and Cultural Rights

1. The Right to Food
2. The Right to Health
3. The Right to Work
4. The Right to Education





# 1



## *The Right to Food*

The Universal Declaration of Human Rights 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 (1)). The Declaration includes the right to food along with other rights.

The International Covenant on Economic, Social, and Cultural Rights provides a more specific provision regarding the right to food: “The States Parties to the present Covenant [recognize] the fundamental right of everyone to be free from hunger (“Article 11 (2)”).” According to the UN Special Rapporteur on the Right to Food, the right to food is defined as the right to have a regular, permanent and unrestricted access to quantitatively and qualitatively adequate and sufficient food.<sup>1</sup>

To guarantee the people’s right to food, the state must fulfill

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<sup>1</sup>–United Nations Human Rights Office of the High Commissioner for Human Rights, Available from <<http://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx>> (Online, cited January 5, 2012).

its obligations. As such, North Korea states in its Socialist Constitution that “the state shall provide all working people with the opportunity to obtain food, clothing, and housing” (“Article 25”). The distribution of food is alluded to in the statement, “citizens shall work according to their abilities and shall be paid in accordance with the quantity and quality of their work” (“Article 70”).

Based on these principles, the North Korean government has guaranteed stable, albeit unequal, access to food in accordance with the regulations of the Public Distribution System. The food supply is rationed by age and occupation, and rations are commensurate with class. The classes range from first class (900g) to ninth class (100g), with the first class consisting of those working in hazardous or heavy labor, the third class consisting of ordinary workers (700g), the seventh class consisting of the elderly and housewives (300g), and the ninth class consisting of infants that are less than a year old (100g). When the nationalized food distribution system (Public Distribution System) was in operation, access to food by ordinary citizens was comparatively well ensured.

However, the Public Distribution System does not function properly due to the persisting economic hardship and poor grain production.

## **A. Policy Failures and Persisting Shortage of Grains**

Since the 1990s, North Korea has been suffering from a chronic shortage of food, and the on-going deterioration of available grains. Between 1995 and 1997, North Korea suffered a flood disaster which devastated the grain supply and many North Koreans entered a period of starvation. According to North Korea’s official

statistics, the total grain output in 1994 was 6.66 million tons, but dropped to 3.37 million tons in 1995. In 1996 and 1997, the total grain output was 2.24 million and 2.58 million tons, respectively. In order to fill the shortage, North Korea needed to import more than one million tons of grain from external sources annually. Due to the famine from 1994 to 2000, a countless number of North Koreans died from starvation. Some have estimated the total deaths was a minimum of 580,000 and a maximum of 1,120,000 people.<sup>2</sup>

Fortunately, North Korea's agricultural output has improved during the 2000s. In 2012, North Korea experienced a severe drought in the spring, and typhoons with torrential rains in the summer. However the total grain output that year increased from the previous year. According to the special report of the FAO/WFP Crop and Food Security Assessment Mission to the DPRK for 2012-2013, North Korea's total grain output was 4.9 million tons for the 'grain year.' However, the total annual demand is estimated to be 5.4 million tons. Assuming an annual import of 300,000 tons, North Korea still falls short of grains by about 200,000 tons, despite the increase.

The fundamental cause for this persisting grain shortage is the failure of government policies. First, the grain output remains stagnant as a result of North Korea's ineffective Juche agricultural methods. Second, due to the military-first politics and attendant priorities placed on defense industry, sufficient resources were not allocated to grain production, which led to an overall shortage of grains. For these reasons, resource allocation policies are distorted. Given these factors, the government should allocate necessary resources on a priority basis for the production of fertilizers, which

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<sup>2</sup>-Suk Lee, *The DPRK of Famine 1994-2000: Existence and Impact* (Seoul: Korea Institute for National Unification, 2004), p. 75.

is needed in order to increase agricultural output.

Given the annual shortage of grain output, it is necessary for North Korea to expand the amount of grain import to meet the needs and to guarantee the people's right to food. Nevertheless, the authorities are allocating more resources for the purpose of promoting military-first politics, instead of resolving the grain shortage. Thus, the government is neglecting their obligation to guarantee the citizens' right to food when they fail to allocate sufficient resources to increase grain output. In short, the North Koreans' right to food is seriously challenged due to the persisting shortage of grains, and the fundamental cause for this is the government that repeatedly fails to fulfill their obligations.

## **B. Discriminatory Food Policies and Food Insecurity**

North Korea continues to face lack of food availability, yet the government is failing to fulfill their obligation to guarantee people's right to food. Furthermore, the Public Distribution System, though not officially abolished, transformed into something that is neither central nor rationing, and people's access to grain is becoming all the more difficult. First, the government is discriminating ordinary citizens from the elites in grain rationing.

Second, there is also unequal access to grains among the ordinary people. Since access to grain is unavailable, most people have to solve their needs through peddling in the market and other means. The unequal access to grains exacerbates the situation depending on individual capabilities.

KINU conducted a survey with 154 North Korean defectors who left North Korea after 2011 and approximately 67.5 percent

said North Korean people were obtaining grains on the market, rather than from government rations.

<Table IV-1> Methods of Obtaining Grains

Methods	Respondents	Ratio
Purchase on the market	104	67.5
Ration station	1	0.7
Senior citizens' guarantees	–	0.0
Help from friends and relatives	8	5.2
Other	41	26.6
Total	154	100

- **Grain Rations for the Elite and Discrimination against Ordinary Citizens**

The government's ration policy for grain distribution is based on personal (family) background. This is another factor that makes ordinary citizens' access to grains difficult and discriminatory. Even during the grain shortage, elites who belong to the core class are guaranteed access to grains through the public distribution system. Grain rations are available at official prices for those responsible for safeguarding the regime, and they include the members of the Party, military, State Security Agency. North Korean defectors testified that official rations are distributed on a priority basis to specific groups such as officials of the Party, State Security Agency, military, and military industry.<sup>3</sup>

However there is discrimination even among the elites. Low-ranking officials engaged in regime security missions do not

<sup>3</sup> NKHR2010000005 2010-03-16; NKHR2010000031 2010-11-09; NKHR2010000071 2010-11-09.

receive sufficient amounts of grain, and even some middle-level officials will receive less than the regulated amount. For example, a low-level security agent will receive only his share of ration, excluding share for his family. Therefore, these security agents maintain their livelihood based on bribes or other illegal methods, and this phenomenon is prevalent in the North Korean society. This trend, in turn, deprives ordinary citizens of their opportunity to secure their right to food.

Testimonies	Testifier ID
I was a security agent at a security branch in Hyesan City, Yanggang Province. I received my share of ration grains, but did not receive my family's share.	NKHR2012000033 2012-03-13
The main source of livelihood for security agents is from collecting bribes when checking and inspecting vendors on the market. The level of surveillance tightens during major holidays.	NKHR2012000050 2012-03-27

There is discrimination in terms of grain accessibility even between the elites; high-ranking elites receive sufficient amount of grain rations, while low-ranking officials do not receive the regulated amount, so they have to supplement the shortage through illegal practices of offering bribes.

#### • Disparities in Access to Food amongst Enterprises

Grain rations focus on the ruling elites, thus many agencies and enterprises are left to their own devices to secure necessary grains. The amount most city workers can receive vary depending on the capability of the enterprise. If the factory functions normally and if the enterprise is profitable, the workers receive relatively good amount of grain rations. Because enterprises are competing for grains, the amount of rations employees receive vary signifi-



cantly depending on the enterprise he/she works for. This disparity stems from North Korea's manpower supply policy. In North Korea, the government allocates manpower under the Socialist planned economy, and individual citizens do not have the freedom to choose employment. Consequently, the amount of grain rations vary depending on where one is assigned to by the government.

North Korean defectors testified that grain rations at coal and mineral mines are relatively good. In order to overcome the energy shortage, North Korea has tried to increase coal production. As a result, workers at coal-mines are given relatively generous amounts of grain, compared to other types of employment.

Testimonies	Testifier ID
I worked at the Hyesan Mine. I received regular rations of (Chinese) flour twice a month until I defected in September 2011.	NKHR2012000002 2012-01-10
Rations are also distributed at the Musan Mine. Workers at production sector received regulation amounts (700g for the worker, 300g per person for family). For non-production sector workers, 20 percent of the regulated ration was deducted, and only 80 percent was given.	NKHR2012000037 2012-03-13 NKHR2012000043 2012-03-20
In the case of the Musan Mine, rations were distributed twice a month, during the first and second half of each month.	NKHR2012000109 2012-06-12

As the situation deteriorated, even coal-mines issued rations only for the worker, and not for his/her family.

Testimonies	Testifier ID
North Korean defector XXX testified that when he defected in February 2012, the Onsung Coal Mine in North Hamgyoung Province was giving rations only to the miners, but not to other workers at the mine.	NKHR2012000090 2012-05-22

When factories were operating normally, the export business enterprises issued better grain rations. In addition, better rations

were given at special factories manufacturing items for the People's Army.

Testimonies	Testifier ID
Testified that at the export business he worked for in April 2011, regular rations were given once a month. The amount was 15kg for him and 20kg for his family.	NKHR2012000210 2011-09-20
I worked at a clothing export factory from May 2004 to February 2010 at Pihyon County, North Pyongan Province. They exported manufactured clothing to China, and with the money they earned, they issued regular rations. The amount was 14kg of rice and 1kg of cooking oil per month, and 1kg of sugar every 3 months.	NKHR2012000018 2012-02-07
Cigarette factory is a special facility for the People's Army, so all workers received 100 percent rations, though not their family.	NKHR2011000120 2011-05-24

Even if the factory did not operate properly, rations were sometimes given depending on the factory staff.

Testimonies	Testifier ID
In the case of the Sungjin Unified Steel Enterprise, the factory was not operating properly for lack of electricity and raw materials. But thanks to the resourceful staff, I received 450g of grain ration daily.	NKHR2008000015 2008-08-27

Even if rations were given, the amount was so meager and irregular that it was not enough for daily subsistence. Since rations were not given regularly in comparisons to other enterprises, grains always ran short. So, most people tried to supplement the shortage by purchasing from the market based on how much he/she could afford.

Testimonies	Testifier ID
I received corn ration twice a month in my capacity as a student at the Mechanics School of Gimchaek Steel Mill. Compared to others, the Gimchaek Steel Mill issued rations very well, but the amount of grain was still insufficient, so I had to purchase additional grains from the market.	NKHR2012000012 2012-09-04

Testimonies	Testifier ID
Worked at a Paper Mill in Musan County from June 15, 2007 to May 31, 2011. Rations were issued irregularly. Rations consisted of wet corn.	NKHR2012000011 2012-01-31
As a teacher in Hyesan City, Yanggang Province, I received one year's worth of rations in potatoes, but in 2010-2011, we had poor crops, so we only received five months' worth.	NKHR2012000178 2012-09-04

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

Testimonies	Testifier ID
Each work unit was assigned patches of land and cultivated vegetables, potatoes and corn, and the enterprise distributed them in place of grain rations.	NKHR2012000134 2012-07-10
In the case of People's Hospital in Hyesan City, Yanggang Province in 2010, there were no government rations. The hospital employees produced potatoes and beans and distributed them as rations.	NKHR2012000132 2012-07-03

#### • Deteriorating Access of Grains for Farmers at Collective Farms

Farmers at collective farms receive a ration once a year based on "annual settlement of account." Even though the grain situation in farm areas are better than other places, farmers do not receive sufficient grain rations.

Testimonies	Testifier ID
I worked as a farmer at the Yonpoong Vegetable Farm. Distribution of ration is made based on the number of days worked, credit numbers (merit points of work) and the number of children.	NKHR2012000092 2012-05-22

Testimonies	Testifier ID
At the Rokpyong Collective Farm, I received 30-40 percent of pre determined share, if lucky I got 60-70 percent of potatoes after harvest in the fall. If one received 100 percent of his/her ration, it would be approximately, 1.4 tons of potato, but in reality, the total amount was only around 1 ton.	NKHR2011000154 2011-07-05
At the Baekam County collective farm in Yanggang Province, I received about US\$10.00 (ten dollars), which did not amount to a year's worth of rations.	NKHR2012000263 2012-12-04

The grain situation continues to deteriorate for farmers. One reason is the excessive amount of “public contribution.” In the case of collective farms, the government is collecting too much grains for military purposes, resulting in the deteriorating grain situation on the farms. Most farms experience grain shortage due to the “public contribution” exacted by the government. But, most farmers are so busy with farm work that they do not have time to go into vending business, so they borrow grains from others and sometimes repay double the amount. If a farm yield was unable to meet the amount of public contribution, the government fills the required amount by taking away certain portions of output from land distributed or rented to individual farmers.

Testimonies	Testifier ID
The amount of annual potato rations is 1 ton 90kg, but the government takes almost half of it in the name of meat for military assistance.	NKHR2012000040 2012-08-20
The government demands a lot (public contribution), and if you miss a payment, they will deduct the amount from your share from the fall harvest. If public contribution is deducted from your share, the remaining is less than one third of the total.	NKHR2012000163 2012-08-07
Because we could not engage in vending due to busy farm work, we had to borrow grains from others on a two to one deal, in which you have to pay back double the amount.	NKHR2012000025 2012-02-21

Testimonies	Testifier ID
They distribute grains to the farmers in the fall, but recently, only one or two months worth of grain was distributed.	NKHR2012000235 2012-11-06
They distributed 250 pyong of land per farmer. If harvest did not meet the planned target of military grain demand, the grains harvested from individual patch of land was taken to fill up the shortage.	NKHR2012000194 2012-09-25

In recent years, the grain situation in Hwanghae province was reportedly deteriorating. Hwanghae Province had poor harvest for several years in a row, and the food situation was deteriorating because harvested grains were taken away as military grains or to support the military industry.<sup>4</sup>

As the public distribution system failed to work properly, North Korean authorities devised a new system called “non-ration management.” Instead of distributing rations, the government would loan out a certain size of land for a limited period of time to people so they could cultivate the land for crops. Under this “non-ration management” system, the Party would rent a certain size of land depending on the number and age of family members for a year, so they could cultivate crops instead of receiving grain rations. If a family is assigned a piece of land, they cultivate it and keep the output after paying a portion of it as tax. This system, however, does not operate every year, but only when the higher-ups (party secretary) give consent. North Korean defector XXX testified that there was the “non-ration management” in 2009 in Onsung, North Hamgyong Province, but it did not take place in 2010 but resumed in 2011. In her case, there were four members in her family (husband and two children), so she received 400

<sup>4</sup>-NKHR2012000235 2012-11-06; NKHR2012000273 2012-12-11.

pyong of land. The amount of tax ('land tax') varied according to the size of land rented out. In her case, she had to pay 10kg of corn as tax.<sup>5</sup>

In recent years, collective farms are often unable to meet the planned amount of output as fewer number of farmers report to work. In an effort to fill the manpower shortage, the farms utilize a system called seasonal manpower. These workers are not farmers, but when they work on the farm, they receive a plot of land to grow their own produce.

Testimonies	Testifier ID
Working as a guard on the farm, I received about 500 pyong of (non-ration management) land in place of rations. I harvested corn, and had to pay one-half to the farm and kept the remaining half.	NKHR2012000125 2012-06-26
Worked as a farmer at 4.25 Tobacco Farm. Received an average of 250-300 pyong of (non-ration management) land. Harvested mainly corn to support myself and family. In the past, whoever cultivated non-ration land could keep the entire output, but in recent years, they filled the shortage by taking away crops from these rented land, because North Korean farmlands could not produce crops as much as before and the amount of harvest often falls short of the target amount.	NKHR2012000153 2012-07-24
Got 300 pyong of land under terms of seasonal manpower, Worked as a member of the farming unit, and cultivated land on my own time and produced some crops for my own use.	NKHR2012000016 2012-02-07

#### • Deteriorating Access to Grains for Ordinary People

During the food shortage, ordinary citizens who are excluded from the government, enterprise or collective farm ration systems, have to secure their own food. They are split into two groups,

<sup>5</sup> NKHR2012000061 2012-04-17.

depending on their purchasing power and methods of securing food. While some people look for better quality and quantity of food, others look for the bare minimum.

In particular, children and senior citizens, who used to benefit from ration distributions based on the levels of need, are forced to suffer the most when the public distribution system is suspended. The right to food for these vulnerable groups is threatened as they are excluded from the ration system and as the public distribution system operates in a distorted manner. In the absence of government help, these people have to live on borrowed grains, which tends to drive them into deeper troubles, contributing to a vicious cycle. In 2011, however, the government was able to resume the public distribution system even though the operation was irregular depending on the region.

Testimonies	Testifier ID
If you borrowed 1kg of grain in the spring, you have to pay back 2kg of grain in the fall. Life under the weight of debt was unbearable and treacherous.	NKHR2012000184 2012-09-11
In 2011 in Hoeryeong, North Hamgyong Province, rations were issued until July, but discontinued for a while. The rations resumed in November, but only 15days worth was given.	NKHR2012000111 2012-06-12

North Korean defector XXX of Hoeryeong, North Hamgyong Province and XXX of Baekam County, Yanggang Province, both of whom defected in September 2011, testified that partial rations were given until August of that year. They heard that rations would stop from September 2012.<sup>6</sup> More research regarding this issue is needed as the story indicates that certain changes are taking place since Kim Jong-un came to power.

<sup>6</sup>-NKHR2012000273 2012-12-11; NKHR2012000274 2012-12-11.

An interesting development is that rations have temporarily resumed along the border regions, perhaps in an attempt to eradicate the tide of defections. At one point, a special consideration was given to senior citizens in the Hoeryeong City, North Hamgyong Province, where the number of defectors was particularly high.

Testimonies	Testifier ID
In an effort to discourage defections, Hoeryeong City (North Hamgyong Province) distributed 8kg of wet corn (15days worth) through Kang-an District office for six months from October 2010 to April 2011.	NKHR2012000020 2012-02-07

The food situation along the border region, such as Hyesan City (Yanggang Province), was better than other areas since active trading with China was taking place. The food situation along these border regions was far better than Hwanghae Province, which used to produce a surplus of grains.

Testimonies	Testifier ID
In Hyesan City, there are many rich merchants, and many people who engaged in trade are well off, particularly people living in Shinhung Dong, Hyesan City.	NKHR2012000022 2012-02-07
In 2012, Hoeryeong City where many of the traders lived, did not experience much difficulties compared to Hwanghae Province where people were suffering from dire shortage of grains.	NKHR2012000222 2012-10-23

The food situation of families of defectors was better than others, because the defectors who settled in South Korea would send remittances. Spending money openly attracted attention from others, so they purchased necessary items discreetly from individuals at night.

Testimonies	Testifier ID
We used to live on money that my father-in-law, who went to South Korea, sent us. After my husband defected to South Korea, he sent me money.	NKHR2012000031 2012-02-21



During this polarized situation, life for people with little or no purchasing power was seriously threatened. In particular, the failed currency reform was the main contributing factor for pressuring the already difficult lives of North Korean people. However, as people adjusted to the economic changes following the currency reform, the worst of the food insecurity situation was eased. According to North Korean defector XXX, death from starvation increased temporarily after the currency reform, especially among groups surviving on a day-to-day basis, but the number of deaths reduced once people started adapting to the situation.<sup>7</sup> But, other defectors testified that death from starvation could still be found in some places. Among the poorest people, who completely lacked the ability to buy food, some donated their blood in exchange for food.

Testimonies	Testifier ID
I saw my cousin's wife die from hunger on December 30, 2010.	NKHR2012000101 2012-06-05
Many people came to the government-run "blood center" at Dongdaewon District of Pyongyang to "sell" their blood.	NKHR2011000240 2011-11-22

KINU conducted a survey to assess nutrition levels of 216 North Korean defectors that escaped after 2011. 140 of the 216 participants responded and 74.3 percent of the participants said their nutrition level had deteriorated.

<Table IV-2> Nutrition Levels as Perceived by Defectors

Levels	Number of respondents	Ratio (percent)
Highly improved	0	0.0
Improved	8	5.7

<sup>7</sup>-NKHR2011000175 2011-07-26.

Levels	Number of respondents	Ratio (percent)
Average	28	20.0
Worsened	72	51.4
Very worsened	32	22.9
Total	140	100

### • Military-First-Politics and Ration Benefits for Soldiers

Food is preferentially distributed to the military, a major political role in maintaining the political system of North Korea under the Seongun (Military-first) ideology. As a result, the food situation of the military is relatively better than that of the civilians at large. However, even within the military, a soldier's access to food varies according to where they serve, as the rations differ according to region. Discrimination according to region, class and work place has also been reported.<sup>8</sup>

A defector who used to serve in the military in Gangwon Province and Pyongyang testified that his grain ration was different according to region. North Korean defector XXX explained that ration for border security agents are better than other units. When he was serving in Gangwon Province, he had to go hungry because they only issued 100-150 grams of grain per meal. In order to survive, he had to sneak outside and steal corn or rice from civilian homes. However, when he served in Pyongyang, his grain ration increased in quality and quantity, which meant he was far better off than when he served in Gangwon Province.<sup>9</sup>

Even in the military, access to food is discriminated according to rank. Military units are given priority when it comes to food,

<sup>8</sup> NKHR2011000188 2011-08-16.

<sup>9</sup> NKHR2008000014 2008-08-26.

but even in the unit, officers are supplied first. The amount of food rationed to enlisted soldiers is relatively limited. As a result, many enlisted soldiers in the military suffer from malnutrition. North Korean defector XXX testified that there were many cases of malnutrition among soldiers that soldiers had a saying, “I hope my family can offer good food when I get out of the military.”<sup>10</sup>

Testimonies	Testifier ID
Testified that there were about 60 soldiers in his unit, and 30 percent of them suffered from malnutrition.	NKHR2011000096 2011-04-19
The food situation in the military was deteriorating since 2008. Rice in meals were always mixed with corns.	NKHR2012000002 2012-01-10

Sometimes soldiers who are not given sufficient amounts of food would steal food from villagers near the compound.<sup>11</sup>

### • Discriminatory Distribution of Food Aid

North Korean authorities always tell their citizens that the grains and food are provided by outside sources thanks to Kim Jong-un’s leadership skills, rather than as a part of humanitarian assistance from South Korea or other international organizations.

Testimonies	Testifier ID
North Korean defector XXX testified that the Inminban (people’s group) leader told him, “Our General has strong military power, so other countries will tremble at his command! If he showed nuclear bomb or missiles, we will get lots of rice. When Comrade Kim Jong-il visited China, he gave advanced CNC technology to China in exchange for rice.”	NKHR2012000092 2012-05-22

<sup>10</sup> NKHR2012000235 2012-11-06.

<sup>11</sup> Soo-am Kim, et al., *The Relationship between Human Rights and Corruption in North Korea* (Seoul: Korea Institute for National Unification, 2012), pp. 152-154.

North Korean defectors testified that most North Koreans were aware that grain assistance was provided from outside. However, very few North Koreans were direct recipients of food aid.

Testimonies	Testifier ID
North Korean defector XXX testified that he received grain rations while working at the Musan Mine. He had seen empty rice bushels bearing marks such as the Republic of Korea or United Nations, but never actually received or ate that rice.	NKHR2010000011 2010-12-07
I realized rice and fertilizers were provided by South Korea after having seen containers bearing the mark Republic of Korea, but never knew whether they were given as rations.	NKHR2012000020 2012-02-07

North Korean defector XXX testified that aid to North Korea was distributed to military bases, the Ministry of People's Security, the State Security Agency, and businesses that generate foreign currency revenue.<sup>12</sup> Because of the monitoring system of aid organizations, ordinary North Korean residents received rice from aid organizations, but it was only a matter of formality. A defector testified that citizens lined up to receive beef rations from UN agencies. However, after the UN staff finished taking photographs and departed the scene, the citizens had to return the beef to the stores (rationing authorities).<sup>13</sup> A defector who once served as a Inminban (people's group) leader testified that she cooked foreign aid rice at home twice in an effort to show (i.e. deceive) UN inspectors, but she did not receive foreign aid rice again.<sup>14</sup> However, privileged cities such as Pyongyang apparently receive rations from foreign rice aid to North Korea.<sup>15</sup>

<sup>12</sup>\_NKHR2011000203 2011-09-06.

<sup>13</sup>\_NKHR2008000011 2008-12-16.

<sup>14</sup>\_NKHR2009000061 2009-10-08.

<sup>15</sup>\_NKHR2011000124 2011-05-24.

Most North Koreans believe that foreign aid rice did not go to the people, rather it ended up in the hands of the military, which in turn sold it on the market.<sup>16</sup> Specific testimonies from North Korean defectors who served in the military said they were provided rations of rice from South Korean aid provisions.<sup>17</sup>

Testimonies	Testifier ID
Behind the Hungnam Harbor, they replaced military license plates from trucks with civilian tags before transporting grains provided by aid organizations. Since they are military trucks, the cargo ended up in the military unit.	NKHR2011000213 2011-10-04

## C. Assessment

Despite a series of disasters, the grain output was on the increase. And yet, the absolute food shortage persists in North Korea. The food shortage is aggravating the inequality of access to food among people, as a certain class of citizens with good family background would enjoy better access to food than others in lower and vulnerable classes. This disparity stems not only from food shortage, but also because of failed government policies. The government provides food to the elite class on a priority basis, which exacerbates ordinary citizens' access to food. By stressing "military-first-politics" and neglecting increases in grain imports, the North Korean government is failing to fulfill their obligation to guarantee the people's basic right to food. The farming situation was also deteriorating because the government confiscated excessive amounts of grain as public (military) contribution. The grain situation in Hwanghae province appears to be deteriorating, even though the

<sup>16</sup>\_NKHR2009000027 2009-12-02.

<sup>17</sup>\_NKHR2011000096 2011-04-19; NKHR2011000103 2011-05-03.

area once produced enough grains for themselves and for other regions. As the grain situation exacerbated, the government developed a new system called non-ration management, which was implemented in various parts of North Korea. It is necessary to closely examine as to whether the North Korean authorities are changing their management style under Kim Jong-un's leadership.



# 2



## *The Right to Health*

The Universal Declaration of Human Rights 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, Para. 1”) Thus, the declaration articulates the right to health rather comprehensively, along with other rights. The ICESCR (economic rights) also declares, “The State Parties to the present covenant recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” (“Art. 12, Para. 1) The Preamble of the WHO Charter also contains a comprehensive stipulation, stating “enjoyment of highest possible standard of health is the fundamental right of everyone regardless of race, religion, political beliefs or economic and social conditions.” In addition, General Comments 14 of the Social Rights Committee presented four elements as integral parts of the right to health: availability, accessibility, acceptability, and quality. Accessibility, in particular, is said to include nondiscrimination, physical, economic and information accessibility.

The Socialist Constitution of North Korea stipulates, “The State must develop a system of universal health care, strengthen district doctor and preventive medicine system which shall protect people’s lives and improve the health of the working people (“Article 56”). There is an emphasis of preventive medicine. Additionally, they have enacted and implemented health related laws such as the Law on Public Sanitation (1998), the Law on the Border Sanitation Inspection (1996, 1998, 2007), the Law on Food Hygiene (1998, 2005), the Law on Medical Care (1997, 1998, 2000), the Law on Pharmaceutical Administration (1997, 1998), the Law on Public Health (1980, 1999, 2001), the Law on the Protection against Communicable Diseases (1997, 1998, 2005), the Law on the Protection of Persons with Disabilities (2003), the Red Cross Act (2007), and the Law on Culture and Sport (1997, 1998).

## A. Availability and Disparity between Classes

- **Deteriorating (Medical) Availability**

(Medical) Availability means that in any country, there has to be an adequate number of programs offering public health, medical facilities, supplies and service. In North Korea, the overall medical system is crumbling due to the unequal distribution of resources brought on by the economic hardship and military-first politics.

In terms of availability, North Korea’s health and medical systems have several problems. First, there is a shortage of medicines. Due to economic hardship, pharmaceutical companies are not operating properly. In addition to the shortage of medicines, there is a shortage of other medical equipment such as thermometers



and blood pressure gauges. Hospitals are not properly functioning due to the lack of these and other medical equipment.

Testimonies	Testifier ID
North Korean defector XXX, who used to practice medicine in Sariwon City, testified that once he received syringes as part of UN assistance, he had to use the same syringe repeatedly, disinfecting in hot water, for as long as one month.	NKHR2012000072 2012-04-26
He had heard that an 18-year old young man living in Gimchaek City died within a few hours after he received a shot with an infected syringe.	NKHR2011000108 2011-05-11

Second, proper medical services are not offered to patients who need hospitalization or surgery because hospital facilities are run down and medical resources are depleted. As the medical equipment and facilities fall behind the times, the doctors' skills are also falling behind. Most doctors in North Korea has no experience using ultrasound equipment.

Testimonies	Testifier ID
North Korean defector XXX, who used to practice medicine in Sariwon City, testified that even though there was an ultrasound equipment, there was no doctor who could handle it properly.	NKHR2012000072 2012-04-26

Third, due to the persisting economic hardship, even the integral elements of basic health are on the verge of disappearing. General Comment 14, Para. 11 of the Committee on Economic, Social and Cultural Rights states that the right to health is a comprehensive right that must include not only appropriate health and medicine, but also all integral elements of basic health. The integral elements include the accessibility to safe drinking water, safe food, nutrition, housing, work-place hygiene, and safe environment. Currently, due to economic difficulties, North Korea is suffering from poor social

infrastructure. This includes poor electric supply, lack of heating and running water, run down roadways, and outdated modes of communication. The unstable supply of electricity, heating and water, together with fundamental problems with medical logistics such as patient transportation and natural disasters such as droughts and floods, have caused the health and medical service system to collapse. Hospital operating hours are limited due to shortage of electricity and potable water, leaving emergency patients not being treated on time. In particular, electricity shortages can have deadly effects in medical situations. Doctors fear the possibility of power outages during surgery. Also, the provision of medical services, such as patient transfers, dispatching of medical personnel, delivery of vaccines, and management of hospital infections, are affected by inadequate transportation infrastructure and communication facilities.<sup>18</sup> Poor infrastructure degrades the quality of medical care in emergency situations.

- **The Collapse of Medical Services and Disparities in Medical Resources by Class**

The decline of free medical system and the deterioration of its availability contribute to unequal access to medical service for different classes of people. There are two factors that contribute to the disparities in availability. One is the discrimination based on personal and family background. The second is economic status. The current economic stratification among the people contributes

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<sup>18</sup>-Il-hak Lee, "Current Status and Aid Diection," *KPI Report*, No. 4. January 2010; Hyeon-ju Choi, "Status of Humanitarian Assistance to North Korea in Health and Medical Supplies, 2010," *Building Domestic and International Network for Improvement of Human Rights in North Korea II* (Seoul: Korea Institute for National Unification, 2010).

to the unequal access to medical services. When these factors are combined with the severe collapse of the medical system, the gap between the elite and ordinary citizens is bound to widen in terms of physical and economic accessibility to medical service.

North Korea's malfunctioning medical system consists of clinics, people's hospitals at city and county levels, provincial hospitals, and the central hospital in Pyongyang. However, the level of deterioration caused by North Korea's struggling economy varies from one location to another, and the quality of service also varies by each hospital. The primary and secondary medical facilities where most citizens receive medical service are showing more problems than larger hospitals.

Testimonies	Testifier ID
Testified that the clinic in Baekam County, Yanggang Province, could treat only minor injuries by disinfecting them because they did not have any equipment or skills. Main function of the clinic was to issue simple prescriptions or "transfer permits" to go to a larger hospital.	NKHR2012000071 2012-04-24
Testified that the only medical equipment at the First People's Hospital in Bukchong County was a damaged ultrasound equipment. Doctors replaced needles before administering a shot, but they appeared very unsanitary, and usually did not disinfect the syringes.	NKHR2011000182 2011-08-09

As a result, most citizens go to clinics and people's hospitals, but their physical and economic access to health service is deteriorating. On the other hand, the hospitals that high-ranking officials use are functioning properly. In short, even in the case of people's hospitals, access varies between the officials and ordinary citizens. Middle class citizens and high-ranking officials have easy access to the third and fourth level hospitals, where they are given relatively good medical service. The deterioration of the medical system and

the varying levels of accessibility contribute to unequal medical benefits for the lower classes of people in North Korea.<sup>19</sup>

### • The Realities of Preventive Medicine

Preventive medicine is emphasized in North Korea. “Article 3 of the Law on the Public Health which stipulates, “the basis of socialist medicine is preventive medicine.” Through the enactment of the Law on the Protection against Communicable Diseases, North Korea has been trying to eliminate contagious diseases. In order to enforce the medical health policy based on prevention, North Korea has developed a district doctor system. North Korean defectors testified that the preventive medicine that North Korea boasts is not working properly. But, physical check-ups and vaccines are well enforced, and physical examinations are often conducted at various locations.

Testimonies	Testifier ID
Family physician is responsible for primary management (preventive medicine) for each ‘dong(unit for a small complex of several buildings).’ But 80-90 percent of his work consists of lectures on good health.	NKHR2012000071 2012-04-24
In 2011, there were five family physicians in Kang-an dong, Hoeryeong City, North Hamgyong Province. The number was reduced, and only one is currently serving, and he does not play his proper role of being a family physician.	NKHR2012000020 2012-02-07
North Korean defector XXX from Hyesan, Yanggang Province, testified that the family doctor system has now become a “name only” system.	NKHR2012000022 2012-02-07

<sup>19</sup> Soo-am Kim, et al., *Quality of Life of North Korean Residents: Reality and Perception* (Seoul: Korea Institute for National Unification, 2011), pp. 137-138.

Testimonies	Testifier ID
During the winter of 2010, I was living in Musan County, and saw a family doctor visiting every home to provide “preventive shots.”	NKHR2011000186 2011-08-16
In the Bukchang Power Plant, a physical examination van came once a year. They conducted physical exams on workers. The exam included X-rays, blood work, blood pressure check-ups, and eye exam.	NKHR2011000144 2011-06-14

## B. Deteriorating Availability and the Free Medical Service System

In an effort to promote citizens’ right to health, North Korea has stipulated detailed obligations for the government to fulfill. “Article 9” of the Law on the Public Health 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” provides the detailed terms of the free medical system.

<Table IV-3> The Law on the Public Health Article 10: Free Medical Services

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 the round-trip travel costs shall be borne by the state or the social cooperative.
4. Assistance for mothers in labor shall be given free of charge.
5. Preventive medical care, such as medical checkups, health consultations, and vaccinations, shall be given free of charge.

Officially, North Korea is maintaining a free medical system. But the reality is that free medical treatment is available only to a very limited number of people, and ordinary citizens rarely benefit from this system.

- **Deteriorating Availability and Unequal Access to Medicine**

Included in the free medical benefits is diagnosis which is well enforced. Hospitals offer free diagnostics for patients. Under “Article 10, Para. 1” of the Law on the Public Health, all medicines are supposed to be provided free of charge. However, since there is a shortage of medicine, the availability of medicine is bound to be unequal for different classes of people. Providing free medicine is discriminatory, and this inequality of access stems from North Korea’s medicine “circulation” structure.

First, there is a severe shortage of medicine at all hospitals that depend on medicine rations from the government. Second, there are numerous unofficial drug stores on the market run by individuals, and they have sufficient amounts of medicine.

KINU conducted in-depth interviews with 216 North Korean defectors who escaped after 2011, and the status of supply of medicine in North Korea was among the questionnaires. A total of 132 defectors responded to the question regarding the status of medicine supply at hospitals, and 93.1 percent of the respondents indicated that there was an insufficient amount of medicine. As for the availability of medicines at the marketplace, 95.5 percent of 135 respondents replied that there was a sufficient amount of medicines at any market.

<Table IV-4> Defector' Answers to the Medicine Supply Situation in North Korea

Hospitals			Markets		
Status	Respondents	Ratio (percent)	Status	Respondents	Ratio (percent)
Very sufficient	0	0	Very sufficient	34	25.2
Sufficient	3	2.3	Sufficient	95	70.3
Average	6	4.6	Average	2	1.5
Insufficient	56	42.4	Insufficient	4	3.0
Very insufficient	67	50.7	Very insufficient	0	0.0
Total	132	100	Total	135	100

Currently, most North Korean citizens obtain their medicines at unofficial drug stores run by individuals at various markets. Article 38 of the Law on North Korean Pharmaceutical Administration provides: “Pharmaceuticals may be sold at designated pharmacies or pharmaceutical stands. They must be sold in accordance with the general sales index set by the Central Health Guidance Institution or the prescription issued by the treatment or prevention facility. Pharmaceuticals not specified in the general sales index may be sold at designated pharmacies with the approval of the health care guidance institution.” There are “pharmacies” run by the government in accordance with the Law on the Public Health. But doctors who have retired or quit from hospitals operate illegally at “drug stores” set up in private houses and sell medicine.

Testimonies	Testifier ID
In Pyongsung City, there was a state-run pharmacy, “Jungsung Pharmacy.” They sold medicine, and there was no bogus medicines.	NKHR2011000115 2011-05-17
Drug stores run by private individuals who sold medicine.	NKHR2012000090 2012-05-22
There were many drug stores on the street in front of the hospital in Hyesan City. Drug stores run by private individuals are called “family convenience” (store).	NKHR2012000086 2012-05-15

In the process, doctors and private drug stores enter into unofficial contracts for mutual profit. A North Korean defector testified that his/her mother had leg surgery at a hospital in Hamhung City. She needed antibiotics and there were many people near the hospital trying to sell medicine to patients living in the apartment complex near the hospital, but his doctor directed him to purchase medicine at a particular drug store. Clearly, this store had a special arrangement with the doctor.<sup>20</sup> This type of private drug store would maintain good relationship with doctors, so when a patient is in need of a certain type medicine, the doctor would refer the patient to a specific store to purchase medicine.<sup>21</sup>

According to North Korean defectors, medicine sold on the market are mostly made in China. Some UN medicines are also sold on the market. North Korean defectors testified that the UN-supplied medicines are distributed to hospitals, but they are smuggled by the hospital staff and sold on the market. These UN medicines are often used by the military and attack units (selected work units). In some places, UN medicines are distributed to patients for free. Private drug stores will also sell North Korean medicine, for example, by Jungsung Pharmaceutical Manufacturer.

Testimonies	Testifier ID
Testified that medicines in marketplaces are made in China.	NKHR2012000050 2012-03-27
Medicines that most people need are in sufficient supply on the market.	NKHR2012000071 2012-04-24
Testified that UN medicines on the market are not a part of humanitarian assistance. Most of them are brought from China by individual traders.	NKHR2012000015 2012-02-07

<sup>20</sup> Interview with defector XXX in Seoul on August 24, 2011.

<sup>21</sup> Interview with defector XXX in Seoul on June 22, 2011.



Testimonies	Testifier ID
Soldiers and attack units use UN medicine. I saw UN medicine being used at a construction site of Military-first Youth Power Plant.	NKHR2012000043 2012-03-20
I received treatment for six months from March 2010 at Section 3 Preventive Unit (tuberculosis) of Hungnam District Fertilizer Factory Hospital. The medicines were free of charge because the tuberculosis medicines were a part of UN humanitarian assistance.	NKHR2012000118 2012-06-19
At a tuberculosis treatment center, individuals were required to bring their own meals, but X-rays and medicines were free of charge.	NKHR2012000234 2012-11-06
Currently, many of North Korean medicines are sold in Hyesan City. Medicines made in North Korea are sold at a store called Jungsung Pharmacy.	NKHR2012000091 2012-05-22
About half of the medicines on the market are made in China, and the other half made in North Korea. North Korean medicines are manufactured by the Jungsung Pharmaceutical Manufacturer.	NKHR2012000142 2012-07-17

Given this medicine circulation structure, the unequal access to medicine is apparent in two dimensions. First, given the dire shortage of medicine at hospitals, the situation has an uneven influence on two sides of the people's right to health. The privileged class and high-ranking officials benefit from the medicine supplied to hospitals on a limited basis. Since only powerful people are benefiting from scarce medicine, discrimination against the people's right to health is obvious in terms of availability. North Korean hospitals are not altogether paralyzed. Ranking officials are getting normal treatment, and medicines are offered to them on a priority basis, even amid the shortage of medicine. In addition, doctors' acquaintances also receive medicine free of charge.

Testimonies	Testifier ID
Hospitals are not yet paralyzed. Treatment for officials is always available, and best medicines are offered to them.	NKHR2012000234 2012-11-06

Testimonies	Testifier ID
I had my eyes treated at a hospital in Pyongyang during the summer of 2009. My manager at work (Clothing export factory) introduced me to the doctor, so I didn't have to pay for the medicine.	NKHR2012000018 2012-02-07

Second, ordinary citizens have different levels of access to medicine depending on their personal wealth. Under the law, treatment is supposed to be free of charge. However since hospitals suffer an extreme shortage of medicine, patients have to purchase their own. They will obtain necessary medicine from market or his/her doctor will direct the patient to an unofficial drug store run by individuals. Once the patient brings the medicine to the doctor, he will give instructions.<sup>22</sup> If the patient requires a shot (injection), he/she has to purchase the ampule from the market and present it to the doctor, who will then administer the shot.

Some hospitals will charge for the medicine. Even if the medicine is given to the hospital for free, hospital workers will often collect money from the patients, since everyone knows that there is a severe shortage of medicine. This type of practice will damage the citizens' access to medical service and deepen the inequality among the poor in terms of their right to health.

Testimonies	Testifier ID
My father received out-patient treatment at the Myongchun County Hospital. I had to pay 500 won to the doctor for a shot of penicillin.	NKHR2011000167 2011-07-19
In March 2011, I was hospitalized for a month at the Musan Mine Hospital in Musan County, North Hamgyong Province. There were some medicines at the hospital, but they were selling them to the patients.	NKHR2012000030 2012-02-21

<sup>22</sup> NKHR2011000203 2011-09-06; NKHR2012000131 2012-07-03; NKHR2012000132 2012-07-03.

Testimonies	Testifier ID
I got my eyes treated at a hospital in Yanggang Province. After I paid 100 Chinese Yuan to the doctor, he gave me South Korean eye drops and I had the appropriate treatment.	NKHR2012000112 2012-06-12
After you purchased an ampule from the drug store as directed by the doctor, he will administer the shot.	NKHR2012000222 2012-10-23

As these cases illustrate, wealthy individuals can purchase medicine either at hospitals, markets or from private drug stores. However, poor people who are unable to purchase expensive medicine have to rely on lower quality medicine made by the hospital staff or obtain traditional folk medicine. Due to the on-going economic hardship, pharmaceutical factories are not operating normally, and some doctors at clinics try to mix substitute medicines on their own. These medicine can not cure patients. As a result, the health of ordinary citizens without financial means is seriously deteriorating. In some regions, certain diseases, such as tuberculosis, are treated free of charge with the medicine provided under humanitarian assistance.

Testimonies	Testifier ID
I was suffering from intestinal typhoid, but could not get hospital treatment. I was treated with folk medicine.	NKHR2010000032 2010-11-23; NKHR2011000213 2011-10-04
I was suffering from tuberculosis, but did not have proper treatment for lack of money. I was able to recover with "herbal medicine." (folk medicine)	NKHR2012000004 2012-01-10
In March 2009, I received tuberculosis treatment for six months at the Sec. 3 Preventive Medicine (tuberculosis) of the Hungnam District Fertilizer Factory Hospital. Everything was free of charge. Hospitalization was free, and the UN medicines were also free.	NKHR2012000118 2012-06-19

Many false medications are sold on the market at cheap price. This is also another threat to the people's right to health. North Korean defectors testified that most of the medication sold on the market are the pills manufactured by individuals at their home.

Testimonies	Testifier ID
There are adequate amounts of medicines sold on the market. But many of them are bogus. People bring medicine from China, and then re-make them into "bogus" pills.	NKHR2012000018 2012-02-07

Another reason the patient's access to medicine is deteriorating is corruption in the process of supplying medicine to hospitals. During the medicine supply from the central government to state and local hospitals, a significant amount of the medication is smuggled.

Testimonies	Testifier ID
The distribution should follow a line from the central supplier to Province to City (County) to Hospital and to the Patient. In the process, however, large amounts of medicine are smuggled to the market.	NKHR2012000060 2012-04-10

North Koreans generally do not hold the perception that medicine must be purchased from professional practitioners. As medication is sold by ordinary people with inadequate knowledge of their properties, such sales put the consumers' health at risk. There is a trend of elderly women carrying containers of medicine to the markets and trafficking them for a living. These pharmaceutical merchants learn the effectiveness from those who bring the medication from China and other locations, and they sell it to anyone who has the matching symptoms and wants to make the purchase. Medicines are smuggled into the country, stored in private homes, and sold wholesale. The wholesalers learn the basic effects,

usage, and dosage from translations of manuals brought from China and the United States. These wholesalers outline these facts to the retailers.<sup>23</sup>

Given the economic hardship, the practice of taking narcotics to cure illnesses has become widespread and has contributed to poor health outcomes. The abuse of opiates among the youth has resulted in serious consequences. When North Koreans are unable to obtain medicine by any other means, they often turn to drugs such as opium. Opium is effective as a temporary painkiller, and when they finally go to the hospital, treatment is impossible. There are people who turn to drugs at the first sign of illness and only seek help from the hospital after they have become addicted; by then many are beyond help.<sup>24</sup>

### • Hospitalization, Surgery, and Free Treatment

According to North Korea's Law on the Public Health, all medical related services and supplies are supposed to be offered free of charge, including diagnosis, examination, surgery, and hospitalization. In reality, however, patients receive diagnosis from the hospital, but they have to purchase their own medicine. If they need to get a X-ray, surgery or hospitalization, they have to visit a hospital.

Testimonies	Testifier ID
North Korean defector XXX, who used to practice medicine in North Hamgyoung Province, testified that people visited hospitals only when they needed surgery or special examinations such as X-rays.	NKHR2012000283 2012-12-18

<sup>23</sup> NKHR2011000203 2011-09-06.

<sup>24</sup> *Good Friends*, "North Korea Today," No. 419 (September 7, 2011); NKHR2011000173 2011-07-26.

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

Testimonies	Testifier ID
In November 2010, my father was hospitalized for appendectomy at Jechol Hospital in Sabongdong, Songpyong District, North Hamgyoung Province. We had to pay the doctor personally for hospitalization (surgery, room, etc.), medicines, and meals.	NKHR2012000012 2012-01-31
In 2011, I paid about 2,000-2,500 won for hospital bills in Baekam County, and had to buy a meal to all the doctors in the hospital.	NKHR2012000040 2012-03-20

As illustrated in the testimonies above, free medical system is not functioning properly. Thus, the patient has to pay for all necessary expenses in the event of a surgery. Therefore, the right to health is threatened for ordinary citizens who cannot afford to pay hospital expenses. Sometimes the hospital will charge only part of the expenses for surgery.

Testimonies	Testifier ID
The patient must pay for everything at the hospital, including gauze, anesthetic, and medicines.	NKHR2012000059 2012-04-10
At the Railroad Hospital in Baekam County, Yanggang Province, you had to pay a fixed amount of 30,000 won for appendectomy.	NKHR2012000071 2012-04-24
In 2007, I got appendectomy operation at Hyesan City, Yanggang Province, and had to pay 30,000 won.	NKHR2012000151 2012-07-24
In June 2011, my brother had an appendectomy operation, and the doctor asked for 5,000 won, so I gave him the money.	NKHR2012000270 2012-12-11
I received appendectomy operation at the Hyesan Provincial Hospital, and I paid 15,000 won to the doctor for the surgery.	NKHR2011000231 2011-11-08
Aunt XXX received had stomach inflammation and had a stomach surgery, and had to pay 1,000 Yuan (Chinese) at the time.	NKHR2012000105 2012-06-05

Testimonies	Testifier ID
In 2008, I had surgery for an appendectomy at a hospital in Sakju County, North Pyongan Province I had to pay for everything for my surgery, including gauze, alcohol, anesthetic, and medicines. After the surgery I also treated the doctor with a meal.	NKHR2012000152 2012-07-24
The patient must pay for 90 percent or more of all expenses at the hospital, including surgery and hospitalization.	NKHR2012000016 2012-02-07
In March 2011, I had to surgically remove a cervical cyst at Chongjin Provincial Hospital. I had to pay 100,000 won for surgery itself, and an additional 50,000 won was needed for other expenses.	NKHR2012000052 2012-03-28
For patients who need emergency surgery, the hospital will provide medicines and injections for three to seven days free of charge.	NKHR2012000248 2012-11-20

As the free medical system does not function properly, some patients without financial means lose their lives for not getting treatment on time.

Testimonies	Testifier ID
Father of my colleague XXX died from a terminal stage of tuberculosis. He was poor, and could not receive timely treatment.	NKHR2012000104 2012-06-05
In February 2007, my mother XXX died of tuberculosis in Nampo City, South Hwanghae Province because she could not get proper and timely treatment.	NKHR2012000144 2012-07-17
I saw a patient who fell ill after an abortion. She was hospitalized, but died because they did not properly treat her.	NKHR2010000042 2010-10-26

When tests or examinations are necessary, the patient has to pay for a part of the expenses.

Testimonies	Testifier ID
In March 2012, I had stomach ulcer, so I went to the Hyesan Provincial Hospital and had a urine test and endoscopy. I paid 10 Yuan (Chinese) for anesthetic and 5,000 won for endoscopy. For urine test, I gave a pack of cigarettes to the doctor.	NKHR2012000253 2012-11-20

Hospitalization itself does not cost anything, but the patient has to pay for everything he/she needs in the hospital room. In 2011, KINU conducted in-depth interviews with 216 North Korean defectors in Seoul. 33 of the participants were hospitalized in North Korea. Four of them testified that his/her office (employer) paid for all expenses for the hospitalization while 29 of them said they had to pay for everything. Once a patient is hospitalized, he or she must bring his/her own food and bedding. While some hospitals provide meals, the quality of the food is often so poor that patients provide their own food. They must bear the heating costs as well. They must bring wood for kindling or an electric stove during the winter if they wish to keep warm.<sup>25</sup>

Testimonies	Testifier ID
The Musan Mine Hospital was good. In the case of other hospitals, the patient has to bring everything when getting hospitalized, including his own meals. They have medicine and syringes, but they would use it only in emergency cases.	NKHR2008000022 2008-11-05
At obstetrics clinic in Hoeryeong, doctors only give you diagnosis (prescriptions). You do not pay for the bed, but you have to pay for everything else including bed sheets, disinfectants, and medicines. You also have to buy a meal for the doctor. Testified that she had heard hospital fees are pre-determined for each illness.	NKHR2008000027 2008-12-02
I had a baby born at an obstetrics clinic in Pyongyang. I purchased medicines on the market. The clinic offered rice and soup, but if you wanted something better, you had to bring it in from home.	NKHR2008000023 2008-11-11

<sup>25</sup>-NKHR2011000118 2011-05-17.



## C. Assessment

The North Korean people's right to health did not improve in 2012. North Korea's overall medical system has shown signs of collapse due to the unequal distribution of resources under the persistent economic hardship and the "military-first-politics." The availability of medical equipment and medicines has been deteriorating over the years. Furthermore, integral elements for basic health services are also on the verge of collapse, including electricity, roads, and infrastructures for emergency medical service. North Korea's free medical system is not functioning properly because there is discrimination between classes of people in terms of availability of medicines and treatment. The right to health of ordinary citizens who must use clinics and people's hospitals is violated because they do not have access to these facilities for lack of money and influence. On the other hand, high-ranking officials and middle to upper class citizens enjoy the access to third and fourth level medical facilities, thus their right to health is guaranteed. North Korean defectors testified that the free medical system North Korea has been boasting is not properly functioning. Since the free medical system is not working properly, patients without financial means are left with the burden of having to pay for all expenses for surgery and hospitalization. Some patients without money are left to die because they can not receive treatment or purchase necessary medicine on time. Thus the right to health of poor and vulnerable people is at risk for lack of access to quality medical facility and availability of good medicine. This situation is due to the North Korean authorities' failure to fulfill their obligations to guarantee the people's right to health.



# 3



## *The Right to Work*

The right to work is an individual's right under the law, and this right is protected by the court. The purpose of right to work is to guarantee the livelihood of each person and his family. However, the right to work under international human rights law is not an unconditional right to guarantee employment. Each government, based on their own standards, must establish various laws and detailed technical policies to achieve full and productive employment. The right to work is generally discussed in terms of freedom to choose jobs;<sup>26</sup> decent work;<sup>27</sup> prohibition of forced labor;<sup>28</sup>

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<sup>26</sup>-Social Rights Committee, General Comment 18, paragraph 6 stipulates, "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."

<sup>27</sup>-Social Rights Committee, General Comment 18, paragraph 7 stipulates, "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."

prohibition on unfair dismissal from jobs;<sup>29</sup> and the principle of non-discrimination.<sup>30</sup>

“Article 23” of the Universal Declaration of Human Rights provides that, “Everyone has the right to work, the free choice of employment, to just and favorable conditions of work and to be protected against unemployment.” “Article 3” of the International Covenant on Economic, Social and Cultural Rights (ICESCR) also stipulates, “The State 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.” Furthermore, Article 7 declares, “The right of everyone to enjoy just and favourable work conditions which ensure, in particular: 1) fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women guaranteed working conditions that is not inferior to those enjoyed by men, with equal pay for equal work; 2) equal opportunity for

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<sup>28</sup>-Social Rights Committee, General Comment 18, paragraph 9 stipulates, “The International Labor 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 Universal Declaration of Human Rights, article 5 of the Slavery Convention and article 8 of the ICCPR.”

<sup>29</sup>-Socials Rights Committee, General Comment 18, paragraph 11 stipulates, “ILO Convention No 158 concerning Termination of Employment (1982) defines the lawfulness of dismissal in its article 4 and in particular imposes the requirement to provide valid grounds for dismissal as well as the right to legal and other redress in the case of unjustified dismissal.”

<sup>30</sup>-Social Rights Committee, General Comment 18 paragraph 12(b)(i) stipulates, “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.”

everyone to be promoted in his/her employment to an appropriate higher level, subject to no other consideration than those of seniority and competence; and 3) leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.” “Articles 7 and 8” of the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantee that “the states party to the present Covenant recognizes the right of everyone to enjoy just and favorable work conditions [And] to ensure the right of everyone to form trade unions and join the trade union of their choice.”

“Article 70” of North Korea’s Constitution provides for people’s right to work. That is, all persons 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. People are supposed to work based on their abilities and receive compensation based on the amount and quality of their labor. In addition, North Korea’s Socialist Constitution prohibits sending children under the age of 16 to labor (“Article 31”). The Socialist Labor Law also stresses the sanctity of labor, as well as people’s duty to work; which is stipulated in the Socialist Constitution. North Korea’s Labor Protection Law (enacted on July 8, 2010) stipulates various institutional measures to protect the workers’ life and health. Based on this law, all North Korean citizens above the age of 16 have the duty to work at a workplace designated by the Korean Workers’ Party until the age of 60 (for man) and 55 (for woman). However, laws and institutional guarantees are irrelevant to the realities on the ground. In North Korea, labor is the responsibility of all people because labor is not for the individual’s benefit but based on the collectivist principle that it is a group activity for the benefit of everyone. Ultimately, the “right to work” in North

Korea is not a right but a duty to respond to organized labor.

For example, 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 General Federation of Korean Trade Unions, but it does not have the right to collectively organize, bargain or go on a strike. Following the Ninth Plenum of the Fourth Party Central Committee held in June 1964, the trade union's role of monitoring and controlling corporate management was abolished, and the interests of the laborers was placed under the control of the party. Thus, the Korean Workers' Party holds sole responsibility for representing the interests of laborers, and the trade union exists merely as a formality. In other words, the "workers' league" is simply a ruling mechanism for labor mobilization. Workers in North Korea do not have the right to a peaceful assembly or association, nor the right to collective bargaining or go on a strike. KINU's survey results also confirmed this fact.<sup>31</sup>

Paid time off is an example that reveals the gap between the reality and North Korean workers' rights under the law. "Article 71" of the Constitution provides that people have the right to rest, and "Article 62" of the Socialist Labor Law adds that laborers have a right to rest. "Article 65" of the same law stipulates that "Workers, office workers, and workers on collective farms are entitled to 14 days of annual leave. Depending on their line of work, an additional leave of seven to 21 days may be granted." The government does not control annual leave and they are granted to individual workers upon request. But the official leave policy for workers is

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<sup>31</sup> Korea Institute for National Unification (KINU) has conducted personal interviews with North Korean defectors from 2008 to 2012. Those who said there was no right to form free association was 98 percent; those who said there was no right to collective bargaining was 100 percent; and those who said there was no right to strike was 98.9 percent.

not observed in reality. The North Korean Constitution in “Article 30” stipulates, “the daily working hours for the working masses is eight hours.” On the other hand, “Article 33” of the Socialist Labor Law decrees, “in terms of organizing workers’ lives, the state shall strictly enforce the principle of eight hours of work, eight hours of rest and eight hours of education.” Because of this specific stipulation, the “eight hour rest” rule mentioned in the Constitution was merely a formality. This is due to the fact in addition to their basic workload, people are organized for additional labor mobilization programs and must attend study sessions. Labor projects are planned on a daily, monthly, and quarterly schedules. To surpass the goals of these plans, socialist work competition movements such as the 90’s Speed Creation Movement has been established. Under these circumstances, extended work hours are inevitable. In short, workers are driven to the limit as additional work is forced on them such as labor mobilization, education and training, and group meetings in addition to their regular working hours.

For North Koreans, work is not a right but a duty (“Article 2” of the Socialist Labor Law: people’s sacred duty of labor). Yet, a majority of North Korean industrial workers are unemployed. The average rate of factory operation is only 20-30 percent due to the deteriorating economy, dilapidated infrastructure, and workers unable to find employment. A defector who used to work at a factory rhetorically asked, “How can anyone work when there are no materials to work with?” He testified that most workers are mobilized for “social work” during working hours.<sup>32</sup> Since many factories are not operating, even if workers report to work, they find themselves venturing out on the streets to engage in street

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<sup>32</sup> NKHR2009000018 2009-03-26.

vending or other personal profit seeking activities. Kim Jong-il issued instructions twice, in December, 2005, and March of 2006, in which he said, “Eliminate the phenomenon of individuals working on their own, and make them report to factories and enterprises and join in collective work.” Despite these instructions, however, the phenomenon appears to be permanent.<sup>33</sup>

Testimonies are mixed regarding the pay system and whether or not it is based on the quantity of one’s work. North Korea enacted the Labor Standards Law on December 10, 2009. Establishing labor standards by law was not so much to protect the workers but to enhance overall productivity. (“Article 5” of the law) North Korean defector XXX testified that at his workplace, the Daeheung Administrative Department at Yeonsa County, measured labor quantity and compensated employees accordingly.<sup>34</sup> Another defector said that when she worked as a coal miner at the Hoeryeong coal mines, the monthly quota was 1 ton 500 kg of coal, and those who met this quota for the month were paid extra.<sup>35</sup> However, another testified that at the Rokpyeong Cooperative Farm where he worked, production evaluations were made only once a year, even though they should have been conducted daily.<sup>36</sup> Meanwhile, some testified that they were paid without regard to any evaluation of work quantity.<sup>37</sup>

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<sup>33</sup> *Good Friends*, “North Korea Today,” No. 56 (January 24, 2007).

<sup>34</sup> NKHR2011000123 2011-05-24.

<sup>35</sup> NKHR2011000177 2011-08-02.

<sup>36</sup> NKHR2011000154 2011-07-05.

<sup>37</sup> NKHR2011000105 2011-05-03.

## A. The Freedom to Choose One's Job

“Article 23” of the Universal Declaration of Human Rights provides, “Everyone has the right to work, the free choice of employment, to just and favorable work conditions and protected against unemployment.” Furthermore, “Article 6” of the International Covenant on Economic, Social and Cultural Rights stipulates that “the states party to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to earn his living by work which one freely chooses or accepts, and will take appropriate steps to safeguard this right.” “Article 70” of the North Korean Constitution provides, “People have a right to choose employment according to their desire and capability.”

However, as in other areas, the freedom to choose employment is restricted in North Korea. One's job depends on the Party's plans which dictate the supply and demand of manpower rather than one's individual choice. In other words, job assignments are determined by the central economic plan and the demands of each sector; individual capabilities and preferences are not seriously considered. In North Korea, the Party (KWP) exercises full and exclusive control over all “job assignments” for the people. Various departments share this authority depending on the level and position of persons subject to reassignment. They include the Central Party Organization Guidance Department, Senior Staff Department, Provincial Party Organization Department, and the Military Party Organization Department. For example, the Central Party Organization Guidance Department handles the appointment (assignment) of all chief secretaries at all senior positions in the Central Party and Provincial Party headquarters, as well as party positions in the military. The military staff committee handles the assignment for



section chiefs of military administrative committees and workers below the level of guidance officers. For ordinary workers, the Workers' Department at the province and city/county people's committees handle the assignments.

In North Korea, the most common example on violations of individual rights to choose jobs is that most job appointments are based on group allocations. This means that people are assigned their jobs in groups to work places, factories, mines or construction facilities based on what the Party believes necessary. Recently, as North Koreans began to avoid hard labor, the North Korean authorities began to sponsor loyalty resolution rallies and send handwritten letters from Kim Jong-il to discharged soldiers and graduates of high schools before assigning groups to coal mines and construction sites. In September, 2001, high school students and soldiers discharged from the military were group assigned to the Pyongyang Textile Factory located deep inside the lumbering fields in Rangrim County, Jagang Province, and to the Ranam Coal Mine Machine Company Collective in Chungjin City, North Hamgyoung Province, from where the Ranam Torch Movement originated. A defector testified that in 2002, approximately one thousand young discharged soldiers were group assigned to a collective farm in Daeheungdan County.<sup>38</sup> The North Korean authorities awarded medals of honor and hosted massive send off rallies for them. According to North Korean defectors, the so-called group allocations are imposed on these people by the authorities regardless of personal choices.<sup>39</sup>

Group allocations are carried out based on the approval of KWP general secretary Kim Jong-il, thus no one refuses to comply.

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<sup>38</sup> Interview with defector XXX in Seoul on January 20, 2005.

<sup>39</sup> *Yonhap News*, December 13, 2001.

Since they are strictly controlled, even the children of powerful and wealthy families cannot avoid assignments. If someone is missing from a group allocations, the responsible staff is subject to severe punishment, while the missing individual is returned to the original group allocations. To prevent evasions from group allocations, the authorities collect vital documents such as the grain ration card, inhabitant registration card, and KWP partisan membership card, and send them in advance to the unit of assignment. Therefore it is nearly impossible to change occupations according to personal capabilities, once he/she is assigned to a certain duty.

If anyone who is group-assigned to a workplace and fails to report to work or is absent without any reason, the workplace suspends grain rations and stops issuing daily necessities to that person. Thus, everyone has to report to work regardless of individual feelings or excuses. The reason the North Korean authorities refuse to permit job transfers is to prevent loss of manpower (or man hours) and to systematically implement their economic plans through effective control of manpower. Furthermore, the government is able to exercise institutional control over its population through this system. Arbitrary assignment of jobs to individuals and preventing mobility between jobs is a way to demand loyalty to the Party and extract psychological allegiance from the people.

The practice of group allocations is still continued. Some discharged soldiers have reportedly been to coal mines: 1,000 discharged soldiers to Gimchaek Coal Mine; 1,000 discharged soldiers to Gyeongsung Coal Mine;<sup>40</sup> 200 discharged soldiers to Hyesan Coal Mine. Many North Korean defectors testified that since 2010, North Korea has discharged soldiers to coal-mines and

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<sup>40</sup>-NKHR2011000100 2011-04-26; NKHR2011000108 2011-05-11; NKHR2011000129 2011-05-31; NKHR2011000164 2011-07-12.

other places.<sup>41</sup> According to the KINU database on North Korean human rights, group allocations are most frequent in coal mines, followed by factories and collective farms. Many discharged soldiers will use personal contacts and bribery to avoid this type of group allocations.<sup>42</sup> Given the continuous economic hardship, unreliable government ration distributions and widespread corruption, many workers attempt to flee from these group allocations. One thousand discharged soldiers were group allocated to Daehungdan, but many are reported to have fled from the site.<sup>43</sup> In the past, the government used to group assign hundreds of discharged soldiers to coal-mines and mineral mines. When many of these workers fled from their jobs, the authorities decided to assign them close to their homes or hometowns.<sup>44</sup>

The authorities will penalize a worker if he fails to report to work which he was forcibly assigned. This is clearly a serious breach of freedom to choose jobs. In North Korea, if anyone fails to report to work, the person would be defined as jobless or to exhibit an anti-socialist attitude, and he would be sent to a labor training camp.<sup>45</sup> In order to avoid punishment, he has to bribe the authorities or present a false diagnosis from a doctor by buying him off.

In North Korea, people are not allowed to change jobs with-

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<sup>41</sup>-In 2010, “group allocations” of discharged soldiers had taken place in South Hamgyoung Province in 2010 (NKHR2011000129 2011-05-31), in Kyungsong region, North Hamgyoung Province, (NKHR2012000094 2012-05-29, in Youth Mine in Hyesan City (NKHR2011000298 2011-09-20) and in Suksong Coal Mine, Kilju County, North Hamgyoung Province (NKHR2012000026 2012-02-21).

<sup>42</sup>-NKHR2011000217 2011-10-04; NKHR2011000209 2011-09-20; NKHR2012000030 2012-02-21.

<sup>43</sup>-Interview with defector XXX in Seoul on January 9, 2008.

<sup>44</sup>-NKHR2008000024 2008-11-18.

<sup>45</sup>-NKHR2012000217 2011-10-16.

out government permission. However, anyone fired from a job may obtain another job elsewhere. In this instance, the individuals must obtain an authorization number from the city the worker is moving to, with a number of documents, such as a government dispatch order, Party branch affiliation, ration card, military record, and change of residence. In order to change jobs, one needs to obtain the approval of the Party secretary. This is very difficult unless one is able to bribe the guidance officer. Furthermore, in order to change jobs, one must obtain in advance the approval from a hiring employer. One must obtain a letter of employment from the hiring employer and submit it to the worker's current job, which would then issue a letter of resignation.<sup>46</sup> The worker should then submit it to the Labor Department, who will issue a labor card and the Socialist Labor Agency will issue a transfer certificate.<sup>47</sup> Next, the 'Labor Relations Section' of the People's Committee will issue a transfer permit based on the letter of employment.<sup>48</sup> With the persistent food shortage, North Korea's government's job assignment system collapsed.<sup>49</sup> Some workers get a "re-assignment" without reporting to the originally assigned job by bribing responsible agents.<sup>50</sup> If an individual is returning from a voluntary service at attack units, he/she will be re-assigned to a job without any bribes.<sup>51</sup> In addition, if an individual is returning to school, he/she will also receive a new re-assignment.<sup>52</sup>

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<sup>46</sup>\_NKHR2012000084 2012-05-15.

<sup>47</sup>\_There is a case where the worker bribed to the labor sector to transfer. NKHR2012000030 2012-02-21.

<sup>48</sup>\_NKHR2008000022 2008-11-05; NKHR 2012000166 2012-08-21.

<sup>49</sup>\_NKHR2008000009 2008-08-07.

<sup>50</sup>\_NKHR2012000032 2012-03-13.

<sup>51</sup>\_NKHR2012000041 2012-03-20.

<sup>52</sup>\_NKHR2012000223 2012-10-23.

## **B. The Challenges of Obtaining Good Employment**

If the right to work means a safe and steady job to support one's family, North Korea's job security, as stipulated in their laws, is not something that can be realized under the current circumstances. Today in North Korea, wages are not paid on time; and even if there is compensation, the amount is not enough to support one's family due to the rise in the cost of living.

## **C. Prohibition of Forced Labor**

Apart from the ongoing economic hardship, there are serious cases of unpaid labor in North Korea. Forced labor on the inmates in detention facilities is a clear violation of the right to work. North Korea is operating labor training camps to uphold socialist education, but compensation is not made for work at construction sites, farms, firewood collection, and other hard work. Inmates at correctional centers and political prison camps are also driven to forced labor.

North Korea sends workers to the Middle East, Russia, China, and other countries to increase their foreign currency earnings. To prevent the workers from fleeing, all workers are required to live in groups, and the wages are managed by the authorities. Even in the Kaesong Industrial Complex, South Korean employers are prohibited from directly paying North Korean workers. The international community pointed out that this amounted to a breach of North Korean employees' right to work.

## D. Prohibition of Forcible or Arbitrary Dismissal

Looking from the principle of no arbitrary dismissal of workers, the right to work in North Korea does not have a lot of meaning. Currently, most work places are unable to pay wages to their workers, and the need for a “reduction in force” does not arise in North Korea, because there is no competition between companies or factories. However, placing arbitrary restrictions on the duration of stay at the Kaesong Industrial Complex or foreign assignments would amount to breaches regarding the right to work, even though they are not the same as forcible or arbitrary dismissal.

## E. Non-discrimination

The Party’s criteria for job assignment includes loyalty to the party, personal background and family background rather than individual capabilities or professional qualifications. Students with unfavorable backgrounds are assigned to positions requiring menial labor such as collective farms and coal mines. An undesirable personal background, for example, would include the following cases: If any relatives violated the Sole-Leadership Ideology, if one’s family fled to South Korea during the Korean War or a family member had joined the voluntary security police against the North Korean regime; or if one’s family was classified as a landlord class. Conversely, the children of Party and Government officials are given good jobs regardless of their ability or qualifications. Reassignment from one position to another depends on the decision of the Party, based on one’s background, irrespective of one’s talents. Many recent defectors testified that the most important factor in job

placement was money. In short, most people who received good job placements did so through bribery.<sup>53</sup>

## F. Assessment

North Korea has institutionalized that all North Korean citizens may be assigned to a job. This may appear to be accurate in terms of the right to work. But in the process of job assignment, the individual's opinions or preferences are never considered or respected, and discrimination based on personal and family background still persists. Furthermore, all workers are forced to report to work, even though the wages fall short of the necessary amounts to support his/her family, and if anyone fails to report to work, he/she must face serious penalties or additional financial burdens. As a result, the individual worker's rights are substantially breached. As the international community has pointed out, cruel and degrading forced labor on inmates in various detention facilities in addition to malnutrition is a serious threat to their lives and well-being. North Korea is also managing the wages and daily lives of overseas workers. It is clear that their fundamental rights are breached, thus North Korea needs to improve their management rules and regulations.

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<sup>53</sup> NKHR2010000001 2010-05-25; NKHR2010000004 2010-05-25; NKHR2010000061 2010-05-18.



# 4



## *The Right to Education*

“Article 26, Para. 1” of the Universal Declaration of Human Rights and “Article 13, Para. 1” of ICESCR (economic, social, cultural rights) both stipulate the right to education, and the provisions encompass all age groups, including children, senior citizens, and other members of society. “Article 13” of ICESCR defines this right to extend to all persons and to all public and private education, as well as regular and irregular education.

Several standards are applied in analyzing the level of implementation on the right to education. They are availability, accessibility, acceptability, and adaptability.

First, availability demands that there has to be a properly operating educational institutions and programs.<sup>54</sup> North Korea’s compulsory educational institutions include kindergartens, elementary schools, and middle schools. Colleges and universities are

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<sup>54</sup>–Social Rights Committees, General Comment 13, paragraph 6(a) stipulates, “Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors...”



institutions of higher education. Given the ongoing economic hardship, it is not clear whether North Korea's educational institutions and programs are operating properly. It is believed that different regions have different levels of school operation, some operate normally while others do not.

Second, accessibility is reviewed in terms of non-discrimination, physical and economic accessibility.<sup>55</sup> Regarding non-discrimination, North Korean authorities do not permit access to normal education or educational programs to children of political criminals and individuals who are potential reactionary. The 11-year compulsory education which is offered under the law is not permitted inside the political prison camps. Although elementary education is offered in the camp, the curriculum is different from elementary schools outside the camp. "Article 28, Paragraph 1" of the Convention on the Rights of the Child stipulates, "States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity. [They shall] make higher education accessible to all on the basis of capacity by every appropriate means." On the other hand, in terms of equal opportunity for education in North Korea, "Article 48" of

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<sup>55</sup> Social Rights Committee, General Comment 13 paragraph 6(b) 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: whereas primary education shall be available "free to all", States parties are required to progressively introduce free secondary and higher education."

the Education Law stipulates, “Individual capacity shall be the basis of determining gifted and talented students and higher education opportunities, while institutionally guaranteeing eleven years of free, compulsory public education.” In March 1980, North Korea even introduced a college entrance qualification examination (National Board Exam) that allowed all high school graduates the opportunity to matriculate to colleges.

However, college admissions are based more on students’ family background and Party affiliation (or the evaluation of organized-life) rather than fair competition among applicants. When a high school recommends students for college admission, personal background and Party affiliation are considered with greater weight than grades. This selective admission policy based on personal background is particularly noticeable in the cases of major universities such as Kim Il-sung University and education colleges that produce teachers.<sup>56</sup> College applicants who are relatives of Kim Il-sung or children of anti-Japan fighters are admitted to colleges of their choice. Those who are selected in their fourth and fifth grade of middle school for government service from the Central Party screening, those selected for the “honorary guard” (inspection and reception), Group 6,<sup>57</sup> or Kim Jong-il’s “palace guards,” are assigned to appropriate colleges according to national demand.<sup>58</sup>

<sup>56</sup>-NKHR2012000019 2012-02-07; NKHR2012000041 2012-03-20; NKHR2012000065 2012-04-17; NKHR2012000071 2012-04-24.

<sup>57</sup>-They are selected from among the graduates of girls’ middle school based on family background, economic level, looks, talents and family status. They were classified under “Group 5” in the past, but they were recently re-classified under “Group 6.” Once a girl is selected to “Group 6,” she is most likely to be assigned a good job such as a guide at Keumsoosan Memorial Palace, an usher at the Party Central Committee Building, a hotel receptionist or a waitress at a North Korean restaurant in China. Most girls are known to prefer selection into “Group 6”; Interview with defector XXX in Seoul on November 8, 2005.

<sup>58</sup>-Interview with defector XXX in Seoul on August 12, 2005.

Since the mid-1990s, personal background and loyalty to the Party are considered less important than the individual's academic record, the parents' power background, and financial capability. In particular, colleges in the science and technology field place priorities on good academic records, and excellent students advance to colleges of science and technology, even if the student's personal background is unfavorable. Only the children of wealthy families, especially with foreign currency reserves, advance to major universities. Since the Arduous March period, people said money is more important than personal background.<sup>59</sup> Admission on bribery is frequently found not only in the case of colleges, but also in admissions to "foreign language schools" and the Jeil (No. 1) Advanced Middle School, which is known as the best educational institution for the gifted and talented students.<sup>60</sup> North Korean defectors testified that in late 2009, Kim Jong-il's instruction to select college students was based on academic excellence.<sup>61</sup> In recent years, the primary consideration in advancing to a higher educational institution is personal wealth, family and power background.<sup>62</sup> A survey conducted by KINU in 2012 also indicated that the priority for higher education is in the following order: "wealth (bribes)" 53/9 percent,<sup>63</sup> personal background (20.7 percent),<sup>64</sup> academic record (19.1 percent)<sup>65</sup> and power (contacts) (5.2 percent).<sup>66</sup> There was an example of a North Korean defector

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<sup>59</sup> NKHR2012000040 2012-03-20; NKHR2012000041 2012-03-20; NKHR2012000070 2012-04-24.

<sup>60</sup> NKHR2012000059 2012-04-10; NKHR2012000080 2012-05-15.

<sup>61</sup> NKHR2012000026 2012-02-21.

<sup>62</sup> NKHR2012000053 2012-04-03; NKHR2012000051 2012-03-27.

<sup>63</sup> NKHR2012000042 2012-03-20 and other 104 testimonies.

<sup>64</sup> NKHR2012000047 2012-03-25 and other 40 testimonies.

<sup>65</sup> NKHR2012000046 2012-03-23 and other 37 testimonies.

<sup>66</sup> NKHR2012000094 2012-05-29 and other 10 testimonies.

who explained that it took 1,500 US dollars to be admitted to Kim Il-sung University in 2010, but the fee has risen to 3,000 USD in 2011.<sup>67</sup>

In the first progress report on CEDAW submitted in September, 2002, North Korea stated the ratio of female students to all students in grade schools and colleges were 48.7 percent and 34.4 percent, respectively. These numbers seem to indicate that opportunities for higher education differ according to gender. To address this gender difference in 2004, the UN Committee on the Rights of the Child recommended (“Paragraph 55b”) that North Korea “provide female students with the same opportunities for higher education as male students.” However, in the Third and Fourth Term Combined Report, North Korea insisted that there was no gender discrimination on children’s education.

North Korea’s Education Law also stipulates in “Article 15” that the government should take all necessary measures to guarantee compulsory middle school education for handicapped children and those living in remote areas. It appears that there is no institutional problem in terms of physical accessibility to education. However, KINU’s research on North Korean human rights revealed that educational facilities for handicapped children is not operating properly in various regions. In light of international standards, North Korea is restricting accessibility to Internet use and other modern technological devices, thus there needs to be an improvement in regards to technological accessibility. North Korean children’s right to education continues to face serious challenges since the food shortage that began in the 1990s.

North Korea has promulgated the Education Law mandating

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<sup>67</sup>-NKHR2011000240 2011-11-22.

an 11-year free and compulsory education, exceeding the compulsory primary education standard of the international community. Since September 1975, North Korea has offered an 11-year compulsory education program in accordance with the education laws. North Korea has insisted that all education programs are free with the government paying for all expenses. The Elementary Education Law enacted in 2011 also stipulates the policy of a 11-year free, compulsory education. In reality, there is a shortage of textbooks at elementary schools, and parents have to bear the financial burden for them. North Korean defectors stated that free education was provided in most areas until the economic crisis hit the nation. From the 1990s, the free school supplies that was previously provided every semester were issued every three to five years, and as the economic crisis worsened, these supplies were stopped completely.

Given these constraints, schools are unable to provide textbooks for all students, so parents have to purchase textbooks from the market. Otherwise they have to offer extra money or gift to the teachers to secure textbooks for their children.<sup>68</sup> But, there is a report that since Kim Jong-un came to power, the supply of textbooks has increased.<sup>69</sup>

The government budget for school education has sharply reduced and since 2002, parents had to bear 70 percent of school expenses, including pencils, paper, and other supplies. Furthermore,

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<sup>68</sup>-NKHR2012000024 2012-02-21. Testifier said the children would get only a part of textbooks and they have to get the rest on the market or go without them. The textbooks issued to students must be returned to school at the end of the school year. NKHR2012000014 2012-01-31 Teachers are not regularly paid, so they would take basic textbooks and sell off to peddlers in the market. NKHR2012000116 2012-06-19; NKHR2012000151 2012-07-24.

<sup>69</sup>-NKHR20120000151 2012-07-24 North Korean defector XXX from Hyesan City, Yanggang Province, testified that every year textbooks on two major subjects were issued, but in 2012 seven books were issued.

the parents have to help with school expenses including school construction, building maintenance, and even firewood during winter.<sup>70</sup> Even after 2000, students from poor families experienced difficulties at school because schools demanded cash contributions for a variety of reasons. They included classroom decorations, laboratory upgrades, school hygiene projects, teachers' birthdays, commencement exercises, support for the People's Army, construction sites, and firewood.<sup>71</sup> For firewood, students were required to pay cash in elementary schools. In middle schools, students are required to bring firewood from nearby hills. The school asks students to bring things such as rabbit hide, and if not, the students are asked to pay in cash.<sup>72</sup> The school is also asking for cash to support attack units and little funds.<sup>73</sup> In a survey conducted by KINU in 2012, most respondents (82.0 percent) said the unofficial school expenses were burdensome (52.9 percent said very burdensome).<sup>74</sup> In addition, there were other expenses such as support for off school facilities, dinners for teachers, and "small-cash" envelopes.

Children of families that can not bear these burdens often decide not to go to school.<sup>75</sup> The North Korean authorities continue to insist that all North Korean children are enjoying 11 years of free education and that they are given full opportunities to develop

<sup>70</sup>-The North Korea Research Center, Dongguk University, *A Survey on the Reality of North Korean Human Rights through the Defector Testimonies* (Seoul: North Korea Research Center, Dongguk University, 2005), p. 111.

<sup>71</sup>-NKHR2008000009 2008-08-07; NKHR2008000010 2008-08-08; NKHR2008000012 2008-08-14.

<sup>72</sup>-NKHR2012000187 2012-09-11; NKHR2012000153 2012-07-24; NKHR2012000177 2012-09-04; NKHR2012000139 2012-07-10.

<sup>73</sup>-NKHR2012000184 2012-09-11.

<sup>74</sup>-NKHR2012000011 2012-01-31 and other 49 testimonies.

<sup>75</sup>-NKHR2012000092 2012-05-22; NKHR2012000215 2012-10-16; NKHR2012000198 2012-09-25; NKHR20120002 2012-01-10; NKHR2012000116 2012-06-19.

their individual talents and youthful hopes under the free education system. They claim that the enrollment rate for elementary schools is 100 percent, middle schools 99.7 percent, and the graduation rate is 100 percent.<sup>76</sup> Contrary to these claims, even if there are children in poor families who did not receive compulsory education, the authorities did not take steps to address the situation.<sup>77</sup> Sometimes the teacher in charge and classmates may visit the home of students who cannot afford to attend school, but often the school records ‘present’ for students who are involuntarily absent over an extended period of time to avoid being reprimanded from higher authorities. Students who do not attend school for a long period of time are still allowed to graduate, and his/her record is sent to higher level schools as if the student graduated properly. According to the KINU database on North Korean human rights, a total of 111 North Korean defectors responded to a question regarding attendance rate of elementary school students. Of the 111 respondents, 61 (55.9 percent) said students attended regularly, 34 (30.6 percent) said students attended 80 percent of the time, 11 (9.9 percent) said only 50 percent of the time, and 5 (4.5 percent) said students attended less than 30 percent of the time.<sup>78</sup>

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<sup>76</sup>-The DPRK, “National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15(A),” p. 19.

<sup>77</sup>-North Korean defector XXX who came to South Korea in 2012, testified that though he served as a “rising star soldier” in North Hamgyong Province, he never received even kindergarten education. After his mother defected, he and his two friends used to sell some vegetables on the market to support themselves. He was still illiterate when he arrived in South Korea. NKHR2013000019 2013-02-05.

<sup>78</sup>-According to the Korea Institute for National Unification (KINU) database on North Korean human rights, the attendance rate for middle schools was lower than it was for elementary schools. Of the 126 respondents, 45 (35.7 percent) said the attendance rate was normal. 40 (31.7 percent) of them said only 80 percent of the time, 29 (23.0 percent) said attendance was only 50 percent of the time and 12 (9.5 percent) said the attendance was less than 30 percent of the time.

“Article 32” of Convention on the Rights of the Child stipulates that “State Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or interfere with the child’s education or harmful to the child’s health or physical, mental, spiritual, moral or social development.” North Korea’s Socialist Constitution (in “Article 31”) and Socialist Labor Law (in “Article 15”) also stipulate the age of 16 as the legal working age and prohibits child labor under the age of 16. In reality, young North Koreans are mobilized for work at farm villages or Socialist construction sites in accordance with the national plan for the purposes of revolutionary training or implementation struggle. In order to put into practice the principle of combining education with experience, and under the pretext of practicing the spirit of love for work, young people are mobilized for mandatory labor and are exploited. School children are mobilized for farm work twice a year, once during spring and once during fall. However, they are mobilized almost every afternoon to work at nearby farms or even to help at their teacher’s off-duty workplace.<sup>79</sup> Some students are exempted from these duties by paying bribes to the teacher or by joining a “small unit” official youth activities.<sup>80</sup>

In the concluding observations on the third and fourth period combined report, the UN Committee pointed out that even though North Korea has prohibited child labor under the Constitution, North Korean children are known to be mobilized for labor as part of school life. The Committee stated this practice went far beyond the scope of vocational education and that the labor demanded

<sup>79</sup> NKHR2012000012 2012-01-31.

<sup>80</sup> NKHR2012000024 2012-02-21; NKHR2012000107 2012-06-12; NKHR2012000201 2012-09-25.



heavy physical exertion (“Paragraph 59”).<sup>81</sup> The UN Committee also called on North Korea to prohibit all mobilization of children for exploitative labor, expressing their concern that North Korea’s labor related laws did not proscribe labor mobilization of children for work that could be potentially dangerous and harmful to children under the age of 18 (“Paragraphs 60 and 61”).

One of the serious problems the international community has identified in connection with North Korea’s child education is the mandatory military training imposed on young North Koreans. North Korean students receive two weeks of military training in the Red Youth Guard during the fifth grade of middle school.<sup>82</sup> Because of this practice, the Committee on the Rights of the Child expressed their second recommendation and expressed serious concern over the students’ participation in military camp during the summer vacation, including weapon assembly training (“Paragraph 56”).” A defector who left North Korea in 2010 testified that students learned about the attitudes of a soldier as well as how to shoot, attack, and defend themselves. They lived together for three to four weeks during the training and had a live ammunition exercise at the end of the course. Both male and female students are trained together by discharged soldiers at a military education facility.

The UN Committee in their concluding observations expressed their concern that this military training can have a negative impact on the purpose of education specified in “Article 29” of the Convention on the Rights of the Child, and asked North Korea to take necessary steps to stop the practice of early military training of

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<sup>81</sup> UNCRRC, “Concluding Observations: Democratic People’s Republic of Korea (unedited version),” January 31, 2009.

<sup>82</sup> NKHR2012000224 2012-10-23; NKHR2012000011 2012-01-31; NKHR2010000011 2010-09-14.

students (“Paragraph 57”).

On December 22, 2010, North Korea passed the Children’s Rights Guarantee Act (hereafter the Children’s Rights Act). With this law, North Korea emphasized that they established firm legal grounds for a consistent policy that values children and guarantees their rights and interests on a preferential basis.<sup>83</sup> The Children’s Right Guarantee Law articulates the principle that children’s rights shall be guaranteed by enforcing the 11-year free compulsory education.<sup>84</sup> In addition, it stipulates that the children’s education institutions and the parents should guarantee adequate conditions for children’s admission and graduation.<sup>85</sup>

North Korea’s Elementary Education Law enacted in 2011 stipulates that administrative penalties and criminal charges could be imposed on anti-socialist activities and behaviors, including receiving cash in connection with education, using school facilities for non-educational purposes, mobilizing students for non-educational projects, selling textbooks, and teaching for profit.<sup>86</sup> This provision reveals North Korea’s educational reality that clearly restricts students’ access to free compulsory education, depending on their financial status.<sup>87</sup>

Third, it is necessary to examine North Korean reality regarding acceptability. The question is whether the educational contents that North Korea offers to their children are acceptable in terms of

<sup>83</sup>–*Minju Joseon* (Democratic Chosun), January 26, 2011.

<sup>84</sup>–Art. 5 and 23 of Children’s Right Guarantee Law.

<sup>85</sup>–Art. 12 Elementary Education Law; Art. 25 Children’s Right Guarantee Law.

<sup>86</sup>–Soon-hee Lim, Kyu-chang Lee and Jeong-ah Cho, “The Reality of Children’s Right to Education in North Korea and Recent Trends of Legislation,” *Analyses of Unification Affairs* (Seoul: Korea Institute for National Unification, 2012).

<sup>87</sup>–There are some students who receive after school private tutorial from teachers, as the quality of public education fell below standards. NKHR2012000223 2012-10-23; NKHR2012000187 2012-09-11; NKHR2012000171 2012-08-21; NKHR2012000024 2012-02-21; NKHR2012000014 2012-01-31.

minimum standards for children. “Article 29” of the Rights of the Child Convention stipulates, “The education of the child shall be directed to the development of the child’s personality, capability, mental and physical abilities to their fullest potential.” In view of the basic principles of Socialist education and missions of schools, as well as law provisions setting forth educational goals, the most important element in North Korean education is the infusion of political ideology, rather than education on universal values, knowledge, and personal character which is viewed as secondary. “Article 40” of the DPRK General Education Act<sup>88</sup> enacted and announced on January 19, 2011, stipulates that general education institutions “place a priority on the education of political ideology” and integrates this topic in basic science, technology, and other general curricula, including subjects such as foreign languages, art, and physical education.

“Article 13, Paragraph 1” of the International Covenant on Economic, Social, and Cultural Rights stipulates that education must be directed to the development of good personality and respect for the dignity of man. “Article 29, Paragraph 1” of the Rights of the Convention on the Rights of the Child states, “The education of the child shall be directed to the development of the child’s personality, capabilities, mental and physical abilities to their fullest potential.” However, due to the mandatory regimen of activities such as the Chosun (Korean) Boy Scouts and Kim Il-sung Socialist Youth League, young people in North Korea are deprived of the opportunity to build their character through education. The study pattern of North Korean children is uniform and collective. Thus, specific

<sup>88</sup>. ‘General Education Act’ consists of six chapters and fifty two articles. It includes ‘Basic principles of general education act,’ ‘free education,’ ‘establishment and operation of general education’ ‘fostering general education workers’ ‘organization of liberal education’ ‘guide and control of general education.’

studies of education on ideology is forced upon the students which means that young North Koreans are deprived of their right to choose their own subject.

Fourth, North Koreans' right to education should also be examined from the adaptability aspect, that is, whether the educational contents and processes can meet and satisfy the needs of students with diverse personal background, and enable students to adapt to social changes and challenges. "Article 8" of the Education Law states, "Turning the entire society into intellectuals is the task of socialist education. As educational conditions improve, the state should promote and develop advanced education system for academics as well as advanced education system for the working public. This will allow the entire population to become intellectuals and continue to study throughout their life." Distinctions are made between teaching educational institutions and social educational institutions. The latter will include Study Halls, Libraries, Student Boys' Palace and Halls, Boy Scout Camps, and Gymnasiums. In addition to normal school systems, North Korea has also installed educational courses in enterprises, collective farms and fish farms. In addition, there are life-time educational courses.<sup>89</sup> Under the on-going economic hardship, these educational facilities are not properly functioning. The life-time courses for the general public are not widely offered. "Article 49" (Guidance on Social Education) of the Education Law articulates, "The Central Education Guidance Agency shall organize and guide projects to enhance the roles of social education facilities, off-school youth education facilities, agencies, enterprises, organizations and families." However, education at all levels is focused on ideology education. In order to pro-

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<sup>89</sup> Only major enterprises are known to operate "schools for mechanics." NKHR201200012 2012-01-31; NKHR201200014 2012-01-31.

mote technical and vocational education, North Korea has opened educational courses at enterprises, farms and fish farms. In this respect, North Korea has put an educational system where people can continue to work and study. However, these facilities and programs are not functioning properly due to the on-going economic hardship.

- **Assessment**

North Korea has enacted the Education Law, Elementary Education Law, Children's Rights Guarantee Law, and through these laws they seek to enforce the 11-year free compulsory education, for which the state allocates necessary budgets on a priority basis. In order to enforce compulsory education, the government requires the parents with the task to guarantee school attendance, while local agencies and educational institutions are charged with the responsibility to manage this requirement. But the children who are suffering from destitute conditions are unable to go to school even when they live with their parents. Instead, they have to support the household with their parents. North Korea has laws in place to protect handicapped children, and the laws direct the government to take necessary measures to guarantee the rights to education for these children. However, educational facilities for special-need children do not seem to operate properly in many regions. North Korea seems unable to fulfill their obligation to guarantee the right to education as stipulated in education laws. They also fail to observe the provision that requires the government to allocate budgets on a priority basis so that the right to education can be properly enforced.



V

# The Reality of Human Rights of Vulnerable Groups

1. Women
2. Children
3. Persons with Disabilities





# 1



## Women

### A. Gender Equality and Women's Social Participation

The ICCPR stipulates, “The State Parties to the present Covenant to undertake and ensure the equal rights of men and women to the enjoyment of all civil and political rights set forth in the present Covenant (“Art. 3”).” “Article 3” of CEDAW (anti-discrimination) also states, “State Parties shall take in all fields, in particular the political, social 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 (“Art. 3”).” In addition, “Article 2 (f)” of CEDAW stipulates, “State parties (will) take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.”<sup>1</sup>

<sup>1</sup>—But North Korea has deferred legislation of this article, freeing the regime from the

North Korea became a signatory of the CEDAW in February of 2001 and also submitted their first implementation report on CEDAW<sup>2</sup> in September 2002. In the report, North Korea stated, “Discrimination against women has been abolished over a long history, and our policies and laws reflect the concept that places emphasis on women, because gender equality has moved beyond simple equality.” North Korea, enacted the Law on Equality between Men and Women before the government was established, and tried to guarantee women’s political and social roles through legislation of laws, including Socialist Constitution, Law on Raising and Educating Children, Socialist Labor Law, Family Law, and Women’s Rights Guarantee Law. North Korea has also streamlined laws and systems, such as abolishing the “family registration system” and enforcing the central children nursing system. By releasing women from household chores (‘socialization of domestic labor’), North Korea has promoted the status of women in society. Looking at the status of North Korean women today through laws and systems, they are fully entitled to all civil and political rights as men and their social status and roles have improved. In this context, North Korea emphasizes, “There is no country in the world like North Korea where there are so many laws and regulations for women, and many social policies are endlessly enforced. Indeed, North Korea is heaven for women.”<sup>3</sup>

In reality, however, the role and social status of North Korean

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obligation to take any corrective measures regarding various discriminations. Consequently, if a different article causes discrimination on women or infringement upon women’s rights, North Korean government has no responsibility to rectify such situations.

<sup>2</sup> North Korea indicated it would submit its second implementation report on CEDAW on March 27, 2006. As of January 2013, the report has not been submitted.

<sup>3</sup> Seong-gil Oh, *Creator of Happiness* (Pyongyang: Pyongyang Press, 2006), p. 240.



women do not match those professed by the North Korean government. The deeply rooted patriarchal Confucian ideology that discriminates women is still visible in the contemporary North Korean society. In the first periodic report on CEDAW, North Korea declared, “Progress was possible in implementing the terms of the convention as we had in place legal and institutional measures designed to eliminate discrimination against women, but we admit that there is room for further improvement.” In connection with this reality, KINU conducted a survey with North Korean defectors in 2011. Of those interviewed, 83 percent<sup>4</sup> of the respondents said the status of women in North Korea was “unequal” (34 percent said “very unequal”). The same survey conducted in 2012 also illustrated that 59 percent<sup>5</sup> (67/114 respondents) of the respondents said the status of women in North Korea was “unequal” (17 percent said “very unequal”).

Since the 1970s, approximately 20 percent of the people’s deputies at the Supreme People’s Assembly (SPA) are women.<sup>6</sup> It has also been reported that the ratio of female deputies elected to the Provincial People’s Assemblies is approximately 20-30 percent. The difference, however, is that delegates in North Korea are not elected through free elections but through arbitrary assignments by the Party for political reasons. Furthermore, assembly delegates serve only a symbolic purpose and do not perform important functions or supervisory roles in state affairs. As such, the actual political power of North Korean women is not as robust as the

4- NKHR2011000042 2011-02-08 and other 71 testimonies.

5- NKHR2012000007 2012-01-10 and other 66 testimonies.

6- The ratio of women in the deputy election was 20.1 percent in the 10th and 11th Supreme People’s Assemblies in July 1998 and August 2003, respectively, but the ratio was declined to 15.6 percent in the 12th Supreme People’s Assembly in April 2009.

number of delegates SPA seems to suggest. In fact, only a very small number of women appointed to cabinet positions hold political and administrative powers and responsibilities. In addition, there is a significantly low percentage of female members in the Central Committee of the Party that exercise actual authority.<sup>7</sup>

In July 2001, North Korea submitted their second regular report on the implementation of the International Covenant on Civil and Political Rights (ICCPR) to the UN Committee on Civil and Political Rights. During the Committee's review session on this report, a North Korean delegate commented on the issue of promoting women's social status by stating that "Only 10 percent of the central government employees are women. We do admit that this ratio is clearly not enough to address the gap in gender equality." He then promised that his government would develop policies to improve the situation.<sup>8</sup> In the first report on the implementation of CEDAW submitted in September 2002, North Korea said, "We have increased the ratio of female senior staff in the public sector as an effort to upgrade the social status of women. The ratio of female judges, for example, has reached 10 percent, while some 15 percent of the Foreign Ministry employees are women." In this regard, the UN Commission on the Elimination of All Forms of Discrimination Against Women has expressed concern regarding the relatively small number of women in decision-making positions in political and judiciary sectors in the North Korean government.

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<sup>7</sup>The female delegates took only 4 percent (5/124) and female candidates for delegates took merely 2.9 percent (3/105) at the Conference of Party Delegates held on September 28, 2010.

<sup>8</sup>Won-woong Lee, "An Observer Report on the UN Human Rights Committee's Review Session on North Korea's Second Periodic Report on Human Rights," at a seminar sponsored by the Citizens' Alliance for North Korean Human Rights in Seoul, October 3, 2001.

In most cases, North Korean women are appointed as staff members of the Chosun Democratic Women's League. There are some women who work as guidance officials at the City and County People's Committees. Other women work as a manager at the social food ration center, manager of a collective farm or a leader of work details.<sup>9</sup> In very rare cases, women are appointed as a hotel manager, enterprise manager ("administrative worker") or Party Secretary ('political worker'). This is because men are prioritized over women during the appointment for high-level officials.<sup>10</sup> North Korean defectors testified that Party membership is essential for a woman to become a staff or leader. In order to obtain a party membership, many women join the military service, and sometimes they may offer bribes or sexual favors.

In the economic sphere, women's participation is encouraged to fill the shortages of labor that has increased as a result of socialist nation building and post-war reconstruction. During these periods, the Party and government organizations arbitrarily assigned most women between the ages of 16-55 specific posts in accordance with the workforce supply plans of the State Planning Commission. Once assigned to work sites, women were forced to perform the same work as men on the basis of equality, irrespective of the difficulty or danger of the work.

Discrimination against women takes place in the different wage amounts and types of work assigned as numerous administrative measures are taken to promote women's participation in a variety of economic activities such as postwar rehabilitation efforts and collective farm projects. Under the guidelines, men are assigned to important, complex and repetitive higher paying jobs, while

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<sup>9</sup>–Interview with North Korean defector XXX in Seoul on October 11, 2012.

<sup>10</sup>–Interview with North Korean defector XXX in Seoul on October 29, 2012.

women are assigned to relatively less important, simpler, and lower paying jobs. Subsequently, the gender criteria of employment is more pronounced. As a result, a new phenomenon developed in which women are assigned to special fields where more feminine qualities are required, such as agriculture, commerce, communications, health, culture, education, and light industries. According to official North Korean statistics from 2001, the percentage of female administrative staff in health, children, nursery, and commerce sectors was 70 percent,<sup>11</sup> with 100 percent of nurses and 86 percent of school teachers being women.<sup>12</sup> The ratio of female teachers averaged 57 percent as of 2007. The breakdown of this report is as follows: 100 percent of kindergarten teachers, 86 percent of elementary school teachers, 58 percent of middle/high school teachers, 23 percent of college professors, and 19 percent of university professors were female.<sup>13</sup> However, according to the 2008 North Korean Census Report published in 2009, the occupational distribution of the workforce above the age of 16 showed that only 55.6 percent of teachers were women.<sup>14</sup>

According to the 2008 North Korean Population Census conducted with the support of the UN Fund for Population Activities (UNFPA), 48 percent of North Korean workers above the age of 16 were women. With the inclusion of the housework category,

<sup>11</sup>-Refer to North Korea's initial report on implementing CEDAW. <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/596/58/PDF/N0259658.pdf?OpenElement>>.

<sup>12</sup>-These were the numbers given by the North Korean delegation to UNHRC during the review process of North Korea's second report on the implementation of the ICESCR in November 2003.

<sup>13</sup>-The 3rd and 4th Periodic Reports of the Democratic People's Republic of Korea on the Implementation of the Convention on the Rights of the Child, December 2007, Pyongyang, DPRK. <<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.PRK.4.pdf>>.

<sup>14</sup>-Central Bureau of Statistics, DPR Korea 2008 Population Census, National Report, Pyongyang, DPR Korea, 2009, p. 200 <Table 37>.

the percentage of working women amounted to 51.4 percent. This means that female workers accounted for over 50 percent of all North Korean workers above the age of 16, yet most are employed in lower level job categories. For example, 83.6 percent of high-ranking officials and management positions are held by men, but 93.4 percent of sales and service personnel are held by women. Women also accounted for 54.8 percent of workers in the agricultural and fisheries sector.<sup>15</sup>

Gender discrimination is more obvious for women working at farms. Women in agricultural villages cannot escape from working at a farm unless she advances to college or joins the military. Otherwise she has to lead a life as a collective farmer for the rest of her life. If she marries a teacher or an office worker, her status will change as will her life environment. Only then will she be able to leave the farm life behind.<sup>16</sup>

The Women's League is an organization that North Korean women between the ages of 31 and 60 must join if they have no other specific affiliations. However, this is neither a voluntary organization for the promotion of women's rights nor such that exercises critical political influence as a social organization. Rather, it is simply the Party's external arm responsible for mobilizing women for the construction of the socialist economy. The main task of the Women's League is to infuse women with state ideology. The rules in the Women's League are rather strict. Under the impact of economic hardship, the roles and activities of these women have increased, as they have to conduct surveillance over anti-socialist behaviors, enforce ideology education and mobilization of manpower.

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<sup>15</sup> Central Bureau of Statistics, DPR Korea 2008 Population Census, National Report, Pyongyang, DPR Korea, 2009, p. 202 <Table 38>.

<sup>16</sup> Interview with defector XXX in Seoul on September 25, 2012.

The activities of the Women's League has increased significantly, particularly in connection with farming, coal production, fertilizer production, railroad repairs, and highway construction. For this reason, people describe the League as flying high.<sup>17</sup> As chronic workforce shortage persists, the North Korean authorities mobilize members of the Women's League for farming and construction work, as well as various military support activities. The authorities justify this type of mobilization to prevent ideological hazards that can fester among jobless housewives at home.<sup>18</sup>

## B. The Status and Role of Women at Home

The status of women at home also differs significantly from the guarantees of gender equality provided in North Korea's Constitution and laws. During the early days of the regime, North Korea declared that the existing male-centered and authoritarian Confucian traditional family system was not only a hurdle to a socialist revolution but also oppressed women politically and economically. Furthermore, they regarded liberation of women from the colonial and feudalistic yoke of oppression as well as women's guarantee of equal rights with men in all aspects of social activity as crucial tasks in its anti-imperialist, anti-feudal democratic revolution. As such, superficial legal and institutional measures were implemented to provide socialist equality between men and women, although traditional patriarchal family structures were maintained in families. Moreover, as the sole leadership of Kim Il-sung and

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<sup>17</sup> NKHR2009000006 2009-02-05; NKHR2009000058 2009-09-24; NKHR2009000070 2009-11-18; NKHR2009000073 2009-12-02.

<sup>18</sup> Interview with defector XXX in Seoul on April 7, 2010.

Kim Jong-il solidified during the 1970s, premodern traditions in family life was emphasized. North Korea's Family Law enacted in 1990 contains outdated male dominant elements of the family structure such as prohibited marriages, the principle of following the paternal line, and the role of breadwinner in the family.

The North Korean authorities have always insisted that they guaranteed an environment for equal social participation of women through measures such as the socialization of family chores, and the rearing of children. Contrary to their claims, traditional role of women in the family continues to be emphasized. As such, North Korean women carry dual burden as the state not only retains deep rooted traditional role of women, but also mandates women to participate in society as equal workers with men.

Moreover, since sharing of household chores and child rearing is not practiced in most North Korean families, women who already suffer from excessive workload experience tremendous amount of responsibilities, most specifically in securing food for her family. The results of the survey conducted by KINU in 2012 showed that 101 of 122 respondents (83 percent)<sup>19</sup> said women were responsible for household chores, and 66 percent (81/122)<sup>20</sup> (430) said even if women (housewives) were bread-winners of the family, they were still responsible for household chores.

North Korea's Family Law stipulates, "In the family life, husband and wife shall have equal rights." (Art. 18) And yet, husband is at the center of family life in most North Korean families. A husband has absolute authority over all family affairs as the household head. Since the famine, economic activities for North Korean women such as vending and peddling have significantly increased. As a

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<sup>19</sup> NKHR2012000003 2012-01-10 and other 100 testimonies.

<sup>20</sup> NKHR2012000003 2012-01-10 and other 80 testimonies.

result, women's economic roles and their influence in the family have also increased.

The status of women in the family has improved as the unemployed husbands had to depend on the income of their wives.<sup>21</sup> This indicates that the status of the husband has changed in North Korean households. According to the 2011 survey which interviewed North Korean defectors, 46 percent<sup>22</sup> of the respondents replied that the husband still had practical authority in the family. 51 percent<sup>23</sup> of the respondents said that the husband had only a symbolic status in the family. Although the percentage is not statistically significant, this result reflects a gradual weakening of authority by the husband, and strengthening of women's status. According to the 2011 survey, 62 percent<sup>24</sup> of the respondents said "women's economic participation has gradually enhanced their social status, and changed traditional values." The KINU survey in 2012 also supported this finding. Out of 122 respondents, 36 percent (44/122)<sup>25</sup> said husbands had nominal authority in the family and 31 percent (38/122)<sup>26</sup> said they were the "authority in fact." Furthermore, 52 percent (64/122)<sup>27</sup> of them said "there was a change in the status and perception of women since they began to work as breadwinners."

Most North Korean defectors said that North Korea is still a male-dominated country where women are submissive to their husbands. However, women who support their families through

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<sup>21</sup> Interview with defector XXX in Seoul on October 18, 2012.

<sup>22</sup> NKHR2011000044 2011-02-08 and other 47 testimonies.

<sup>23</sup> NKHR2011000042 2011-01-25 and other 53 testimonies.

<sup>24</sup> NKHR2011000042 2011-01-25 and other 63 testimonies.

<sup>25</sup> NKHR2012000010 2012-01-31 and other 43 testimonies.

<sup>26</sup> NKHR2012000017 2012-02-07 and other 37 testimonies.

<sup>27</sup> NKHR2012000003 2012-01-10 and other 63 testimonies.



their own economic power have started to challenge their husbands' authority and even file for divorce for their husbands' economic inability and domestic violence. According to the 2011 survey, 76 percent of the respondents stated that divorce is common and 19 percent of respondents stated that it is very common.<sup>28</sup> The major reasons for divorce included financial stress (58 percent),<sup>29</sup> domestic violence (17 percent),<sup>30</sup> and family trouble (14 percent).<sup>31</sup> The results of the KINU survey in 2012 showed that according to 80 respondents, divorce was "frequent" (combined answers of very frequent, frequent and average).<sup>32</sup> The reasons for divorce included 'income' (63 respondents),<sup>33</sup> 'family discord' (13 respondents),<sup>34</sup> and 'domestic violence' (12 respondents).<sup>35</sup>

In most cases, women initiate divorce proceedings, especially younger women. The main reason for divorce is the husband's poor financial capability. In recent years, many wives seek divorce proceedings due to the husbands' heavy use of narcotics. In North Korea, divorces resulting from husbands' unfaithful behavior is very rare. Many North Korean defectors testified that the authorities offer public lectures in various educational programs emphasizing that housewives should try to understand and endure even if husbands are unfaithful, because unlike women, men can sometimes go out of line.<sup>36</sup>

On the contrary, if a housewife is unfaithful, she can be

<sup>28</sup> NKHR2011000049 2011-02-08 and other 79 testimonies.

<sup>29</sup> NKHR2011000042 2011-01-25 and other 68 testimonies.

<sup>30</sup> NKHR2011000073 2011-03-22 and other 16 testimonies.

<sup>31</sup> NKHR2011000059 2011-02-22 and other 19 testimonies.

<sup>32</sup> NKHR2012000003 2012-01-10 and other 79 testimonies.

<sup>33</sup> NKHR2012000010 2012-01-31 and other 62 testimonies.

<sup>34</sup> NKHR2012000011 2012-01-31 and other 12 testimonies.

<sup>35</sup> NKHR2012000008 2012-01-10 and other 11 testimonies.

<sup>36</sup> Interview with defector XXX in Seoul on October 5, 2012.

divorced by her husband without exception. North Korean defector XXX testified that when divorce proceedings faced stumbling blocks, the court officials advised them to use the wife's unfaithful behavior as an excuse, and the divorce would be quickly approved.<sup>37</sup> If a wife filed for divorce for reasons of domestic violence or husband's financial inabilities, the divorce was not approved unless one offered bribes. The reason divorces are discouraged by the court is because divorces will produce greater numbers of *kkot-je-bi* (homeless child beggars) and divorcees often flee to China in search for a better life.<sup>38</sup> In addition, North Korean authorities discourage divorces because they can contribute to public disorder and distrust, and for this reason the government enforces certain disadvantages on the children of divorced couples, for example, in college admissions and military service.<sup>39</sup>

North Korean defectors testify that there are minor differences in the level of women's voices and statuses within each family. In general, wives recognize their husbands as the head of the household in order to retain a peaceful family structure and to secure the male-oriented family life. Most North Korean women accept and follow rather than object and resist the traditional norms. Although women have begun to play the role as the family head since the catastrophic famine, some men relinquish the prized role as the breadwinner. The reason for this appears to be the pre-modern and outdated concept of men dominating over women that is deeply rooted in the North Korean society. North Korea defines this concept of male-dominated society as remnants of the feudalistic Confucian tradition that labels the reactionary moral precepts of an exploitative

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<sup>37</sup> Interview with defector XXX in Seoul on October 25, 2012.

<sup>38</sup> NKHR2012000151 2012-07-24.

<sup>39</sup> Interview with defector XXX in Seoul on October 12, 2012.

society. Contrary to the official North Korean position on this issue, it is reported that the belief in male superiority is still strong among North Korean citizens. In addition to the traditional patriarchal system, the belief in gender inequality is yet another factor that constricts women's lives in North Korea. According to a male defector in his thirties who used to be an upper class member of North Korea, the idea of male superiority is strongly held by most North Koreans over forty years old. Men often denigrate and abuse women, while wives are held up to a high standard of having obligations to faithfully serve their husbands.<sup>40</sup>

A young North Korean defector (in his 20s) who defected in 2012 testified that no one considered providing a favorable status to women in North Korea because they are 'more common than rolling stones'. Thus if any woman protests against mistreatment, she is inviting troubles for herself.<sup>41</sup> He argued that the traditional belief of man leads, woman follows was only natural, pointing out that men are "defending the country" and doing most of the 'heavy-lifting' in life. He said this belief is held among young people more than other age groups. In elementary and middle schools, girls are supposed to clean the classroom and even teachers expect them to do the job, and most female defectors agreed with this claim. For example, most North Korean women thought it was odd if men engaged in sales on the market. They also viewed it as a shame if men purchase something in the market and carry them home.<sup>42</sup> Most women complained about financial inability of their men, and yet they accepted their responsibility as a breadwinner.<sup>43</sup> Most

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<sup>40</sup> Interview with defector XXX in Seoul on July 30, 2010.

<sup>41</sup> Interview with defector XXX in Seoul on October 17, 2012.

<sup>42</sup> Interview with defector XXX in Seoul on October 11, 2012.

<sup>43</sup> Interview with defector XXX in Seoul on October 12, 2012.

North Korean women thought it was hilarious if a man tried to sell something on the market.<sup>44</sup>

It is said that the male-oriented family model continues to the generation after another child is brought up in a male-dominated family and grows accustomed to this model. However, as mentioned earlier, with the persistent food shortage, more families depend on women for livelihood. Accordingly, men's predominance over women appears to be waning. According to a 2011 survey, the respondents also replied that the idea of male dominance was quite unsatisfactory (28 percent)<sup>45</sup> or should be improved (35 percent).<sup>46</sup> In the 2012 KINU survey, 13 out of 114 respondents (11 percent)<sup>47</sup> said it was unsatisfactory, and 22 (19 percent)<sup>48</sup> of them said improvement was needed.

### C. Sexual Violence

Dictated by the long held patriarchal tradition, namely the concept of men dominating over women, sexual violence is commonplace in North Korea, and is seldom reported. The misguided male-centered idea of sex is pervasive in North Korea, while at the same time women are expected to maintain sexual integrity. Sex education is absent in schools. A defector who used to work as a physical education teacher testified that girls' middle schools provided extensive instruction on subjects such as cooking, sewing, and tailoring, but very little on sex education (except for

<sup>44</sup> Interview with defector XXX in Seoul on October 29, 2012.

<sup>45</sup> NKHR2011000042 2011-01-25 and other 20 testimonies.

<sup>46</sup> NKHR2011000046 2011-02-08 and other 25 testimonies.

<sup>47</sup> NKHR2012000023 2012-02-07 and other 12 testimonies.

<sup>48</sup> NKHR2012000026 2012-02-21 and other 21 testimonies.

brief information on the menstrual cycle).<sup>49</sup>

Since the food crisis during the 1990s, sexual violence against women has increased significantly in North Korea. During this time, cases of female trafficking and forced prostitution increased drastically. This is in contrast with North Korea's second regular report on the implementation of the ICCPR to the UN Committee on Civil and Political Rights in July 2001. During the Committee's review session, the North Korean delegate asserted that trafficking of women was eliminated and that it never occurred in North Korea during the past 50 years. He stated that trafficking women is completely inconsistent with North Korea's laws and systems. However, this is incompatible with his statement "Even though we do not know what activities are taking place in the border areas", as this comment seems to indicate that the North Korean authorities are aware of human trafficking activities along the Sino-North Korean border.

Human trafficking of North Korean women takes several different forms including forced abduction, enticement through go-betweens, and volunteering by women themselves to support their families. Human trafficking continues today in the Sino-North Korean border regions. In 2009 and 2010, there were reported cases of forced marriages between North Korean women and Chinese men who often inflicted domestic violence.<sup>50</sup> In 2011, one human trafficking case was reported.<sup>51</sup> Additionally, a North Korean defector XXX testified to cases in which traffickers lured women in rural areas with the promise that they would be taken to places where they can earn a lot of money, only to sell

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<sup>49</sup> Interview with defector XXX in Seoul on May 19, 2010.

<sup>50</sup> NKHR2010000005 2010-03-16 and other 5 testimonies.

<sup>51</sup> NKHR2011000179 2011-08-02.

them to Chinese men.<sup>52</sup> In a survey conducted by KINU in 2012, there was a case in which the testifier herself was human trafficked in March 2011 in Hyesan City, Yanggang Province,<sup>53</sup> and her daughter was also human trafficked in August 2011 and was sold to China.<sup>54</sup>

Human traffickers take advantage of women who want to cross the border to China. North Korean women who do not have money to pay for 'river crossing' and those who do not have any relatives in China become the target of human traffickers, who entice them and sell them in China. North Korean defector XXX testified that he/she heard about these cases and saw a few in the spring of 2010 and again in 2011.<sup>55</sup> In 2011 in Musan, human traffickers collected groups of three to five middle school graduates and students above the age of 15, as well as coal-miners, who wanted to go to China, and sold them in China. Defector XXX testified that 15-16 year old girls wandering around as *kkot-je-bi* (homeless child beggars) were trafficked to China.<sup>56</sup>

Defectors stated that a significant number of criminals were publicly executed as human-traffickers. With regards to this issue, many defectors criticized the North Korean authorities as the latter would publicly execute even the brokers (known as guides) that accept money to aid women who wish to escape from North Korea. Recently, there were a few cases of forcible trafficking; however most people volunteer to be sold.<sup>57</sup> There are people who help those who wish to cross the border to China, but if appre-

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<sup>52</sup> Interview with defector XXX in Seoul on August 10, 2011.

<sup>53</sup> NKHR2012000018 2012-02-07.

<sup>54</sup> NKHR2012000052 2012-03-28.

<sup>55</sup> Interview with defector XXX in Seoul on September 25, 2012.

<sup>56</sup> Interview with defector XXX in Seoul on October 5, 2012.

<sup>57</sup> Interview with defector XXX in Seoul on October 12, 2012.

hended, they can be executed on human trafficking charges.<sup>58</sup>

In fact, many defectors reasoned that the brokers should be charged with the act of assisting illegal entry/exit instead of the more serious charge of human-trafficking, especially in cases where North Korean women voluntarily ask for help in crossing the border. This interpretation is in line with the recent trends of the increasing number of North Korean women voluntarily crossing the border instead of being kidnapped or lured. The following list are some of the cases identified in the 2011 survey.

Testimonies	Source
North Korean defector XXX testified that many North Korean women asked to “be sold” because they could not maintain a decent living as a human being. Most of them were young or divorced women who wanted to go to China even if they “were sold.” Their number had increased recently more than during the “Arduous March” period.	Defector XXX during an interview in Seoul on August 17, 2011
Defector XXX testified that most human trafficking involved people who voluntarily crossed into China in search of better life.	NKHR2012000024 2012-02-21
Defector XXX testified that in Kilju, North Hamgyong Province, three women out of 50 families on average wanted to be sold to China.	Defector XXX during an interview in Seoul on October 11, 2012
Defector XXX testified that human traffickers in most cases help river-crossing of poverty-stricken women along the border region who wanted to get married in China. In recent years, North Korean soldiers in the Border Guard units directly call Chinese traffickers and negotiate deals. It had to happen because if anyone is caught crossing the river, the soldiers in the area would also be punished.	Defector XXX during an interview in Seoul on November 1, 2012
Defector XXX testified that she went to China even though she knew about human trafficking and forced marriage.	NKHR2012000087 2012-05-22

<sup>58</sup> Interview with defector XXX in Seoul on October 12, 2012.

In the past, incidents of sexual assault against North Korean women in the workplace were often initiated by supervisors or Party officials who would lure women with promises of promotion or Party membership. Cases of North Korean women offering sexual services to Party Officials and managers at work to secure Party membership or receive good assignments are still common. Many state that sex is involved in most cases of single women becoming a Party member. Moreover, in the military, male officers often assault enlisted women. Party membership is the primary purpose of most North Korean women who join military service, because female party members can be promoted to staff positions.

In North Korean society, sexual harassment of women is not viewed as a problem, and the widespread inferior treatment of women has left them with little recourse even when they are sexually harassed or assaulted. For example, most women prefer to remain quiet when they are sexually abused at their workplace since it is likely that they will be humiliated and mistreated rather than the men who committed the act. According to defectors who came to Seoul in 2009 and 2010, the North Korean authorities usually punish sex offenders in accordance with the Penal Code.<sup>59</sup> According to the survey conducted in 2011, 59 percent<sup>60</sup> of the respondents answered that the offenders should be punished according to North Korea's Criminal Act, whereas the remaining 41 percent<sup>61</sup> answered that they should not. In a survey conducted by KINU in 2012, 38 of 114 (33 percent)<sup>62</sup> respondents said "the penalties enforced are not in accordance with the Penal Code,"

<sup>59</sup> NKHR2010000014 2010-10-05 and other 10 testimonies.

<sup>60</sup> NKHR2011000047 2011-02-08 and other 23 testimonies.

<sup>61</sup> NKHR2011000042 2011-01-25 and other 23 testimonies.

<sup>62</sup> NKHR2012000010 2012-01-31 and other 37 testimonies.



and only 29 (25 percent)<sup>63</sup> said “penalties were in accordance with the Penal Code.” According to the Penal Code, any man who rapes a woman by using force (violence) or intimidation in a situation where the woman has no means to get help is given up to five years of correctional prison labor (“Art. 293”). Additionally, any man who forces a female subordinate into sex is punished up to two years of disciplinary prison labor or in serious cases, up to two years of correctional prison labor (“Art. 294”). “Article 295” also stipulates that people who have sex with children under the age of 15 are penalized with up to five years of correctional prison labor. The law requires the more serious offenders to be sentenced to 5-10 years of correctional prison labor.

Sexual assault on women became more widespread after women assumed the role as the breadwinner during the famine and the economic hardship. Compared to the past, sexual assault to gain Party membership or promotion declined while chance assault cases increased. More specifically, individuals such as security agents at the market, safety conductors on the train, and soldiers demanded sex from women who committed minor violations. In the process of obtaining travel permits and train tickets or during on board inspections, many women peddlers submitted to law enforcement or party officials’ demands for sex or experience sexual violence.<sup>64</sup> Sometimes female workers doing night shifts experienced sexual violence by intruders such as college students or *kkot-je-bi* (homeless child beggars), but in most cases the women did not report to authorities.<sup>65</sup> There were also a few reported cases of sexual assault inside guard post detention facilities.<sup>66</sup> These guard post detention facilities are

<sup>63</sup> NKHR2012000003 2012-01-10 and other 28 testimonies.

<sup>64</sup> Interview with defector XXX in Seoul on October 11, 2012.

<sup>65</sup> NKHR2012000018 2012-02-07.

<sup>66</sup> *Good Friends*, “North Korea Today,” No. 417 (August 24, 2011).

places where suspected would-be defectors are detained and interrogated. It is here that young women are often targeted for interrogation and even exists the possibility of sexual harassment for arbitrary reasons. Finally, in cases where women are suspected of carrying drugs, detention facility agents forcibly remove women's clothing in order to carry out the inspection, thereby harassing them. In a survey conducted by KINU in 2012, 45 percent of respondents (including very frequent, frequent and average)<sup>67</sup> said sexual violence and harassments were frequent, and 25 percent<sup>68</sup> said such incidents were not frequent.

One of the issues that deserve particular attention regarding sexual harassment is the plight of North Korean women forcibly deported back from China. After female defectors are forcibly deported and locked up in detention facilities, agents search their body looking for hidden cash, secret letters or documents. In the process, they even search their uterus, which amounts to severe cases of sexual violence. The 2011 defector survey results includes the following cases.

Testimonies	Testifier ID
North Korean defector XXX testified that the director of a "collection point" ordered the testifier to search the inmate's uterus to see if any cash was hidden. <sup>69</sup>	NKHR2011000072 2011-03-22
Defector XXX testified that female agents checked the uterus of female inmates, but ordinary pat downs were also carried out by male agents. <sup>70</sup>	NKHR2011000201 2011-09-06
Defector XXX testified that a female agent wore surgical gloves and examined the uterus in the State Security Agency of Sinuiju, North Pyongan Province. The agent would wash the gloves in water, but did not disinfect before using them on others. <sup>71</sup>	NKHR2011000253 2011-12-20

<sup>67</sup>\_ NKHR2012000007 2012-01-10 and other 50 testimonies.

<sup>68</sup>\_ NKHR2012000018 2012-02-07 and other 27 testimonies.

<sup>69</sup>\_ NKHR2011000072 2011-03-22.

<sup>70</sup>\_ NKHR2011000201 2011-09-06.

<sup>71</sup>\_ NKHR2011000253 2011-12-20.

North Korean defectors who left in 2011 and 2012, testified to similar incidents as indicated in table below.

Testimonies	Testifier ID
North Korean defector XXX testified that without exception, the agents examined uterus of all women deported from China.	Testimony of defector XXX during an interview in Seoul on October 11, 2012
Defector XXX testified that at Onsung Security Agency in 2011, the agents beat eight female inmates and inspected their uterus wearing surgical gloves. They would rub the gloves off the clothing before checking another inmate. XXX said inmates had to undergo the procedure again at Chongjin collection point. A young woman in her 20s had bled heavily after the uterus inspection, but agents did not give her a proper treatment.	Testimony of defector XXX during an interview in Seoul on October 5, 2012
Defector XXX testified that in October, 2011 she had seen uterus inspections on deported women both at Hoeryeong State Security Agency detention center and at Hoeryeong security agency.	Testimony of defector XXX during an interview in Seoul on October 12, 2012
Defector XXX testified that she had an uterus inspection at a border guard outpost. <sup>72</sup>	Testimony of defector XXX during an interview in Seoul on October 11, 2012

Findings from the survey conducted in 2011 revealed multiple instances of sexual violence at detention facilities: nine respondents said they were sexually assaulted at detention centers;<sup>73</sup> twelve respondents stated they witnessed cases of sexual assault;<sup>74</sup> and seven respondents said that they had heard of sexual abuse.<sup>75</sup> The following are brief excerpts from their testimonies.

<sup>72</sup> Interview with defector XXX in Seoul on October 11, 2012.

<sup>73</sup> NKHR2011000082 2011-03-29 and other 8 testimonies.

<sup>74</sup> NKHR2011000045 2011-02-08 and other 11 testimonies.

<sup>75</sup> NKHR2011000050 2011-02-15 and other 6 testimonies.

Testimonies	Testifier ID
North Korean defectors XXX (August 2009), XXX (May 2010), and XXX (June 2010) testified that they experienced sexual assault at a State Security Agency detention center in Shinuiju, North Pyongan Province.	NKHR2011000094 2011-04-12 NKHR2011000018 2011-01-18 NKHR2011000253 2011-12-20
Defector XXX testified that a security agent sexually assaulted her in June 2010 in a labor training camp at the Kim Hyung-jik County (Huchang), Yanggang Province.	NKHR2010000014 2010-10-05
Defector XXX testified that she witnessed security agents sexually assaulting a female inmate in August 2008 and June 2009 at Provincial Collection Point, Chongjin City, North Hamgyoung Province. She said sexual violence took place most frequently at collection points.	NKHR2011000190 2011-08-23
Defector XXX testified that in 2009, she saw a security agent sexually assault a female inmate at a collection point office, Hyesan City, Yanggang Province.	NKHR2011000170 2011-07-26
Defector XXX testified that in March 2010 she saw a female inmate getting sexually assaulted at a labor training camp, Donghungshin District, Hamhung City, South Hamgyoung Province.	NKHR2011000088 2011-04-05
Defector XXX testified that in August 2010, she witnessed a security agent sexually assault a female inmate at a State Security Agency collection point in Shinuiju City, North Pyongan Province.	NKHR2011000253 2011-12-20
Defector XXX testified that in December 2009 a female inmate told her that she was sexually assaulted by a guard at a security agency detention center in Onsung County, North Hamgyoung Province.	NKHR2011000201 2011-09-06
Defector XXX testified that in 2010 she had heard about a sexual assault case by a security agent (chief of the collection point) at a collection point in Chongjin City, North Hamgyoung Province.	NKHR2011000068 2011-03-15

According to the survey conducted in 2011, 48 percent<sup>76</sup> of the respondents said sexual violence against women in detention

<sup>76</sup> NKHR2011000048 2011-02-08 and other 20 testimonies.

facilities is common (23 percent described it as very common). Such acts are predominantly carried out to satisfy the perpetrators' sexual appetite; some inmates exchange sex for better treatment and/or other favors within the detention facility.

In the 2012 survey conducted by KINU, North Korean defectors were asked whether there were sexual harassment and sexual assaults in detention centers, and 14 of 217 (6 percent)<sup>77</sup> responded none (including almost none and none at all) and 27 (12 percent)<sup>78</sup> replied affirmative (including very frequent, frequent and average). In addition, there were following testimonies: North Korean defector XXX testified that many "officers of the court" committed sexual assault.<sup>79</sup> Another defector XXX testified that when she was detained at Kangku No.2 Platoon, Hyesan City, Yanggang province in January 2010, the chief safety agency guide threatened to use electrical shocks if she did not submit to his demand after the body search.<sup>80</sup>

In addition, North Korean defector XXX testified that the interrogators at detention facilities frequently committed sexual assaults on female detainees. For example, former chief (deceased) of the inspection section of Security Agency of Hoeryeong City committed multiple sexual assaults on female detainees, promising of early release. One female victim filed a petition to the City's Party Committee, but the authorities chose not to punish the man and dismissed the case.<sup>81</sup> Defector XXX testified that she saw the security agents at the Hoeryeong Security Agency conduct sexual torture on a forcibly deported female detainee. A state safety

<sup>77</sup> NKHR2012000028 2012-02-21 and other 13 testimonies.

<sup>78</sup> NKHR2012000172 2012-08-21 and other 26 testimonies.

<sup>79</sup> NKHR2012000059 2012-04-10.

<sup>80</sup> NKHR2012000105 2012-06-05.

<sup>81</sup> Interview with defector XXX in Seoul on October 12, 2012.

agent, a guidance official, and some inmates gathered around the detainee and forced her to verbally describe everything she did or said in a chatting room where she used to work in China.<sup>82</sup>

In addition to sexual assaults and human trafficking, North Korean women also have to deal with domestic violence. Many defectors testified that domestic violence is quite frequent in North Korea. Husbands who use drugs or have drinking habits often beat up their wives. Domestic violence is frequent in the families where the housewife stays home, instead of going out for vending or peddling. The reason for beating was that she could not or would not support her family.<sup>83</sup>

In the survey conducted by KINU in 2011, 87 percent of the respondents said domestic violence was frequent (39 percent said very frequent) in North Korea.<sup>84</sup> In the 2012 survey conducted by KINU, 94 respondents<sup>85</sup> said domestic violence was ‘frequent’ (including very frequent, frequent, and ‘average’), and only 9 persons<sup>86</sup> said not frequent (including not frequent and very rare).

CEDAW Convention in their General Recommendation 19:24.(r) stipulates, “Necessary measures to overcome family violence should include: Criminal penalties where necessary and civil remedies in case of domestic violence; Legislation to remove the defence of honour in regard to the assault or murder of a female family member; Services to ensure the safety and security of victims of family violence, including refuges, counselling and rehabilitation programmes.” In addition, subsection 19:24.(b)

<sup>82</sup> Interview with defector XXX in Seoul on October 12, 2012.

<sup>83</sup> Interview with defector XXX in Seoul on August 17, 2011; NKHR2011000125 2011-05-31.

<sup>84</sup> NKHR2011000044 2011-02-08 and other 94 testimonies.

<sup>85</sup> NKHR2012000003 2012-01-10 and other 93 testimonies.

<sup>86</sup> NKHR2012000005 2012-01-10 and other 8 testimonies.

states, “State parties should ensure that laws against family violence, abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for the victims.”

In most cases, however, the Women’s League does not get involved in cases of domestic violence or infidelity, labeling it as family problems. Adultery or domestic violence is not regarded as a serious matter, and even the Women’s League chooses not to intervene. Sometimes domestic violence is reported to the People’s Security Agency, but it is not punished on the grounds that it is a family matter. Even local Party officials simply issue a personal warning or advise the husband.

A defector from Pyongyang also testified that some women file a petition or report domestic violence to Party or judicial organizations. However, such applications are often responded with simple recommendations that state domestic problems should be solved within the family.<sup>87</sup> Domestic violence is generally considered a family matter and is not even reportable to the police.<sup>88</sup> However, most victims of domestic violence do not report or petition to the authorities out of shame. Most of the authorities seem to think that it is nothing out of the ordinary for husbands to beat their wives, but it would be a shame for the family to petition about such incidents.<sup>89</sup> Also, many North Koreans seem to think that wife beating is instigated by the wife. They assume that the wife has done something to deserve the beating.<sup>90</sup> According to North

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<sup>87</sup> Interview with defector XXX in Seoul on August 11, 2011.

<sup>88</sup> NKHR2011000092 2011-04-12.

<sup>89</sup> Interview with defector XXX in Seoul on August 10, 2011.

<sup>90</sup> Interview with defector XXX in Seoul on October 11, 2012.

Korean defectors, domestic violence is triggered in part because the wife has made some derogatory remark to her husband, which is taken as a sign of disrespect. Thus, husbands are not solely responsible for domestic violence.<sup>91</sup> In short, all wives should respect their husbands, and giving special favors or status to women is not desirable. Many husbands who defected in 2012 also tended to agree with these testimonies. The fundamental cause of domestic violence, triggered by the husband's excessive drinking, sexual misconduct and wife beating, was that wives often failed to understand the husband's many feelings and sensitivities.<sup>92</sup>

In North Korea there is no legal enforcement against domestic violence and no social solutions. In rare cases, petitions are filed against the husband for domestic violence, and he is detained and sent for labor training penalty.<sup>93</sup>

According to female defectors in South Korea, husbands' habits of drinking and wife beating became more common with more women earning income for the family through peddling in the markets. Moreover, in many cases, wives who could no longer tolerate their husbands' beatings abandoned their families altogether. In addition, there is no statistical data on wife beating cases in North Korea, which seems to indicate that incidents of wife beating or domestic violence are not perceived as a serious violation of fundamental human rights of women. In light of this perspective, the UN Committee on CEDAW expressed concerns in July 2005 asserting that "North Korea is not fully aware of the seriousness of family violence, and is not taking any protective measures or violence preventive measures for women." CEDAW

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<sup>91</sup> Interview with defector XXX in Seoul on October 18, 2012.

<sup>92</sup> Interview with defector XXX in Seoul on October 17, 2012.

<sup>93</sup> NKHR2010000014 2010-10-05.



asked North Korea to “investigate all incidents of violence against women, including family violence, as well as their frequency (ratio), causes and results, and include them in North Korea’s next periodic report.” The Committee also recommended North Korea (a) legislate detailed laws against family violence, (b) penalize acts of violence on women and young girls as serious crimes, (c) provide effective protection and immediate relief for female victims of violence, and (d) indict and punish the assailants against women.

The CEDAW convention stipulates, “State Parties shall take all appropriate measures, including legislation, to suppress all forms of trafficking and exploitation of prostitution of women.” (“Art. 6”) The “General Recommendation 19 states, “Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedom equal to men.” “Article 261” of the Penal Code stipulates that anyone who has repeatedly engaged in prostitution is subject up to two years of labor training and serious sex offenders are sentenced up to two years of correctional prison labor. Repeat offenders and socially sensational sex offenders are sentenced to five to ten years of correctional prison labor (“Art. 262,” Penal Code). Additionally, prostitution cases involving under-age persons are subject to correctional prison labor of up to five years while more serious cases may receive five to ten years of correctional prison labor (Art. 295). Despite these precautionary measures, many North Korean women are reportedly involved in the practice of prostitution following the severe food shortage. Since the currency reform of November 2009, the living conditions of North Korean people has deteriorated and sex for living has significantly increased.<sup>94</sup> The sex business involving under-

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<sup>94</sup> Interview with defector XXX in Seoul on August 11, 2011; Interview with defector XXX in Seoul on August 17, 2011; *Good Friends*, “North Korea Today,” No. 406 (June 8, 2011).

aged young people is also on the rise. North Korean defector XXX testified that he/she heard about under-aged sex business more than ten times in 2011.

Furthermore, some parents would prod their daughters to offer sex for sale to feed the family.<sup>96</sup> Some husbands even ignore his wife's tacit sex for money activities for the sake of the family.<sup>97</sup> Female *kkot-je-bi* (homeless child beggars) also sell sex,<sup>98</sup> and women engage in these activities not only to support their family, but to make more money.<sup>99</sup> There are also organized prostitution rings and sex brokers. These brokers conduct their business under the "protection" of security agents, so they are able to avoid penalties most of the time.

If caught engaging in prostitution, the man can be released on bribes, but the woman is punished. The one who sold sex (woman) is subject to penalty, but the one who "bought sex" (man) is not.<sup>100</sup> North Korean defector XXX testified that there is a belief among most North Koreans that men can engage in sex with another woman, but women should not. Consequently, men's sexual misconduct is not properly criticized in North Korea.<sup>101</sup>

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<sup>95</sup> Interview with defector XXX in Seoul on October 18, 2012.

<sup>96</sup> NKHR2011000244 2011-11-22.

<sup>97</sup> NKHR2012000283 2012-12-18.

<sup>98</sup> Interview with defector XXX in Seoul on October 25, 2012.

<sup>99</sup> Interview with defector XXX in Seoul on November 1, 2012.

<sup>100</sup> NKHR2012000036 2012-03-13.

<sup>101</sup> Interview with defector XXX in Seoul on October 12, 2012.

## D. Deteriorating Health

One of the most serious consequences of malnutrition caused by the famine for North Korean women is deterioration of health related to pregnancy, birth, and child rearing. More specifically, there has been a drastic decline of women's birth rates due to malnutrition, but pregnancies also result in abortions, stillborns, premature or underweight babies, which also harms the mother. According to the consolidated Third and Fourth Annual Performance Report, North Korea established The Strategy of the DPRK for the Promotion of Reproductive Health, 2006-2010 in order to protect and promote the health of North Korean women and children, with special focus on mothers. According to North Korea, this report contains specific strategies and goals related to reducing mortality rates of mothers and children, managing of women's nutrition and treating maternal diseases. The State of World Population, 2007, released by the United Nations Population Fund, reported that North Korea ranked 60th in the world in the ratio of obstetrics-related deaths (67 deaths in 100,000 pregnancies, including deliveries and other related complications).<sup>102</sup> The World Health Statistics, 2011, released by the World Health Organization (WHO) in 2011, reported that the death ratio of North Korean pregnant mothers was 250.<sup>103</sup> However, World Health Statistics 2012 reported that the same ratio was only 81, a significant reduction from the previous year. In comparison, the same ratio in the Southeast Asian region was 200.<sup>104</sup>

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<sup>102</sup>-UNFPA, "State of World Population 2007," p. 87, <[http://www.unfpa.org/swp/2007/english/notes/indicators/e\\_indicator1.pdf](http://www.unfpa.org/swp/2007/english/notes/indicators/e_indicator1.pdf)>.

<sup>103</sup>-WHO, "World Health Statistics 2011," <[http://www.who.int/whosis/indicators/WHS2011\\_IndicatorCompenium\\_20110530.pdf](http://www.who.int/whosis/indicators/WHS2011_IndicatorCompenium_20110530.pdf)>.

<sup>104</sup>-WHO, "World Health Statistics 2012," p. 21.

In September 2012, UNICEF and North Korea's Central Statistical Bureau jointly conducted a survey on nutrition levels of North Korean children and women.<sup>105</sup> According to this report, 31.2 percent of North Korean women with children were suffering from anemia. The rate was 36.0 percent in Yanggang Province, and 34.2 percent in Jagang Province, but it was only 28.9 percent in Pyongyang.

Malnutrition of pregnant mothers is also intimately connected with North Korea's high mortality rate. The 2007 UNFPA report estimated North Korea's infant mortality rate (for infants less than one year old) at 42 per thousand.<sup>106</sup> Moreover, the National Statistical Office (NSO) of South Korea stated that the infant mortality rate of North Korea from 2005 to 2010 was 27.4 percent, while South Korea's rate for the same period was 3.8 percent.<sup>107</sup> Another serious complication caused by the famine related to women's health is gynecology. Hysteropathy is the most common female disease among North Korean women, which has much to do with malnutrition.<sup>108</sup> Furthermore, the North Korean authorities insist that all women are responsibly and routinely cared for by home doctors and gynecological physicians, with 98 percent of women getting professional help during childbirth.<sup>109</sup> However, North

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<sup>105</sup> UNICEF, "CBS: Democratic People's Republic of Korea Preliminary Report of the National Nutrition Survey 2012," (October 2012).

<sup>106</sup> UNFPA, "State of World Population 2007," p. 87.

<sup>107</sup> The ratio of estimate of deaths under 1 year of age to the total estimate of live births in the same year, regularly expressed as a rate per 1,000 live births. Central Bureau of Statistics of South Korea, *North Korean Major Statistical Indicators in 2011*, January 17, 2012, p. 52.

<sup>108</sup> Interview with defector XXX in Seoul on October 29, 2012.

<sup>109</sup> The DPRK, "National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15(A)," National Human Rights Commission of Korea, *Collection of Materials concerning North Korea's National Human Rights Report contained in the UN's Universal Periodic Report, 2009, and South*

Korean defectors have testified that most North Korean women give birth at home, and their health is often compromised by lack of care during and after delivery. According to the 2011 survey conducted by KINU, 82 percent (including very useless) of respondents said the family doctor system was “useless.”<sup>110</sup> Only 11 percent said it was useful.<sup>111</sup> The 2012 KINU survey also showed that 44 percent (125 of 281 respondents)<sup>112</sup> said the system was useless, and 82 respondents<sup>113</sup> said it was very useless. Those who answered useful (including very useful, useful, and average) amounted to 14 percent (40 of 281 respondents).<sup>114</sup>

As the economic recession continued, the medical distribution system collapsed, making safe contraception difficult. As such, there are many reported cases in which expectant mothers attempted ill advised abortions, risking their lives and the lives of their babies in the process. Premarital and extra-marital sex are subject to punishment in North Korea. However, sexual prejudice against women has been undergoing change with the influx of foreign culture since the 1980s. Accordingly, prostitution as a means of survival has increased, leading to more pregnancies from premarital and extra-marital sex as well as prostitution. Women who become pregnant for these reasons attempt to avoid punishment by seeking abortion, thereby increasing the number of illegal abortions. Moreover, the Second Mothers’ Rally in 1998 was held to compensate for the increase in infant and young children’s

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*Korea’s Report on NGOs and INGOs* (Seoul: National Human Rights Commission of Korea, March 2010), pp. 18-19.

<sup>110</sup>\_NKHR2011000042 2011-01-25 and other 82 testimonies.

<sup>111</sup>\_NKHR2011000047 2011-02-08 and other 10 testimonies.

<sup>112</sup>\_NKHR2012000003 2012-01-10 and other 124 testimonies.

<sup>113</sup>\_NKHR2012000007 2012-01-10 and other 81 testimonies.

<sup>114</sup>\_NKHR2012000005 2012-01-10 and other 39 testimonies.

death rates during the food crisis and Kim Jong-il himself issued instructions on childbirth. For these reasons, it has become impossible to obtain contraceptives or go to hospitals for an abortion. The result has been a widespread increase in illegal abortions. Sometimes pregnant women bribe doctors or secretly attempt illegal contraceptive procedures at their home. Because anesthetics are not used in these cases, women not only suffer severe post-procedural pain but also risk their health. Even in recent years, many North Korean women would bribe the doctor for illegal abortions at private homes, as they did not want to give birth to or raise a child on their own due to harsh living conditions. In addition, there are many gynecological complications due to such illegal abortions.<sup>115</sup>

According to a related source,<sup>116</sup> North Korean girls receive a brief education during middle school on pregnancy and menstrual cycle, but they do not get any information concerning venereal diseases, sex hygiene or methods of contraception. Therefore, most North Korean women must rely on abortion if they do not want to have a child, and these abortions are carried out at home by doctors without anesthesia. They have to do the procedures at home because abortion is illegal in North Korea and also because there are not enough doctors at small city hospitals due to the economic troubles. It is said that the hardship of life after the currency reform in November 2009 led many pregnant women to attempt abortions. They did so by purchasing medicine in the market that were rumored to be effective for abortion and purposely over-

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<sup>115</sup> Interview with defector XXX in Seoul on September 25, 2012; NKHR2012000022 2012-02-07; NKHR2012000071 2012-04-24.

<sup>116</sup> Citizens' Alliance for North Korean Human Rights, *NKHR Newsletter on North Korean Human Rights*, No. 144 (May 2010), p. 9.

dosed. Alternatively, they resorted to doctors to perform secret abortions. These women often severely damaged their own health in the process.<sup>117</sup> Furthermore, many women who underwent forced abortions in detention facilities suffer from deteriorating health from lack of medical help. When pregnant women are sent back to North Korea from China, the North Korean authorities subject them to forced abortions by striking them hard in their abdomen, sentencing them to hard labor or forcing them to undergo surgery.<sup>118</sup>

According to a 2011 survey conducted by KINU of North Korean defectors, 17 of the respondents witnessed forced abortions,<sup>119</sup> and 14 heard of such cases.<sup>120</sup> The following summarizes defector testimonies of forced abortions. North Korean defector XXX testified that he/she saw a case in May 2007 at a labor training camp in Shinuiju, North Pyongan Province. A doctor at the camp administered medicine to an eight-month pregnant inmate to force birth, then overturned the live infant face down for suffocation. The chief of the camp carried the body away.<sup>121</sup> North Korean defector XXX testified that in May 2009 at a State Security Agency collection point in Shinuiju, North Pyongan Province, the agents forced an abortion on an inmate, who was three months pregnant with a Chinese baby, and locked her up again at the collection point without any hospitalization after the forced abortion.<sup>122</sup>

<sup>117</sup>—Good Friends, “North Korea Today,” No. 400 (April 27, 2011).

<sup>118</sup>—Hye-gyeong Lee, “North Korean Human Rights and Women’s Human Rights Issues from the Perspective of North Korean Defectors,” *The First Chaillot Forum on Human Rights in North Korea: Reality of Human Rights in North Korea and Measures for Efficient Intervention* (Seoul: Korea Institute of National Unification, 2011), p. 92.

<sup>119</sup>—NKHR2011000045 2011-02-08 and other 16 testimonies.

<sup>120</sup>—NKHR2011000050 2011-02-15 and other 13 testimonies.

<sup>121</sup>—NKHR2011000201 2011-09-06.

<sup>122</sup>—NKHR2011000223 2011-10-19.

In addition, the following cases are from the 2012 KINU survey.

Testimonies	Testifier ID
North Korean defector XXX testified that at a detention facility, a pregnant woman died after the agents indiscriminately kicked and beat up several female inmates.	North Korean defector XXX during an interview in Seoul on October 12, 2012
This witness testified that pregnant women deported from China were given injections to force abortions at State Security Agencies or state safety agencies.	North Korean defector XXX during an interview in Seoul on November 1, 2012
North Korean defector XXX testified that she had seen on November 20, 2011, at a collection point in Hyesan City, Yanggang Province, a guard beat up a pregnant woman to force an abortion.	NKHR2012000174 2012-09-04
North Korean defector XXX testified that in August 2011 at a security agency detention center in Musan County, Yanggang Province, a 30-year old pregnant detainee was beaten up and forced to abort her child. A week later she also died.	NKHR2012000067 2012-04-24
North Korean defector XXX testified that she had seen a pregnant young woman (in her mid-20s) get a forced abortion in August 2009 at a Provincial collection point, in Shinuiju, North Pyongan Province. A military doctor used an iron rod to force an abortion.	NKHR2012000077 2012-05-08
North Korean defector XXX testified that she had seen a young woman (in her late 20s) get a forced abortion because she was pregnant with a Chinese baby, in October 2011 at Provincial collection point in Shinuiju, North Pyongan Province. A military doctor took her to a security agency hospital to force an abortion.	NKHR2012000198 2012-09-25

Health problems that years of famine have brought about to North Korean women are not limited to malnutrition, pregnancies, childbirth and child rearing. During the food crisis, most North Korean women engaged in vending, peddling, and trading to support their families. They operated under constant threat and fear of being pilfered, pick-pocketed, mugged, robbed, trafficked,



sexually assaulted and harassed by soldiers and safety agents at the markets and on the trains. Furthermore, long distance travel, constant walking, and ever present hunger exacerbated the mental anguish and physical exhaustion. In addition, the psychological and emotional strains stemming from the responsibility for providing food for the family became almost unbearable. Heavy workload is a major cause of deteriorating health of North Korean women. The workload includes household chores, peddling on the market, and other family and financial responsibilities. Most North Korean housewives (women's league members) are mobilized almost every morning to work at construction sites, carrying dirt and rocks, and every third or fourth day are called for social mobilization in the name of women attack units. Such mobilization result in heavy physical burdens, and contribute to their deteriorating health.<sup>123</sup> The women's league members are mobilized to work with shovels and picks at construction sites, and they are forced to work on mending and repairing dirt roads.<sup>124</sup>

The recent trend of drug abuse among North Korean citizens is widely known, and women are no exceptions. It is not unusual for North Korean women responsible for supporting their families to turn to drugs in order to temporarily ease their physical and psychological pain. This, however, often leads to greater harm on their health. North Korean defector XXX testified that approximately 50 percent of women in Hyesan City, Yanggang Province use narcotics of some kind, and most of them are young women.<sup>125</sup> Defector XXX who left North Korea in 2011 testified that seven to eight out of 10 women in Hoeryeong, North Hamgyong

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<sup>123</sup>—Interview with defector XXX in Seoul on September 25, 2012.

<sup>124</sup>—Interview with defector XXX in Seoul on October 17, 2012.

<sup>125</sup>—Interview with defector XXX in Seoul on October 11, 2012.

Province, are using narcotics, and most of them are 20-30 year old women.<sup>126</sup> North Korean defector XXX who left North Korea in 2011 testified that there are many narcotics users among women between the ages of 16 to 40, and a majority of them are between 20-30 years old involved in prostitution.<sup>127</sup> Defector XXX who fled in 2011 testified that narcotics are mainly used by women who can afford them, and many women divorce, commit suicide or flee to China for narcotics.<sup>128</sup>

Following the economic hardship, many North Korean women came down with serious illnesses such as tuberculosis, cervical cist, uterine tumors and cancer or breast cancer. In addition, many women are suffering from venereal diseases due to prostitution, but they cannot receive hospital treatment. Thus most of them try to treat their diseases at home using Chinese medicine they purchased on the market. Defectors also testified that many North Korean women could not afford to buy good sanitary pads for MPS (menstruation), and many of them suffered from vaginitis resulting from the use of unhealthy pads. A particularly noteworthy case in this connection are the horrendous conditions inside the management centers (political prison camps). The women in the camp have to use rags or socks with vinyl covers for sanitary pads and sleep on vinyl floors. They cannot wash clothes for lack of soap.<sup>129</sup>

In response to a question in the 2011 survey on how female prison inmates in detention facilities dealt with their menstruation, 60 percent<sup>130</sup> of the respondents answered they used scraps of old

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<sup>126</sup> Interview with defector XXX in Seoul on October 12, 2012.

<sup>127</sup> Interview with defector XXX in Seoul on November 1, 2012.

<sup>128</sup> Interview with defector XXX in Seoul on September 25, 2012.

<sup>129</sup> Interview with defector XXX in Seoul on April 22, 2011.

<sup>130</sup> NKHR2011000043 2011-01-25 and other 23 testimonies.

clothes, while only 18 percent<sup>131</sup> answered they used pieces of gauze. In the 2012 KINU survey, North Korean defectors testified that most women in detention centers had to use left-over rags or old clothes for sanitary pads (22 out of 101 respondents),<sup>132</sup> and only a small number of women used the so-called gauze cloth (9 out of 101 answers).<sup>133</sup> Defector XXX who fled in 2011 testified that while at the collection point, she had to tear up a portion of her own clothes to use as sanitary pads, and she had to use the same rag repeatedly after washing in a basin full of water, which the center offered for washing hands and face.<sup>134</sup> Other defectors testified that some women in detention facilities often missed their monthly MPS.<sup>135</sup> This was perhaps due to infirmity, disease, and/or extreme stress.

Female defectors testified that disposable sanitary pads are not widely available for North Korean women, and most of them had to use “gauze cloth,” torn-up shirts or underwear as sanitary pads. Women who were well off in Pyongyang or along the border regions were able to use Chinese disposable pads or the Daedonggang sanitary pads.<sup>136</sup> The “Daedonggang pads” manufactured by Daedonggang Sanitary Pads Factory are mainly supplied to female soldiers.<sup>137</sup> And, one out of 10 wealthy women are able to use disposal pads made in China or Chinese gauze cloth pads.<sup>138</sup>

According to the 2011 survey results, 83 percent<sup>139</sup> of the

<sup>131</sup>\_NKHR2011000056 2011-02-22 and other 6 testimonies.

<sup>132</sup>\_NKHR2012000129 2012-07-03 and other 21 testimonies.

<sup>133</sup>\_NKHR2012000056 2012-04-10 and other 8 testimonies.

<sup>134</sup>\_Interview with defector XXX in Seoul on October 5, 2012.

<sup>135</sup>\_NKHR2011000188 2011-08-16.

<sup>136</sup>\_Interview with defector XXX in Seoul on May 4, 2011.

<sup>137</sup>\_Interview with defector XXX in Seoul on October 11, 2012.

<sup>138</sup>\_Interview with defector XXX in Seoul on October 12, 2012.

<sup>139</sup>\_NKHR2011000042 2011-01-25 and other 52 testimonies.

respondents answered that they used pieces of gauze, while other respondents stated that they used scraps of old clothes (9 percent),<sup>140</sup> or disposable sanitary pads (8 percent).<sup>141</sup> In the 2012 KINU survey, 25 percent (74 out of 291 respondents) said they had used gauze cloth,<sup>142</sup> and 4 percent (13 out of 291 answers) said they used disposable pads.<sup>143</sup> But, gauze cloth pads were not widely available to North Korean women, and most of them used pieces of old clothes as sanitary pads. For example, only two to three out of 10 women used gauze cloth in Kilju, North Hamgyong Province, and they were mostly affluent and young women.<sup>144</sup> Even some affluent women did not prefer to use gauze cloth pads, because it was inconvenient to wash and boil them for reuse, given the lack of electricity and fuel. On the other hand, used shirts could be cleaned without boiling, so many women preferred to use patches of clothing rather than gauze cloth pads that required boiling.

## E. Assessment

On December 22, 2010, the Presidium of the Supreme People's Assembly adopted the Women's Rights Protection Act. North Korea emphasized the establishment of this law as a significant step towards protecting women's rights and interests in all areas.<sup>145</sup> The Act reflects the concerns expressed in the Concluding Observation of the UN CEDAW Committee and contains several new

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<sup>140</sup>\_NKHR2100000047 2011-02-08 and other 5 testimonies.

<sup>141</sup>\_NKHR2011000099 2011-04-26 and other 4 testimonies.

<sup>142</sup>\_NKHR2012000003 2012-01-10 and other 73 testimonies.

<sup>143</sup>\_NKHR2012000056 2012-04-10 and other 12 testimonies.

<sup>144</sup>\_Interview with defector XXX in Seoul on October 11, 2012.

<sup>145</sup>\_Minju Joseon (*Democratic Chosun*), January 26, 2011.

articles, in addition to articulating existing articles in greater detail. These changes in the act suggest that North Korean authorities have responded positively to the international attention focused on poor human rights record and demands for an improvement. Presumably, the Women's Rights Guarantee Law is a legislation enacted to improve North Korea's image in the face of continuing criticisms and demands from the international community to improve human rights in North Korea. In fact, proper laws and systems for the protection of women's rights cannot be found in North Korea. As a result, the rights of North Korean women are seriously breached, and the situation persisted in 2012 without much improvement.



# 2



## *Children*

“Article 25, Paragraph 2” of the Universal Declaration of Human Rights stipulates that all children in their childhood are entitled to special care and assistance. The Convention on the Rights of the Child<sup>146</sup> in its preamble also emphasizes that “the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,” and that “the child should be fully prepared to live an individual life in society and brought up in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.” “Article 24 “of the International Covenant on Civil and Political rights (ICCPR) mandates, “every child shall have, without any discrimination as to race, color, 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.”

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<sup>146</sup> “Article 1” of the Convention on the Rights of the Child stipulates, “For the purpose of the present Convention, a child means every human being below the age of 18 years unless under the law applicable to the child maturity is attained earlier.”

North Korea has insisted that they treat children as ‘kings’ and represent them as the future of the country. To ensure these goals, North Korea has guaranteed the rights of children in the Constitution as well as the Education, People’s Health, Children’s Education, Social Safety, Disabled Persons Protection and Family Laws.<sup>147</sup> North Korea’s position on this subject is stipulated in detail in the Rights of the Child Guarantee Law (hereinafter Children’s Rights Law) enacted in December 2010.<sup>148</sup> This law defines a child as young people under the age of 16. (“Art. 2”) The Law states that it is North Korea’s policy “to guarantee the children’s rights and interests on a priority basis.” (“Art. 4”) It further articulates, “the State shall, according to the principle of best things for children, guarantee best things required for the children’s health, education and social activities on a priority basis.”

North Korea signed the Convention on the Rights of the Child in September 1990, and submitted the first Rights of the Child Performance Report in February 1996 and the second report in May 2000. In December of 2007, North Korea submitted a consolidated report on the third and fourth terms of the implementation of the Convention on the Rights of the Child. In this report, North Korea insisted that the government’s policies for children were consistent with the principles and demands of the Convention, and that North Korea has newly enacted or revised existing laws to fulfill the terms of the Convention. More specifically, North Korea revised

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<sup>147</sup> The DPRK, “National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15(A),” p. 19.

<sup>148</sup> Convention on the Rights of the Child is consisted of six parts and 62 articles, including topics such as the “basis of the Convention on the Rights of the Child,” “protection of rights of children in social realm,” “protection of rights of children in education/health sector,” “protection of rights of children in families,” “legal protection of rights of children,” and “control and management of projects related to the protection of rights of children.”

and updated many of their legal provisions, including the Penal Code (in 2004) and the Family Law (in 2004). They have also newly enacted the Inheritance Law (in 2002), the Disabled Persons Protection Law (in 2003), the National Budget and Revenue Law (in 2005), the Cigarette Control Law (in 2005), and the Korean Red Cross Society Law (in 2007). Furthermore, North Korea stated that the laws revised in 2005 related to narcotics control, food hygiene, disease control, Criminal Procedure, and environmental protection fully mirror the requirements stipulated in the Convention on the Rights of the Child and stated that they have come one step closer to perfecting laws ensuring and promoting children's rights. In 2002, an effort to promote children's rights to have equal access to education, North Korea established a National Plan of Action on Education for All. In a consolidated report published in 2006, Strategy of the DPRK for the Promotion of Reproductive Health, 2006-2010, North Korea stated that they have taken positive steps to strengthen the roles and expand the scope of activities of the National Commission for the Rights of the Child (NCRC). It also asserted that North Korea is teaching principles and regulations contained in the Convention on the Rights of the Child to their school children during Socialist Ethics and Socialist Law and Morality classes, two classes that have been introduced to the Elementary and Middle School Curriculum since 2005.

In the final observations (January 29, 2009), the Rights of the Child Committee gave an affirmative assessment on administrative measures and other actions North Korea had taken to implement the terms of the Rights of the Child Convention. The Committee favorably noted a number of North Korean policies such as the "DPRK Strategy for the Promotion of Health of Pregnant Women (2006-2010)," the Strategy for Prevention of AIDS (2002-2007),



the First Stage Health Promotion Strategy for Mothers and Children (2008-2012), the Overall Action Plan for Handicapped Persons (2008), the population census of October 2008, and the establishment of the Central Committee of the Korean Federation for the Protection of Persons with Disabilities (See Paragraph 3 of the Concluding Observations”). However, the UN Rights of the Child Committee expressed regret regarding the unsatisfactory performance and incomplete implementation of recommendations the UN Committee proposed after reviewing North Korea’s second regular report submitted in 2002. The UN Committee also called on North Korea to faithfully carry out these recommendations in connection with the third and fourth period combined report (Paragraphs 5 and 6). The UN Committee also expressed concern over the absence of independent watch dog organizations and the lack of independence NGOs had in implementing the “Convention on the Rights of the Child” (Paragraphs 11 and 13).

These expressions of international concern demonstrate the fact that under the tight social control and economic hardship, the rights of North Korean children are suffering from serious breaches of universal rights such as the right to health, right to personal and mental protection, right to education, right to justice and right to a nationality.

## **A. The Right to Food and Health**

A great majority of North Korean children are not guaranteed their fundamental right to food, living under constant threat of chronic hunger and malnutrition. In 2002, the North Korean authorities conducted a survey in cooperation with UNICEF and

WFP on malnutrition among North Korean children. Of the 6,000 children surveyed, 20.15 percent were found to be underweight, 39.22 percent suffering from chronic malnutrition, and 8.12 percent acutely malnourished. In a 2004 survey of 4,800 children below the age of six, approximately 23 percent were underweight, 37 percent were suffering from chronic malnutrition, and 7 percent suffered from acute malnutrition. According to the third and fourth Term Consolidated Report, approximately 19.5 percent of all North Korean children were underweight, 34 percent were suffering from chronic malnutrition, and 6.1 percent of them were experiencing acute malnutrition. Since 2000, there have been slight improvements in these statistics. In December of 2009, UNICEF published a report on this subject. The report stated that during the 2003-2008 period, 23 percent of the children under the age of six were underweight, 45 percent showed chronic nutritional disorder, and 9 percent suffered from acute malnutrition.<sup>149</sup> According to World Health Statistics 2011 released by the WHO,<sup>150</sup> 20.6 percent of children under the age of five were reported to be underweight.

According to the survey jointly conducted by UNICEF and North Korea's Central Statistical Bureau on nutritional levels of North Korean children (10-59 months old)<sup>151</sup> and women (15-49 years old), 15.2 percent of children under 5 years of age was underweight, 27.9 percent was suffering from chronic malnutrition, and 7.2 percent of them was suffering from severe malnutrition. In

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<sup>149</sup> UNICEF, *The State of World's Children*, special edition (November 2009), Table 2. Nutrition.

<sup>150</sup> WHO, "World Health Statistics 2011," p. 23, <[www.who.int](http://www.who.int)>.

<sup>151</sup> This research was based on a randomly selected group of about 7600 households from ten cities and provinces including Pyongyang. UNICEF, "CBS: Democratic People's Republic of Korea Preliminary Report of the National Nutrition Survey 2012" (October 2012).

addition, 4.0 percent of them was suffering from acute malnutrition and 29 percent was anemic. There were significant differences between children in Pyongyang compared to those along the Korean-Chinese border regions. Only 19.6 percent of children in Pyongyang was under chronic malnutrition, but the malnutrition ratio was 39.6 percent in Yanggang province, 33.3 percent in Jagang province, 32.9 percent in South Hamgyoung province, and 28.7 percent in North Hamgyoung province. As for acute malnutrition levels, Pyongyang had 2.3 percent of children suffering from acute malnutrition, but it was 6.1 percent in Yanggang province and 5.7 percent in Jagang province. As for the underweight ratio, Pyongyang had 10 percent of underweight children, but the ratio was 20 percent in Yanggang province. In the 2009 survey, 19 percent of children under the age of 5 was underweight, 32 percent was under chronic malnutrition, and 5 percent was suffering from acute malnutrition.<sup>152</sup>

North Korean defectors testified that most North Korean children are suffering from undernutrition, hindering their physical growth. North Korean defector XXX from Heysan testified in 2010 that in general, 30-40 percent of middle school students are malnourished, while *kkot-je-bi* (homeless child beggars) who beg or steal food are better off. However, the defector said that once these *kkot-je-bi* (homeless child beggars) are sent to orphanages or ‘*Jung-deng-hag-won*’ (boarding school for teenage orphans) run by the government, they also become malnourished.<sup>153</sup>

As the economic conditions deteriorated, nurseries, kindergartens, schools, as well as other educational and child protective facilities were not able to perform their proper functions. This situation clearly illustrates that North Korea has been unable to fulfill

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<sup>152</sup>–UNICEF, “The State of the World’s Children 2012” (February 2012), p. 92.

<sup>153</sup>–Interview with defector XXX in Seoul on May 9, 2011.

the terms spelled out in the Convention on the Rights of the Child, specifically “Paragraph 2 of Article 6,” which mandates that “State Parties shall ensure to the maximum extent possible the survival and development of the child.” North Korea has also failed to meet the terms of “Article 27” that specifies, “All State Parties recognize that all children are entitled to enjoy the standard of living adequate for the physical, mental, intellectual, ethical and social development.” “Article 24” of the Convention on the Rights of the Child illustrates measures to be taken for the fulfillment of health rights of children. They include measures “to diminish infant and child mortality: 1) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; 2) to combat disease and malnutrition, including a framework of primary health care, through the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; and 3) to ensure appropriate pre-natal and post-natal health care for mothers.” In connection to the second implementation report, North Korea stated there were no cases where children were denied public health care. The report further stated that although material and technical aspects of children’s health service and some children’s health have deteriorated due to extreme natural disasters, the active efforts by the government, the people, and international aid working together has led to a gradual improvement of North Korean children’s health and recovery of the public health care service of the early 1990s. In the third and fourth year consolidated report, North Korea said they secured legal guarantees for the protection and promotion of children’s health by revising and updating laws on the prevention of communicable diseases, food, hygiene, and

environmental protection and adopting the law on herbal medicine, narcotics control, and cigarette control. They also said that the Strategy for the Promotion of Reproductive Health (2006-2010) and the Strategy for Prevention of AIDS (2002-2007) were also part of their policy to protect and promote children's health. However, the fact remains that North Korea's medical services have collapsed due to the food crisis and deepening of the economic hardship. Therefore, most North Koreans remain unable to receive even the most basic medical treatment. Moreover, due to the absence of epidemic prevention and disinfectant measures, contagious diseases such as typhoid, paratyphoid, cholera, malaria, and tuberculosis are proliferating among the population since the mid-1990s, killing many children. Lack of clean water and unsanitary living conditions are known to be the main culprits of contagious diseases. According to the third and fourth consolidated report, the most common communicable diseases among North Korean children was reported to be diarrhea and acute respiratory illness.

In the consolidated report, North Korea stated that since 2000, there has been an improvement in the infant mortality rate and as of 2005 the mortality rate for children under the age of 5 was 40 per thousand. However, the State of World Population, 2007 report stated that the actual mortality rate stood at 56 per thousand for boys and 49 for girls. By comparison, infant mortality rates for South Korean children are at 5 per thousand for boys and 5 per thousand for girls.<sup>154</sup> The annual report "State of the World's Children, 2009" released by UNICEF pointed out that the mortality rate of North Korean children under the age of 5 was 55 per 1,000, placing North Korea 62nd among 189 countries.<sup>155</sup>

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<sup>154</sup>—UNFPA, "The State of World Population, 2007," p. 91.

<sup>155</sup>—UNICEF, "The State of the World's Children, 2009," p. 117.

The State of World Population 2010 reported the death ratio of newborn babies (“infant mortality rate”) was 47 (out of 1,000) and the ratio of children under the age of 5 was 63 (during 2005-2010).<sup>156</sup> However, the World Health Statistics 2011 released by WHO<sup>157</sup> reported the death ratio of children under the age of 5 was 33 (out of 1,000 children). The World Children Statistics released by UNICEF<sup>158</sup> also reported the same ratio of 33 (out of 1,000), marking North Korea the 77th in the world. In World Health Statistics 2012 released by WHO<sup>159</sup> also had 33 deaths in 1,000 for children under the age of 5 in North Korea. The UNICEF report in 2012<sup>160</sup> showed 33 deaths in 1,000, placing North Korea in the 73rd spot in the world. The ratio for children under the age of one was 26 out of 1,000 and the ratio for the newborn was 18.

According to a joint survey conducted in 2002 by UNICEF and United Nations World Food Program to assess on the nutritional levels of North Korean mothers and children, one third of the mothers surveyed were suffering from anemia. Furthermore, malnutrition of mothers was found to be the main cause of unhealthy newborn babies. A 2004 survey also revealed that one third of the surveyed mothers were suffering from malnutrition and anemia. In the joint survey on children and women conducted by UNICEF and North Korea’s Central Statistical Bureau in September 2012, 31.2 percent of North Korean women were suffering from anemia.

In recent years, the main factor threatening the health of North Korean children is narcotics. Narcotics are used by children of wealthy families and families of high ranking officials. Even

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<sup>156</sup> UNFPA, “The State of World Population 2010,” pp. 96, 102.

<sup>157</sup> WHO, “World Health Statistics 2011,” p. 24, <[www.who.int](http://www.who.int)>.

<sup>158</sup> UNICEF, “The State of the World’s Children 2011” (February 2011), p. 87.

<sup>159</sup> WHO, “World Health Statistics 2012,” p. 19.

<sup>160</sup> UNICEF, “The State of the World’s Children 2012” (February 2012), p. 87.

third graders in elementary school are reported to be taking narcotics during class in Hamhung City, where narcotics are manufactured.<sup>161</sup> North Korean defectors testified that some fourth and fifth graders began to take narcotics. They would collect money and take drugs together during the exam week.<sup>162</sup> Even some teachers would ask students to get some narcotics for them, and some students offered narcotics to teachers as bribes. Some students exchanged narcotics as birthday gifts.<sup>163</sup> North Korean defector XXX testified that six to seven out of 10 middle school 6th graders used narcotics, and there were black markets for narcotics at schools.<sup>164</sup>

## **B. The Right to Protection against Physical and Mental Abuse**

“Article 19” of the Convention on the Rights of the Child stipulates, “State Parties shall take all measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.” Furthermore, “Article 20” provides, “A child temporarily or permanently deprived of his or her family environment shall be entitled to special protection and assistance provided by the State.” On this issue, North Korea declared in the second performance report that they were taking various measures to provide family environments for children who have lost their parents and they were paying great attention to child rearing at

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<sup>161</sup>–Interview with defector XXX in Seoul on September 25, 2012.

<sup>162</sup>–Interview with defector XXX in Seoul on October 11, 2012.

<sup>163</sup>–Interview with defector XXX in Seoul on October 12, 2012; Interview with defector XXX in Seoul on October 18, 2012.

<sup>164</sup>–Interview with defector XXX in Seoul on October 29, 2012.

both the family and society levels. More specifically, North Korea stated that they devised a variety of means to solve the problem of children on the streets since 1996. As such, most orphans are sent to vocational schools or institutions where they can get government protection. Moreover, North Korea mentioned in the third and fourth year consolidated report that although children's facilities had extensive damages due to floods and typhoons in August and September of 2007, they restored children's facilities as a top priority listed for affected children to return to daily life.

According to defectors, during the food crisis, many parents abandoned their children upon divorce or death of one parent, which often resulted in putting a heavier burden on the remaining parent. Children who were abandoned or whose parents had died or who had ventured out on their own due to extreme hunger lived on the streets and at marketplaces as *kkot-je-bi* (homeless child beggars) and survived by begging or stealing.

North Korean defector XXX, who left North Korea in 2012, testified that even in recent years, there were numerous *kkot-je-bi* (homeless child beggars) on the streets of North Korea. They left homes for many reasons, such as death of parents, family feud, abandoned after divorce, and discord with new parent or new brothers and sisters.<sup>165</sup> North Korean defector XXX testified that many children left their family and lived as *kkot-je-bi* (homeless child beggars) on the streets because of parents' excessive use of narcotics.<sup>166</sup>

Street orphans called *kkot-je-bi* (homeless child beggars)

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<sup>165</sup> Interview with defector XXX in Seoul on October 17, 2012; Interview with defector XXX in Seoul on October 18, 2012; Interview with defector XXX in Seoul on October 5, 2012.

<sup>166</sup> Interview with defector XXX in Seoul on October 12, 2012.



usually gather in marketplaces or in front of train and bus stations where many people congregate. They wander around begging during the day and sleep in the waiting rooms of train and bus stations at night. In Chongjin, North Hamgyong Province, teenagers and young adults in their twenties go around Sunam Market or the station begging for food during the day and sleep on Jaemugi (piles of coal dust) near Gimchaek Steel Mill at night using cooling coal briquettes for warmth.<sup>167</sup> Many kkot-je-bi (homeless child beggars) prefer to sleep on Jaemugi over homeless shelters where there is usually no heating system. It is said that homeless children become beggars and stay in the station or near the railroad lines in Bukchang County, South Pyongan Province.<sup>168</sup> North Korean defector XXX testified that many kkot-je-bi (homeless child beggars) lived a life of “hobos”, hopping on and off trains and moving around.<sup>169</sup> Defector XXX, who left North Korea in 2011 from Musan, North Hamgyong Province, testified that groups of three to four or six to seven children would live together as “drifters,” and many children around the age of 10 have recently moved into South Hwanghae Province near Daehungdan district and lived there in tent villages.<sup>170</sup> North Korean defector XXX from Rajin testified that most kkot-je-bi (homeless child beggars) moved out of their hometowns and drifted to other towns, and almost 80 percent of them were from “farm families.”<sup>171</sup>

During the winter time, kkot-je-bi (homeless child beggars) slept on the streets covered with rags or find a corner of a farm or patches of land to sleep. They also moved up the hills to find a

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<sup>167</sup>—Good Friends, “North Korea Today,” No. 388 (February 2, 2011).

<sup>168</sup>—Interview with defector XXX in Seoul on August 10, 2011.

<sup>169</sup>—Interview with defector XXX in Seoul on October 17, 2012.

<sup>170</sup>—Interview with defector XXX in Seoul on September 25, 2012.

<sup>171</sup>—Interview with defector XXX in Seoul on October 29, 2012.

shelter or under the staircase of apartment buildings.<sup>172</sup>

North Korean authorities collected these drifters claiming that it was for protection and supervision and sent them to detention facilities known as relief center, lodging center, boys education center, lodging center for drifters or protection center. The state-run facilities for kkot-je-bi (homeless child beggars) included primary institutes and middle institutes. Primary institutes are for elementary school age drifters and middle institutes are for middle school age kkot-je-bi (homeless child beggars). In order to be housed in these institutes, they had to go through a process of ascertaining the status of their parents.<sup>173</sup> Drifters who have parents are housed in 9.27 work units. In each 9.27 work unit approximately 70-80 or up to 100 drifters are housed. These young children are mobilized for house repair work or harvest at collective farms.<sup>174</sup>

However, these children reportedly have difficulty adapting to the controls and daily routine at these facilities and are not properly fed. As a result, they often sneak out to wander out in the streets again. Many of them die in the cold winter. The children housed in the state-run primary and middle institutes are known to experience similar conditions as other detention facilities. Children are forced to work in the field while staying in orphanages that do not feed them well and receive no financial support from the state. Thus, most children prefer to live on streets as beggars rather than staying in orphanages.<sup>175</sup> One North Korean defector testified that

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<sup>172</sup> Interview with defector XXX in Seoul on October 29, 2012; Interview with defector XXX in Seoul on October 18, 2012.

<sup>173</sup> Interview with defector XXX in Seoul on October 5, 2012.

<sup>174</sup> NKHR2010000067 2010-04-27; Interview with defector XXX in Seoul on October 29, 2012.

<sup>175</sup> Interview with defector XXX in Seoul on April 29, 2011; Interview with defector XXX in Seoul on May 12, 2011.

in May 2008, some children detained in a relief center were forced to work at a small field outside of the center, while the female children had to gather vegetables from the mountains.<sup>176</sup> Furthermore, the defector described that children detained in relief centers are ordered by the center managers (instructors of People's Committee) to obtain certain supplies that are only obtainable by stealing.

The number of street orphans seems to have increased dramatically since the currency reform in November 2009. According to survey conducted in 2011, 85 percent of the respondents answered that the number of street orphans had increased as daily life became harder after the currency reform.<sup>177</sup> 43 percent of the respondents said that the increase was dramatic.

According to the North Korean defectors who left North Korea during the late 2011 and early 2012, there were many young *kkot-je-bi* (homeless child beggars) along the Korean-Chinese border regions, including Chongjin, Hyesan, Musan, Kilju, and Hamhung. They were mostly children who lost their parents or from impoverished farms. North Korean defector XXX testified that there was a great number of drifters inside the fertilizer factory of the Hungnam Union Fertilizer Enterprise. He/she saw a number of children getting injured or killed by various accidents.<sup>178</sup> According to this witness, these *kkot-je-bi* (homeless child beggars) would fall and get themselves killed while trying to collect nitric fertilizers on top of towers. Others would get their legs broken or severed by fertilizer transport trains or trucks while trying to steal fertilizers. Defector XXX testified that these drifters were between the age of 13 and 18, the average being 15. Most of them were

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<sup>176</sup>\_NKHR2011000187 2011-08-16.

<sup>177</sup>\_NKHR2011000044 and other 60 testimonies.

<sup>178</sup>\_Interview with defector XXX in Seoul on October 17, 2012.

boys, although there were some brothers and sisters.<sup>179</sup> Another defector XXX testified of an eight-year old kkot-je-bi (homeless child beggars), and he/she even saw a handicapped drifter who looked like a sixth grader in middle school.<sup>180</sup>

Since the currency reform at the end of 2009, poverty of the North Koreans exacerbated and the number of kkot-je-bi (homeless child beggars) increased yet again. Most citizens turned a cold shoulder to them rather than treating them with compassion. For example, if people saw children lying on the street, they would choose not to pay any attention to them, and many people did not care if someone froze to death, so the corpses were abandoned on the streets.<sup>181</sup> North Korean defector XXX from Pyongyang who left North Korea in 2009 testified that while on a trip, he/she saw a double-amputee kkot-je-bi (homeless child beggars) aged around 12. The child had lost both of his feet, but no one would help the child.<sup>182</sup>

At the same time, the North Korean authorities encouraged individual families to take these kkot-je-bi into their families and raise them, saying such practice is a model way of giving back to the society. In the Consolidated Report, North Korea said that as of 2006, a total of 2,528 North Korean families were taking care of these homeless children.

North Korean defector XXX who left North Korea in 2011, testified that in Hoeryeong, North Hamgyoung province, there was a family that took care of 25 homeless children. They were sent to school and taken care of. For this family, the government

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<sup>179</sup> Interview with defector XXX in Seoul on October 17, 2012.

<sup>180</sup> Interview with defector XXX in Seoul on October 18, 2012.

<sup>181</sup> Interview with defector XXX in Seoul on October 18, 2012; NKHR2012000151 2012-07-24.

<sup>182</sup> Interview with defector XXX in Seoul on August 11, 2011.

built a separate house for the children and provided grains and furniture. The children were housed according to gender and age group.<sup>183</sup> There were some families who took care of homeless children and received grain rations according to their number, but some defectors testified that the children were leading a life as “errand boys.” North Korean defector XXX who fled from North Korea in 2011 testified that some of these children were not sent to school. Instead, they had to fetch firewood from the hills, cultivate small patches of land or put in charge of goat husbandry. Some of these children were sexually molested by their parents. The couple were later found guilty for sexual assault of under-age children and were publicly executed after an open trial.<sup>184</sup>

The Rights of the Child Convention stipulates, “State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.” It further mandates, “State Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent (a) the inducement or coercion of a child to engage in any unlawful sexual activity; (and) (b) the exploitative use of children in prostitution or other unlawful sexual practices.” (“Art. 34”) Furthermore, “Article 35” stipulates, “State Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form.” North Korea’s Rights of the Child Guarantee Law also specifies, “the abduction or traffic in children is prohibited.” (“Art. 18)

In the second implementation report, North Korea stated they were carrying out the terms of “Article 35” of the Convention on the Rights of the Child, declaring that prostitution and illegal

<sup>183</sup>—Interview with defector XXX in Seoul on October 12, 2012.

<sup>184</sup>—Interview with defector XXX in Seoul on September 25, 2012.

sexual behaviors were strictly prohibited under the penal code. In the third and fourth Consolidated Report, North Korea insisted that they never had cases of sexual abuse involving children, kidnapping, and human trafficking of children in North Korea. However it is widely known that a large number of human trafficking cases have been reported out of North Korea and China since the food crisis. In addition, since the late 1990s, the trafficking of teenage girls has been reported. North Korean defector XXX testified that there were cases of young women *kkot-je-bis* (homeless child beggars) aged 15 to 16 being lured into human trafficking in China.<sup>185</sup> Additionally, there are cases of four- and five-year-old children trafficked to China for adoption by Chinese families.<sup>186</sup>

As the food crisis worsened, cases of sex for money involving under-aged girls have known to take place in North Korea. North Korean defector XXX who left North Korea in 2011 testified that there were cases in which adults provided room and board for young women *kkot-je-bis* (homeless child beggars) who escaped from primary institutes and forced them to engage in prostitution, adopt them as their daughters and force them into unlawful sexual practices.<sup>187</sup> North Korean defector XXX who left North Korea in 2011 testified that there were many cases of unlawful sexual practices involving under-aged children in North Korea, and law enforcement authorities were also concerned about such practices. The respondent explained that if 50 under-aged girls are brought to a labor training camp, approximately 20 of them were brought in for unlawful sexual practice.<sup>188</sup>

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<sup>185</sup> Interview with defector XXX in Seoul on October 5, 2012.

<sup>186</sup> NKHR2011000223 2011-10-19.

<sup>187</sup> Interview with defector XXX in Seoul on October 5, 2012.

<sup>188</sup> Interview with defector XXX in Seoul on October 29, 2012.

## C. The Right to Nationality and Justice

Regarding the rights of the child stipulated in “Article 37” of the Convention on the Rights of the Child, North Korea in the second, third and fourth consolidate reports states that North Korean law enforcement authorities do not arrest, detain or imprison any child in principle. It further states that only under inevitable circumstances do the authorities detain a child after school hours in his/her home or specified facility with the approval of a prosecutor in accordance with “Articles 189 and 190” of Criminal Procedure Law for a maximum period of one month. The North Korean reports also state that North Korean laws have been revised to comply with international agreements, especially the standards articulated in the Convention on the Rights of the Child. For example, North Korea asserts that the age for assessing the death penalty for young people has been raised from 17 to 18 and not a single incident in which a child was tortured, punished in a cruel and inhumane manner or otherwise mistreated occurred. In the consolidated report, North Korea said that there were no cases of mistreatment of children, such as torture or inhumane and degrading treatment, during the entire reporting period (2001-2007). In terms of the right to justice, North Korea’s Rights of the Child Guarantee Law stipulates, “A child under the age of 14 shall not be charged with criminal responsibility and capital punishment shall not be imposed on a child who reached the age of 14 at the time crime was committed (“Art. 48”).” “Article 49” specifies, “If a child who reached the age of 14 committed a crime, the basic penalty to be imposed shall be social education.”

Contrary to North Korea’s claims, children deported from China have experienced various forms of torture, especially verbal

and physical abuse, including beatings and intimidation. From the beginning of the questioning process they are known to have suffered from beating, harsh labor and starvation during detention. They have been further detained in facilities designed for adults and forced to endure violence and forced labor.

Testimonies	Testifier ID
North Korean defector XXX testified that in 2010, he/she saw a 15-year old boy who was mobilized for forced labor while detained at Jongori Correctional Center.	NKHR2011000247 2011-12-20
North Korean defector XXX testified that at “No. 22 Management Center” (Sechun Management Center) in Hoeryeong City, North Hamgyoung Province, they placed children, who were detained with their parents, into hard labor from 10am, and the level of work was very hard. The parents were not allowed to help their children.	NKHR2011000134 2011-06-07
North Korean defector XXX testified that in 2008, he saw adults and children thrown into the same room at 6.20 work unit in Pyongsung City, South Pyongan Province.	NKHR2011000101 2011-04-26
North Korean defector XXX testified that in 2011 in Sakju County, North Pyongan province, he/she saw a 14-year old boy detained on charges of using USB on his computer. He was beaten while detained in a rooming house, and about 40 other boys underwent similar punishment.	NKHR2011000105 2011-05-03
North Korean defector XXX testified that in February 2010 in Musan County security agency detention center in North Hamgyoung Province, his/her 16-year old son was detained for 15 days on charges of receiving remittance by his parents from China. He was often beaten and put to forced labor before he was able to escape from the center.	NKHR2011000134 2011-06-07
North Korean defector XXX testified that he was forcibly deported from China and detained in a security agency detention center in Hyesan City, Yanggang province. He was only 16 at the time but was thrown into an adult detention facility.	NKHR2011000142 2012-06-14
North Korean defector XXX testified that capital punishment was possible for the criminals above the age of 17.	NKHR2012000066 2012-04-20



Testimonies	Testifier ID
North Korean defector XXX testified that in 2009 a 13-year old boy was given a labor training penalty for having watched a South Korean video.	NKHR2012000095 2012-05-29
North Korean defector XXX testified that in 2010, he was only 17 years old, but was detained in detention facilities of border guard, security agency, and ‘inspectors agency.’ At these facilities, he was severely beaten.	NKHR2012000187 2012-05-22
North Korean defector XXX testified that they brought six kkot-je-bi (homeless child beggars) children into the labor training camp. They were all forced to work for 15 days, same as adults. This was reported up the channels, and the responsible agent was fired from his job.	North Korean defector XXX during an interview in Seoul on October 29, 2012
North Korean defector XXX testified that when he/she was detained in a provincial collection point, under-aged young people were also detained in the same space. The young people were not put to hard labor or beatings.	NKHR2012000044 2012-03-19

In terms of detention facilities for under-aged youngsters, some defectors said each county maintained a correctional center for boys,<sup>189</sup> while other defectors testified that the correctional center for boys was abolished.<sup>190</sup> Yet another defector testified that correctional centers for boys was recently reestablished.”<sup>191</sup>

Regarding “Article 7” of the Convention on the Rights of the Child on the nationality of the child, North Korea stated that children are never without a nationality. If either one of the child’s parent is Korean, the convention automatically guarantees the child a North Korean citizenship. However, for a North Korean woman who has formed a family with a Chinese or a Korean-Chinese man, her marriage is not regarded as legal as she is only regarded as a common law wife who is “living in” through human-trafficking

<sup>189</sup>\_NKHR2012000090 2012-05-22.

<sup>190</sup>\_NKHR2012000066 2012-04-20.

<sup>191</sup>\_NKHR2012000238 2012-11-06.

or being sold by intermediaries. As a result, her children cannot expect to have any legal protection.

#### D. Assessment

North Korea has enacted the Rights of the Child Guarantee Law and insisted, “a firm legal guarantee has been made to consistently implement our policy to guarantee the rights and interests of our children as a priority.”<sup>192</sup> North Korea’s Rights of the Child Law faithfully prescribes the state’s responsibilities as detailed in the Rights of the Child Convention. However, the law contains a number of declaratory provisions, and in fact no significant improvement has been found thus far. It is therefore necessary to continue to pressure North Korea to improve their laws and policies concerning the welfare of North Korean children.

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<sup>192</sup> *Minju Joseon* (Democratic Chosun), January 26, 2011.



# 3



## *Persons with Disabilities*

The Universal Declaration of Human Rights prescribes, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” (“Art. 25, Para. 1”) In addition, the Rights of the Child Convention stipulates, “State Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions that ensure dignity, promote self reliance, and facilitate the child’s active participation in the community.” (“Art. 23, Para. 1”) More systematic and specific details are stipulated in the Convention on the Rights of Persons with Disabilities, but North Korea is not a signatory.

Taking into consideration the criticism and concerns of the international community, North Korea has enacted a 54-article Disabled Persons Protection Law in June 2003. Thus, an institutional mechanism has been put into place for the protection on the

rights of disabled persons. Following is a quick overview of major articles of the North Korean law for disabled persons. “Article 1” states, (The purpose of this law) is “to provide better living conditions and environment for the disabled persons by firmly establishing systems and order in terms of treatment, rehabilitation, education, work and cultural life.” “Article 2” defines disabled persons 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 states, “the State shall respect personal dignity of all disabled persons, and guarantee them equal rights and freedoms, as well as benefits, with healthy citizens in all social and political areas.”

In addition, the Disabled Persons Protection Law stipulates details concerning Treatment and Rehabilitation (Chapter 2), Education (Chapter 3), Cultural Life (Chapter 4), and Work (Chapter 5). Some of the more salient provisions include Guarantee of Overall Free Treatment Benefits (Art. 9), Guarantee of Compulsory Elementary and Middle School Education (Art. 17), Guarantee of Admission to Colleges or Vocational Schools based on Personal Desires and Talents (Art. 18), Creating and Operating Special Schools and Classes to meet Physical and Mental Needs and Conditions (Art. 19), Job Assignments to Agencies, Enterprises, and Organizations based on Individual Preferences (Art. 32), and Operation of Disabled Persons Protection Committee and Allocation of Work Projects to Disabled Persons League (Art. 45).

Following is a report on the recent status and reality of disabled persons in North Korea. World Milal is an international evangelical group that helps the physically challenged around the world. In 1999, the group released a Survey of Disabled Persons in North Korea, which they obtained from the (North) Korean Association for Supporting the Disabled. According to this survey,

there are a total of 763,237 disabled persons in North Korea or approximately 3.41 percent of the population. The survey showed that 296,518 persons or 38.8 percent of the total had physical disabilities, 168,141 persons were hearing impaired, 165,088 were visually impaired (i.e., blind), 68,997 were suffering from multiple disabilities, and 37,780 were mentally disabled. Disabled persons composed approximately 1.75 percent of the Pyongyang population. The report also illustrated that 64 percent of all physically challenged persons were living in urban areas, while 35.4 percent were living in farm villages.<sup>193</sup>

In addition, in the 2009 report to the UN, North Korea clarified that there were 3,639 children with handicapped mobility, including 2,176 boys and 1,463 girls, according to their own survey conducted in 2005.<sup>194</sup>

<Table V-1> Handicapped Children by Age

(Unit: Percent)

Age	0-4	5-6	7-10	11-17
100	11.6	11.2	30.2	47.0

According to Mun-chol Kim, Deputy Chairman of the Chosun Disabled League Central Committee, who was leading the North Korean sports delegation to the 14th “Paralympics” held in London (August 30-September 10, 2012), the total number of disabled persons in North Korea was 5.8 percent of the population. This number was also confirmed as a result of sample survey North Korean authorities conducted in November 2011 on the number

<sup>193</sup> *Yonhap News*, April 9, 2006 and November 23, 2006.

<sup>194</sup> The DPRK, “National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15(A),” p. 20.

of disabled persons who had disabilities in the five major areas of sight, hearing, limbs, mentality, and multiple disability.<sup>195</sup>

In the second regular report on economic, social, and cultural rights, North Korea reported that the disabled persons had jobs according to their constitutional rights and abilities. North Korea also insisted that the government was paying special attention to disabled children, with pre-school children receiving treatment at special hospitals, and school-aged children getting special consideration to receive treatment so that they could continue their school education. North Korea said they maintained three specialized schools for blind, deaf and mute children, as well as nine schools for children with speech impairment. In these schools, a total of 1,800 handicapped children received elementary and high school education. The report stated these children were receiving government scholarships and living in school dormitories built especially for them. However, after reviewing North Korea's second periodic report on the ICESCR in 2003, the UN Committee on Economic, Social and Cultural Rights, in their "concluding observations," expressed concern about the fact that disabled children were excluded from the normal educational process. In addition, in the second regular report on the ICESCR, the North Korean authorities insisted they were protecting the rights of handicapped persons. In the 2009 report to the UN, North Korea insisted that all disabled persons were receiving proper education and treatment and were given the opportunity to choose jobs according to their capabilities and wishes. North Korea further insisted that they were guaranteed equal rights with other citizens and were able to fully enjoy their cultural rights.<sup>196</sup> Unlike the positions taken by North Korean

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<sup>195</sup> *Yonhap News*, September 10, 2012.

<sup>196</sup> The DPRK, "National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15(A)" (August 27, 2009), p. 20.

authorities, disabled persons in North Korea are treated unequally.

The ICESCR (economic, social rights) stipulates, “The State Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” (“Art. 12”) The ICCPR (civil, political rights) also states, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.” (Art. 7) Furthermore, the Universal Declaration of Human Rights states, “Everyone has the right to freedom of movement and residence within the borders of each State.” (“Art. 13, Para. 1”) The ICCPR also prescribes, “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.” (“Art. 12, Para. 1”) But disabled persons in North Korea are constantly faced with serious infringement of their rights. North Korea’s most obvious discriminatory treatment on disabled persons consists the following two categories: The first and most serious type of discrimination is the operation of segregated facilities and forced sterilizations of people suffering from dwarfism.

Testimonies	Testifier ID
North Korean defector XXX testified that he had seen a village for little people at Sangchangri, Kim Hyung-jik County (Huchang County), Yanggang Province.	NKHR2011000005 2010-08-10
North Korean defector XXX related a story he heard from a conversation his father had with his friends during the late 1980s. The authorities said they should eradicate “seeds” of little people, and took them away and conducted biological experiments on them. The experiment was to see how well the little people could withstand the chemicals under development, and even deformed children were put to the test.	North Korean defector XXX during an interview in Seoul on July 30, 2010

Testimonies	Testifier ID
North Korean defector XXX testified that little people may get married but could not have any children because they were sterilized.	North Korean defector XXX during an interview in Seoul on May 12, 2011
North Korean defector XXX testified that in October 2010 he was working at First People's Hospital in Bukchong County in North Hamgyoung province. At the time, he saw six little people living in Bukchong County forced to a sterilization operation.	NKHR2011000182 2011-08-09
North Korean defector XXX testified that as late as December 2010 he had seen a 'village for little people' at Jungdongri, Koupku, Kim Hyung-jik County (Huchang County), Yanggang Province.	NKHR2011000103 2011-05-03
North Korean defector XXX who left North Korea in 2008 testified that there was a residential area for midgets about a mile outside the Koupku in Jungri, Kim Hyung-jik County (Huchang County), Yanggang province. The little people were allowed to live in this area after sterilization.	NKHR2012000070 2012-04-24
North Korean defector XXX testified that in 2000 there was a village for little people in Koupku in Kim Hyung-jik County (Huchang County), Yanggang province. And, he had heard midgets were all sterilized.	North Korean defector XXX during an interview in Seoul on October 5, 2012
North Korean defector who left North Korea in 2011 testified that there was a collective village for little people in XX-ri, Kim Hyung-jik County (Huchang County), Yanggang province.	North Korean defector XXX during an interview in Seoul on October 11, 2012
North Korean defector XXX testified that in 2003, he saw a village for little people at Woltanri, Kim Hyung-jik County (Huchang County), Yanggang province.	NKHR2012000083 2012-05-15
North Korean defector XXX testified that there was a village for little people in Samchangri, Kim Hyung-jik County (Huchang County), but little people were not forcibly sterilized.	NKHR2012000046 2012-03-23
North Korean defector XXX testified that little people were segregated from others, and they were forcibly sterilized.	NKHR2012000073 2012-05-08



Testimonies	Testifier ID
<p>North Korean defector XXX testified that he heard from his younger brother who was a neurosurgeon that he was administering sterilization shots on little people once a year. The little people around town were registered as subjects of “No. 71” measures, and they were given sterilization shots, after being told that the shots would make them grow.</p>	<p>NKHR2012000066 2012-04-20</p>
<p>North Korean defector XXX testified that he was a consulting physician at the Hereditary Section of a hospital. After conducting a survey on little people, he had enforced a sterilization plan as instructed by the Party. Midgets are called the subjects of “No. 71” measures, because in 1971 Kim Il-sung had sent all midgets to collective camps. In North Korea, people below 130cm in height would be classified as little people. In recent years, midgets know they are subject to sterilization shots, so they refuse and resist if doctors try to give them shots. Sometimes they would even file petitions. But these petitions are dismissed because sterilization was Party’s policy. Especially those midgets with lower mental capacity would get sterilization shots after being told that the shots would help them grow.</p>	<p>NKHR2012000072 2012-04-26</p>

In the 2011 survey, 80 percent of the respondents<sup>197</sup> said that the authorities segregated and relocated little people. 67 percent of the respondents<sup>198</sup> indicated that the State forced little people to undergo sterilization. It is difficult to verify these testimonies, since most of them fail to mention the exact dates of the event.

In the 2012 KINU survey, 34 percent (80 out of 238 respondents)<sup>199</sup> said the midgets were segregated. Respondents who answered that little people were not segregated totaled 19 percent (46 out of 238).<sup>200</sup> As for forcible sterilization of little people, 14

<sup>197</sup>—NKHR2011000043 2011-01-25 and other 85 testimonies.

<sup>198</sup>—NKHR2011000048 2011-02-08 and other 38 testimonies.

<sup>199</sup>—NKHR2012000015 2012-02-07 and other 79 testimonies.

<sup>200</sup>—NKHR2012000010 2012-01-31 and other 45 testimonies.

percent (33 out of 238) said ‘yes, they do,’<sup>201</sup> and the other 14 percent (34 out of 238) said ‘no, they don’t.’<sup>202</sup> As for the location of little people camps, 26 respondents<sup>203</sup> said they were in Yanggang Province. However, other defectors testified that the authorities segregated little people but they were later released, with the accompanying elimination of segregation facilities for little people.

Testimonies	Testifier ID
North Korean defector XXX testified that he had seen a few little people in Yonsa County, North Hamgyoung Province.	NKHR2009000011 2009-03-03
North Korean defector XXX testified that he/she saw a female little person in Namsan district, Musan County, North Hamgyoung Province. He had heard in the past that they were segregated, but this little woman had a family and even a child.	NKHR2009000009 2009-02-19
North Korean defector XXX testified that little people used to be segregated, but after Kim Il-sung’s death, they were no longer harassed or segregated.	NKHR2012000004 2012-01-10

The second type of discrimination against handicapped persons involves the issue of restricting their residential areas. North Korean defectors have testified that the authorities thoroughly restrict the areas where handicapped persons are allowed to reside, especially in cities such as Pyongyang, Nampo, Kaeseong, and Chongjin, where many foreigners visit. The authorities control the residence of handicapped persons because they may leave an unpleasant impression on the visiting foreigners.

North Korean defector XXX testified that around 1980, he/she could not continue to live in Pyongyang because of his/her

<sup>201</sup>\_NKHR2012000019 2012-02-07 and other 32 testimonies.

<sup>202</sup>\_NKHR2012000017 2012-02-07 and other 33 testimonies.

<sup>203</sup>\_NKHR2012000009 2012-01-21 and other 25 testimonies.

mentally challenged child.<sup>204</sup> North Korean defector XXX testified that because physically handicapped persons were forced out of the capital, people whose child was struck by polio in his/her childhood could not send the child to school and had to raise him/her at home until they were fully grown. Fully grown adults were more difficult to force out of Pyongyang.<sup>205</sup> North Korean defector XXX testified that disabled people are classified as subject of action, and are not allowed to live in Pyongyang and the authorities used excuses such as “Pyongyang is North Korea’s face, so we should show only good side of the city to foreigners.”<sup>206</sup>

However, some defectors and people who recently visited Pyongyang testified that there are disabled persons living in the capital.

Testimonies	Testifier ID
North Korean defector XXX testified that in the past, the authorities gathered handicapped persons and sent them out of the capital, but these days they are able to remain, even in Pyongyang.	North Korean defector XXX during an interview in Seoul on January 24, 2007
North Korean defector XXX testified that he saw a handicapped person in Pyongyang. An official’s child was struck by polio, but he saw the child in Pyongyang until he left North Korea.	North Korean defector XXX during an interview in Seoul on February 9, 2007
North Korean defector XXX testified that in the past they banished disabled persons such as the deaf, hunchbacks, and little people out of Pyongyang. But these days they are not kicked out of the city, and once in a while people can see them in Pyongyang.	NKHR2008000023 2008-11-11
North Korean defector XXX testified that he/she had seen people who lost both legs or both arms in Pyongyang. They were married and had families.	North Korean defector XXX during an interview in Seoul on August 11, 2011

<sup>204</sup> Interview with defector XXX in Seoul on March 10, 2007.

<sup>205</sup> Interview with defector XXX in Seoul on July 30, 2010.

<sup>206</sup> Interview with defector XXX in Seoul on July 30, 2010.

Other defectors testified that handicapped persons were living freely in areas other than Pyongyang.

Testimonies	Testifier ID
North Korean defector XXX testified that he/she saw a little person who came to visit next door neighbor.	NKHR2010000018 2010-10-05
North Korean defector XXX testified that recently he saw two little people (male) freely living in Sengjangku, Unhung County, Yanggang Province.	NKHR2010000055 2010-11-30
North Korean defector XXX testified that he/she grew up with a mentally challenged female about my age next door in Hoeryeong, North Hamgyoung province. She was living with her family until he/she fled from North Korea. In 2007, he/she also saw a man living with his brother's family in front of his/her grandmother's home. Between 2006 and 2007, he/she saw a little person in his/her neighborhood, and an uncle of his/her aunt was a little person, but he was married and had children.	North Korean defector XXX during an interview in Seoul on April 29, 2011
North Korean defector XXX testified that he/she saw little people and hunch-backs, and they all had families.	North Korean defector XXX during an interview in Seoul on August 17, 2011
North Korean defector XXX testified that he had seen a number of hunch-backs, little people, blind persons and people who had been struck by polio on the streets of Hyesan City, Yanggang Province. In Pyongsung City, South Pyongan Province, there was a village for midgets, but they were not "segregated" camps, but a town they naturally formed. Little people were freely moving around in the town.	North Korean defector XXX during an interview in Seoul on May 12, 2011
North Korean defector XXX testified that he saw a number of hunch-backs, blind and handicapped persons, and some of them had lost one or both arms or legs.	North Korean defector XXX during an interview in Seoul on October 5, 2012
North Korean defector testified that he had seen many people on crutches as they had lost one or both legs. He also saw many hunchback women. They had children and were living just like other citizens. In 2005, he saw a lot of little people in Yonsa County, North Hamgyoung province. They were married. There used be collective camps for little people in Komakri, Yonsa County, North Hamgyoung Province.	North Korean defector XXX during an interview in Seoul on September 25, 2012

Testimonies	Testifier ID
North Korean defector XXX testified that he had seen many hunchbacks and blind persons. From his childhood, he had seen a little person who was living with parents. He had not seen him for seven years, however.	North Korean defector XXX during an interview in Seoul on October 12, 2012
North Korean defector XXX testified that he saw many deaf and blind persons, as well as handicapped persons who were missing a limb. These disabled persons were leading a life of kkot-je-bi (homeless child beggars).	North Korean defector XXX during an interview in Seoul on October 17, 2012
North Korean defector XXX testified that he/she had seen many disabled persons, who lost both legs, and little people, deaf and blind persons. In 2011 in Hamhung City, South Hamgyoung Province, he saw a little person about 30 years old. He was living with his parents who were normal.	North Korean defector XXX during an interview in Seoul on October 18, 2012
North Korean defector XXX testified that in 2010 in Jinamri, Sinchon County, South Hwanghae Province, he saw a female little person who looked over 60 years old.	NKHR2012000006 2012-01-10
North Korean defector XXX testified that there was a village for little people in Yongwhari, Kim Hyung-jik County (Huchang County), Yanggang Province. He had heard that they were forcibly sterilized. He also saw some of them come to Hyesan City for business.	NKHR2012000060 2012-04-10
North Korean defector XXX testified that a 50-year old little woman used to live in the neighborhood. He/she used to meet her until fleeing North Korea. He/she had saw many disabled persons in Chongjin City, North Hamgyoung Province, including little people, people with polio, and disabled persons with missing limbs.	NKHR2012000052 2012-03-28
North Korean defector XXX testified that he had three little people as classmates when he was going to middle school in Musan County, North Hamgyoung Province.	NKHR2012000099 2012-05-29
North Korean defector XXX testified that the husband of her classmate was a little person. They avoided "segregation" by bribing the officials, but both of them were taken to the hospital to get some shots. Her friend never got pregnant, and it was assumed that they received sterilization shots.	NKHR2012000217 2012-10-16

According to the 2011 survey, defectors witnessed people with various disabilities including order, physical handicaps (61

percent),<sup>207</sup> visual impairment (14 percent),<sup>208</sup> speech impediment (13 percent),<sup>209</sup> and mental/hearing/intellectual disabilities (4 percent).<sup>210</sup> Physical handicap is a term used by North Korean defectors to refer disabilities such as polio, dwarfism, kyphosis (hunchback), and loss of limbs. In the 2012 survey, there were 285 cases<sup>211</sup> of disabilities including visual impairment (61 cases),<sup>212</sup> speech impediment (53 cases),<sup>213</sup> hearing impairment (26 cases),<sup>214</sup> mental disabilities (14 cases),<sup>215</sup> intellectual disabilities (8 cases).<sup>216</sup> The most common disabilities are dwarfism (92 cases),<sup>217</sup> hunchbacks (71 cases),<sup>218</sup> polio (55 cases)<sup>219</sup> and loss of body parts (52 cases).<sup>220</sup>

North Korea's Social Insurance Law (Enacted in December 1946) says, "in the event a person temporarily loses his/her ability to work due to illness, injury or disability, he/she is entitled to compensation." ("Art. 1, Para. 2") If a social insurance doctor has determined that an insured worker has completely lost the capability to work due to illness or injury, the worker shall be paid monthly 'disability payment' starting the day after the decision has been made until death or recovery ("Art. 80"). "Article 81" further

<sup>207</sup>\_NKHR2011000028 2011-01-25 and other 365 testimonies.

<sup>208</sup>\_NKHR2011000043 2011-01-25 and other 84 testimonies.

<sup>209</sup>\_NKHR2011000049 2011-01-25 and other 75 testimonies.

<sup>210</sup>\_NKHR2011000053 2011-02-15 and other 26 defectors witnessed people with mental disability, NKHR2011000043 2011-01-25 and other 22 defectors witnessed people with hearing disabilities, NKHR2011000043 2011-01-25 and other 21 defectors witnessed people with intellectual disabilities.

<sup>211</sup>\_NKHR2012000001 2012-01-10 and other 284 testimonies.

<sup>212</sup>\_NKHR2012000002 2012-01-10 and other 60 testimonies.

<sup>213</sup>\_NKHR2012000002 2012-01-10 and other 52 testimonies.

<sup>214</sup>\_NKHR2012000002 2012-01-10 and other 25 testimonies.

<sup>215</sup>\_NKHR2012000004 2012-01-10 and other 13 testimonies.

<sup>216</sup>\_NKHR2012000064 2012-04-17 and other 7 testimonies.

<sup>217</sup>\_NKHR2012000003 2012-01-10 and other 91 testimonies.

<sup>218</sup>\_NKHR2012000001 2012-01-10 and other 70 testimonies.

<sup>219</sup>\_NKHR2012000002 2012-01-10 and other 54 testimonies.

<sup>220</sup>\_NKHR2012000008 2012-01-10 and other 51 testimonies.

prescribes the scope and standard of monthly disability payment into three detailed types: For example, “Type 1 disabled person” includes the blind, deaf, and persons who lost both arms. North Korea’s Socialist Constitution stipulates, “Citizens shall have the right to receive free medical care, and persons who are no longer able to work due to old age, illness or physical disability, and the old and children who do not have caretakers, shall have the right to receive assistance. This right shall be guaranteed by free medical care, continuously expanding medical facilities that include hospitals and sanitariums, and the state social insurance and the social security system”. (Art. 72) In addition, the Socialist Labor Law prescribes, “The State shall provide free care at sanitariums and senior citizen care facilities for the old and the disabled who are no longer able to work and who do not have caretakers.” (“Art. 78”) The People’s Health Law also stipulates, “The State shall responsibly provide free care benefits for children, the patients with chronic illness, and the old who have lost ability to work and who do not have caretakers (“Art. 13”).”

The North Korean authorities established a joint disabled persons survey plan. A non-governmental organization called the Korean Association for Supporting the Disabled was formed in July, 1998. In July 2005, they expanded and reorganized into the Korean League for Protecting the Disabled with branch committees at the county, city and province levels. This League carries out important tasks, such as conducting surveys on the status of disabled persons, improving health and living conditions, and developing action programs to enhance social awareness on disabled persons. The League has also established the Cultural League for the Disabled. In addition, the Disabled Art League, the Disabled Children Fund, and a trading company supporting disabled persons

have jointly established a welfare promotion program for disabled persons. Also, a Comprehensive Action Plan 2008-2010 for Disabled Persons has been established.<sup>221</sup>

According to the *Rodong Shinmun* (September 30, 2012), in 2011, the Disabled Persons League and the Central Statistical Bureau conducted for the second time a sample survey on 2,400 households in three provinces. The League has also established the Chosun Disabled Children's Recovery Center (hereinafter the Recovery Center) in Pyongyang, and the Center began their operation in June (2012). The Recovery Center offers nursery education for the mentally and physically challenged children, and helps to discover their disabilities through an early detection. The Disabled Persons League has established the Association for the Blind, Association for the Deaf (hearing impaired), and Association for the Disabled Females in three provinces. The league has also carried out projects to train and enhance the techniques and capabilities of workers and helpers for the disabled persons in three provinces and associations. On the occasion of the "International Disabled Persons Day" ceremony, North Korea has publicly committed themselves to expand the cooperation with international organizations and make projects for the disabled persons.<sup>222</sup>

Through these associations, North Korea has been working to cooperate with South Korea and the international community to increase assistances for the disabled. In fact, as part of the inter-Korean exchange and assistance project for the disabled, an inter-Korean seminar on scientific rehabilitation of disabled persons was

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<sup>221</sup> "The 3rd and 4th Periodic Reports of the DPRK on the Implementation of the Convention on the Rights of the Child," December 2007, Pyongyang, DPRK (CRC/C/PRK/4).

<sup>222</sup> *Rodong Shinmun*, December 4, 2012.



held for the first time at the Yanggangdo Hotel in Pyongyang on December 19, 2006. The seminar was attended by South Korean delegation from Daegu University and North Korean delegation from the Chosun Red Cross Hospital. Discussions also covered areas such as rehabilitation treatment, special education, and results of related research.<sup>223</sup> In addition, in May 2007, the Botongkang Convenience Complex was built and opened for operation in the Red Avenue, Botongkang District of Pyongyang. This self reliant rehabilitation center for the disabled was built with the support of South Korea's Lighthouse Foundation. This complex is the first rehabilitation center for the disabled, and is operated jointly with North Korea's Chosun Disabled Persons Protection League.<sup>224</sup>

On International Day of Persons with Disabilities, December 1, 2007, North Korea carried an article in The Pyongyang Times entitled "For More Rights of the Disabled," which was the first indication of support for the disabled. In their report submitted to the United Nations in 2009,<sup>225</sup> the North Korean authorities stated that hearing and sight-impaired children could attend special schools on scholarships. In addition, children with minor disabilities are included in normal school classes. North Korea reported that in order to provide jobs for the disabled, they established factories for honorably discharged soldiers and welfare convenience service centers. It is there that the disabled can receive free booster pills and "walking aid" equipment, as well as paid vacations. North Korea said they are sponsoring major promotional events to remind citizens to respect the values of disabled persons. Thus on June 18

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<sup>223</sup> *Yonhap News*, December 22, 2006.

<sup>224</sup> XXX, Korea Institute for National Unification advisory meeting, June 29, 2012. Indicated anonymously upon request.

<sup>225</sup> The DPRK, "National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15(A)," p. 20.

of every year, 'Day for the Disabled' is celebrated with various events. The Chosun Handicapped Persons Protection League, which became active in July of 2005, played an important role in bringing about these events.

The North Korean authorities enacted laws for the disabled, including the Disabled Persons Protection Law. Through exchanges and cooperation with South Korea and the international community, North Korean authorities are trying to develop and pursue various policies to protect the rights and interests of the disabled. However, many North Korean defectors have testified that discrimination against the disabled has not significantly decreased. The 2011 survey results also showed that 77 percent of the respondents<sup>226</sup> felt discrimination against the handicapped still persists and 46 percent of the respondents felt that discrimination is very serious. In the 2012 KINU survey, 63 percent (151 out of 240 respondents) said the discrimination against the disabled was severe. Of the 63 percent respondents,<sup>227</sup> 64 percent (96 out of 151)<sup>228</sup> said the discrimination was very severe. North Korean defectors testified that there was almost no assistance from the government for the disabled population, and the social attitude towards the disabled was also negative, rather than positive.

Most defectors are not aware of any associations, equipment or convenience facilities for the disabled. The 2011 survey results indicated that only 6 percent of the respondents<sup>229</sup> knew of organizations for the handicapped and 49 percent<sup>230</sup> answered that they knew of no special products or convenience facilities for the

<sup>226</sup> NKHR2011000043 2011-01-25 and other 95 testimonies.

<sup>227</sup> NKHR2012000003 2012-01-10 and other 150 testimonies.

<sup>228</sup> NKHR2012000001 2012-01-10 and other 95 testimonies.

<sup>229</sup> NKHR2011000042 2011-01-25 and other 7 testimonies.

<sup>230</sup> NKHR2011000042 2011-01-25 and other 65 testimonies.

handicapped. In the 2012 KINU survey, only 6 percent (14 out of 240 respondents)<sup>231</sup> were aware of the existence of organizations for the disabled. Furthermore, 39 percent (93 out of 240)<sup>232</sup> were unaware of convenience facilities or equipment for the disabled, while 33 percent (80 out of 240)<sup>233</sup> were aware of them.

North Korea operates special schools and rehabilitation centers for the deaf (hearing-impaired and speech-impaired) and blind (sight-impaired) persons. There are 12 such schools in North Korea; nine for the deaf and three for the blind.<sup>234</sup> There are also factories for these disabled persons as well as factories for the decorated retired soldiers. In Hoeryeong, North Hamgyong Province, there is a nail factory run by the blind, and there is an apartment devoted to a “factory run by the blind.”<sup>235</sup> They also reported that some disabled persons such as hunchbacks and paraplegics are engaged in light work such as watch repairs, seal carving, as well as bicycle, shoe, and television repairs. They work at local convenience service centers, with some sight impaired persons collecting money by playing guitar.

However, North Korean defectors testified that the disabled persons do not benefit from any consideration or protection from the government. In most cases, they live with their families or depend on panning in the street. North Korean defectors testified that only handicapped veterans, otherwise known as yeong-ae-gun-in, are entitled to disability benefits or financial support from the government. Other handicapped people without entitlements

<sup>231</sup>\_NKHR2012000009 2012-01-31 and other 13 testimonies.

<sup>232</sup>\_NKHR2012000002 2012-01-10 and other 92 testimonies.

<sup>233</sup>\_NKHR2012000001 2012-01-10 and other 79 testimonies.

<sup>234</sup>\_XXX, Korea Institute for National Unification advisory meeting, June 29, 2012.

Indicated anonymously upon request.

<sup>235</sup>\_NKHR2012000026 2012-02-21.

must work to obtain household supplies and auxiliary products. One obvious example is the establishment of a factory operated by handicapped veterans.

- **Assessment**

For the first time, North Korea's paralympics delegation participated in the 14th Summer Paralympics held in London in 2012 (August 30-September 10). At the end of 2012, North Korea was admitted as an associate member of the World Paralympics Committee unanimously at the International Paralympics Assembly held in Beijing, China. North Korea is expected to become a regular member in 2013.<sup>236</sup> In 2010, North Korea also organized the Chosun Disabled Athletes Association under the Chosun Disabled Persons Protection League. In short, these disabled related developments indicate that North Korean authorities are trying to change government policies for the disabled. However, if their intentions are genuinely geared toward improving the rights of disabled persons and to prove them to the outside world, North Korea should sign the UN Convention on the Rights of Persons with Disabilities. In a combined report on North Korea's third and fourth implementation report on the Rights of the Child convention, the Rights of the Child Committee has recommended North Korea to ratify the convention on disabled persons and its selected protocols. (Para. 43)

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<sup>236</sup> *Yonhap News*, September 10, 2012.

*White Paper on Human Rights in North Korea* **2013**





# VI

## The Reality of Human Rights of North Korean Escapees

1. North Korean Escapees





# 1



## *North Korean Escapees*

### **A. The Number and Background of Escapees Abroad**

The ICCPR (civil rights covenant) stipulates, “everyone shall be free to leave any country, including his own.” (“Art. 12, Para. 2”) Since 1990, many North Koreans have fled their country and a large number of North Korean escapees are believed to be residing illegally in China, Russia, and other countries. The collection of accurate data on the exact number and details of individual situations is impossible as most of them have uncertain legal status and are unable to openly ask for help. The Duman River region is normally used as the defection route for many North Koreans because it is easier to cross than other geographical points. However, there are various ways of fleeing such as escaping work places when assigned to jobs abroad,<sup>1</sup> or defecting to a third country

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<sup>1</sup>-It is believed that a significant number of North Koreans are living illegally in Russian Far Eastern Provinces after having escaped from various timber-farms and construction sites. But, no estimate is available. We confirmed that 11 cases including NKHR2011000410 came to South Korea via Russia in our basic survey for North Korea defectors.

while visiting relatives in China on regular passports.

In February 2005, the U.S. State Department announced that the number of North Korean defectors reached its peak between 1998 and 1999, and stated that as of 2000, the number was somewhere between 75 thousand and 125 thousand.<sup>2</sup> In June and July 2005, Good Friends conducted on-site surveys in the rural areas of northeastern provinces of China, covering areas within 500km radius of from the North Korean border. Based on the survey results, Good Friends announced that the number of North Korean defectors in the area was approximately 50 thousand.<sup>3</sup> In 2006, they conducted another set of surveys on a Korean-Chinese village (about 20 thousand) in the northwestern corner of the Three Far Eastern Chinese Provinces, and in the vicinities of metropolises such as Shenyang, Dalian, and Qingdao (about 30 thousand).<sup>4</sup> The International Crisis Group also estimated the number of North Korean defectors to be as many as 100 thousand based on their interviews with local Chinese and Korean-Chinese, as well as other NGO reports.<sup>5</sup> Other than these estimates, no systematic survey has been conducted on the number of North Korean defectors in China. In 2008, the number of North Korean defectors declined.

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<sup>2</sup> U.S. State Department, *The Status of North Korean Asylum Seekers and the U.S. Government Policy toward Them* (The Bureau of Population, Refugees and Migration, February 2005).

<sup>3</sup> *Yonhap News*, August 21, 2005.

<sup>4</sup> The Good Friends sample-surveyed 135 villages along the Korean-Chinese border in January 2006. The association has found 267 children born of North Korean women and Chinese men in these sample villages. Based on the number of North Korean women living there in 1999, and assuming the birthrate of about 22 percent per 100 persons, the association estimated the number of newly born children to total about 49,500. It also estimated the total number of defecting North Korean women to have been about 225,000 over the years.

<sup>5</sup> International Crisis Group, "Perilous Journeys: The Plight of North Koreans in China and Beyond," *Policy Report* (October 2006).



One analyst estimated the number to be between 20,000-40,000.<sup>6</sup> Professor Courtland Robinson of the Bloomberg School of Public Health at Johns Hopkins estimated the total number of North Korean defectors in the three Northeastern Provinces of China to be 6,824 (minimum of 3,572 and maximum of 11,610), and 7,829 children born to North Korean women (minimum of 3,820 and maximum of 13,079).<sup>7</sup> In 2012, KINU and Johns Hopkins Bloomberg School of Public Health conducted a joint survey on the number of North Korean defectors and their children born in Heilongjiang Province of China. As of 2012, the number of North Koreans living in Heilongjiang Province was estimated to be as follows: 4,326 males (minimum of 3,047 and maximum of 5,542); 4,240 females (minimum of 3,014 and maximum of 5,575), and 12,735 children (minimum of 10,770, maximum of 14,427).<sup>8</sup> If those living in Jilin and Liaoning Provinces (based on 2009 surveys) were combined, the total number of North Korean defectors living in the Northeast three province in China would total 5,777 (minimum of 3,475, maximum of 8,533) and 17,201 children born to North Korean women (minimum of 12,901, maximum of 22,321). In earlier surveys, these numbers in the Yanbian region was underestimated. According to a recently revised estimate, the total number of North Korean defectors and their children in the three Northeast

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<sup>6</sup>-Yoonok Chang, Stephan Haggard, and Marcus Noland, "Migration Experiences of North Korean Refugees: Survey Evidence from China," *Peterson Institute for International Economics*, Working Paper Series (March 2008).

<sup>7</sup>-Courtland Robinson, "Population Estimation of North Korean Refugees and Migrants and Children Born to North Korean Women in Northeast China," May 2010, Korea Institute for National Unification advisory meeting, December 7, 2010. Dr. Robinson's survey was conducted by interviewing 324 North Korean refugees living in 108 randomly selected areas of the three northeastern provinces of China.

<sup>8</sup>-KINU-JHU Population Study, "Population Estimation of North Korean Refugees and Migrants and Children Born to North Korean Women in Northeast China: Results from a 2012 Study in Heilongjiang Province," (December 31, 2012).

provinces in China is estimated as follows: 7,500 adult (minimum of 4,500, maximum of 10,500) and their children, 20,000 (minimum of 15,000, maximum of 25,000). Overall, the total number of North Korean defectors in these areas did not show a significant difference, but the number of children (of North Korean women) has significantly increased compared to the 2009 estimates, which showed 7,524 children (minimum of 5,851, maximum of 9,326). Based on a research survey conducted in 2012, National Human Rights Commission of Korea has estimated the total number of North Korean defectors' children in China to be about 20,000-30,000 maximum, and 4,000 of them were in urgent need of protection.<sup>9</sup>

Reasons for the decreasing number of North Korean defectors since 2000 include more stringent border patrols and inspections,<sup>10</sup> forced deportations, the rising costs to defect, increases in the number of legal visitors as China relaxed their procedures for issuing border travel passes,<sup>11</sup> and resettlements in South Korea or another third country. From 2009, as the State Security Agency began to implement a new set of emergency measures against defection, control over every avenue of defection has been tightened, including tighter surveillance and detection of ideological trends,<sup>12</sup> strict and in-depth ideological education,<sup>13</sup> travel permit

<sup>9</sup>-Won-woong Lee, *A Survey on the Reality of North Korean Defectors' Children Abroad* (Seoul: National Human Rights Commission of Korea, 2012).

<sup>10</sup>-In July 2010 North Korea's Defense Commission issued "Instruction 0082" to the Chinese border region military units authorizing them to shoot to kill all defectors on site.

<sup>11</sup>-In order to obtain a "border travel pass" one still must pay some bribes, but the time required has been significantly shortened. *Good Friends*, "North Korea Today," No. 377 (November 17, 2010).

<sup>12</sup>-The authorities investigated even law enforcement workers (at security agencies, people's safety agencies, and prosecutors' offices) to see if any of their relatives had defected. If so, the employees involved would be punished, removed from their jobs or fired. *Good Friends*, "North Korea Today," No. 321 (January 5, 2010), and

checks along the borders, bed-checks,<sup>14</sup> and inspections at border security units. Furthermore, it appears that the North Korean authorities have tightened punishment for residents found using cell phones in the border regions as well as intensified surveillance of coast guards to prevent defections by sea.<sup>15</sup>

During the mourning period following Kim Jong-il's death on December 17, 2011, the movement of people was tightly controlled,<sup>16</sup> and every family along the border region was required to take turns to stand guard.<sup>17</sup> The bed-check inspections were reinforced and each Inminban (people's group) had to newly appoint a reporter. (or informer)<sup>18</sup> A strong official warning was newly issued to the effect that three generations (in a family)

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No. 334 (March 2, 2010); According to "NK Intellectuals Solidarity," the North Korean authorities conducted "in-depth inspections" of all defector families along with a census survey in May of 2010. They then designated "banishment villages" in remote areas and forcibly banished defector families to those villages. "Open Radio for North Korea" reported on August 16, 2010 that North Korea's Ministry of People's Security organized "strike units" at all City and County administrative levels to watch over families of defectors and missing persons. The NK Intellectuals Coalition also reported on July 7, 2010 that the "strike units," launched in June following up on the April 2010 instructions, were conducting tight control and surveillance aboard trains in Musan County in 2010.

<sup>13</sup> On January 27, 2010, North Korea's Central Party designated the month of February as a period of in-depth inspections of boarding houses in the border areas. The authorities also decided to punish the party secretaries and administrative supervisors of any enterprises whose employees had defected. *Good Friends*, "North Korea Today," No. 332 (February 18, 2010).

<sup>14</sup> According to *Good Friends*, in the border region one may be punished merely for allowing a relative to stay overnight at one's home unregistered. *Good Friends*, "North Korea Today," No. 326 (January 19, 2010).

<sup>15</sup> *Yonhap News*, November 7, 2011; and *YTN*, January 3, 2012. There were six cases of defection by sea - two from East Sea and four from West Sea - in 2011; *Yonhap News*, November 6, 2011.

<sup>16</sup> An official notice was issued to the effect that from January 2012 if anyone was carrying more than 30kg of grain it would be confiscated. *Good Friends*, "North Korea Today," (January 25, 2012); NKHR2012000212 2012-10-16.

<sup>17</sup> NKHR2012000260 2012-12-04.

<sup>18</sup> NKHR2012000151 2012-07-24.

would be destroyed (eliminated) if anyone defected, and defectors would be executed on-site.<sup>19</sup> As a result, the number of defections has reduced dramatically.<sup>20</sup> In Onsung, the authorities threatened by establishing land mines along the border or placing four-inch nail studded wooden boards along the Duman River.<sup>21</sup> Barbed wire fences and cameras were also installed along the major defection routes near the cities of Hoeryeong, Musan, and Onsung. In addition, camouflaged traps were created and noise makers were hung on barbed wire fences for detection.<sup>22</sup> On the other hand, official grain rations were partially resumed and some relief assistances were offered to discourage defections. In an effort to prevent re-defection, local party secretaries were told that they would be held responsible if they failed to keep a close watch on activities of individuals who attempt defection.<sup>23</sup>

During this time, Hyesan City in Yanggang Province became a new defection route, and the authorities installed electronic walls and other devices to detect cell phone activities and prevent defections in the area. As a result, contacting potential defectors became very difficult.

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<sup>19</sup>\_NKHR2012000151 2012-07-24; NKHR2012000183 2012-09-11; NKHR2012000165 2012-08-07.

<sup>20</sup>\_NKHR2012000094 2012-05-29; NKHR2012000269 2012-12-11; There was an official warning that “3 generations (in a family)” would be wiped out if anyone tried to engage in peddling or other business during the ‘mourning period.’”

<sup>21</sup>\_NKHR2012000182 2012-09-11; For this purpose, each enterprise was required to submit 5 nail-spike panels (30cm x 50cm).

<sup>22</sup>\_NKHR2012000213 2012-10-16.

<sup>23</sup>\_NKHR2013000019 2013-02-05; NKHR2012000140 2012-07-10.

<Table VI-1> Cases of People Killed During Defection

Time	Place	Testimony	Testifier ID	Source
2010	Musan City, North Hamgyoung Province	<ul style="list-style-type: none"> <li>• Assailant: Guard</li> <li>• Advance Warning: Yes</li> </ul>	NKHR2010000040 2010-10-26	Informed
2011-11	Hyesan, Yanggang Province	<ul style="list-style-type: none"> <li>• No. of Victims: 5</li> <li>• The witness heard that 5 people were killed in an attempt to leave North Korea in November 2011</li> </ul>	NKHR2012000003 2012-01-10	Informed
2010	Musan, North Hamgyoung Province	*Assailant: Guard	NKHR2012000043 2012-03-20	Informed
2009	Customs Bridge, Hyesan City, Yanggang Province	<ul style="list-style-type: none"> <li>*No. of Victims: 2 (a man and a woman)</li> <li>*Advance Warning: 3 times</li> </ul>	NKHR2012000154 2012-07-31	Witnessed
2012-02	Daehungdan County, Yanggang Province	<ul style="list-style-type: none"> <li>*Victim: male (in his 20s)</li> <li>*Assailant: Guard</li> </ul>	NKHR2012000230 2012-10-30	Informed

Regarding defectors as conduits of information of the outside world, North Korea has classified them as the hostile class. The authorities have forcibly relocated over one thousand defector families to remote mountainous areas. It has been reported that the persecution of defector families has become even worse since Kim Jong-un emerged as the successor to Kim Jong-il.<sup>24</sup> As anti-defection measures have tightened, the fee (i.e. bribe) for the “river-crossing guides” to pay the border security guards has increased.<sup>25</sup> This practice has become so widespread that at one

<sup>24</sup> Radio Free Asia, April 5, 2011.

<sup>25</sup> XX Yoon, “The Status and Prospects of North Korean Defectors in China,” Korea Institute for National Unification undisclosed advisory meeting, June 14, 2010.

point, an order was issued in Hoeryeong City of North Hamgyoung Province that even border guards who accept money from river-crossing guides were not penalized as long as they reported it afterward.<sup>26</sup> As the number of whistle-blowing brokers including soldiers increased,<sup>27</sup> some defectors began to investigate details and defect alone without the brokers' help.<sup>28</sup> As the risk of getting caught in the process of defection increased, the number of people trying to enter China to make money has significantly decreased.

In addition to China, defectors appear to be attempting to move to Russia, other CIS countries and Southeast Asia, even risking to live illegally in Chinese and Korean immigration communities. Furthermore, assisted by civilian organizations, volunteers and activists, defectors are seeking asylum and safe havens around the world, including Thailand, Japan, Canada, Australia, United States, EU member states, and Israel. 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. In 2004, only 46 North Korean defectors went to Thailand, but in 2005, there were approximately 115, in 2006 about 752, in 2007 about 1,785, in 2009 about 1838, and in 2010 about 2,500.<sup>29</sup> With increasing number of defectors, Thai authorities have also arrested many more groups of North Koreans illegally crossing into their border. Furthermore, as the detention period grows longer, some

<sup>26</sup> *Good Friends*, "North Korea Today," No. 353 (July 14, 2010).

<sup>27</sup> After the Central Border Guard Command raised the reward for the arrest of illegal border-crossers in February 2010, there have been increased incidents in which border guards entrap citizens by promising to help them illegally cross the border for a fee, and then reporting them to their higher command for a reward. *Good Friends*, "North Korea Today," No. 366 (September 15, 2010).

<sup>28</sup> Defector XXX from South Hwanghae Province said he obtained the necessary information for defection from a discharged border guard and then defected alone in 2008. NKHR2011000028 2011-01-25.

<sup>29</sup> *Radio Free Asia*, May 7, 2011.

refugees have begun to stage hunger strikes in order to protest for faster proceedings, which has brought speedier entry procedures.<sup>30</sup> An increasing number of North Koreans have also applied for political asylum (refugee status) in the United Kingdom and other EU member states. Many of them were unsuccessful in their attempts as they were registered as Korean-Chinese in China or North Korean defectors who already had resettled in South Korea. For a North Korean citizen to cross the border and apply for political asylum with the European Union or another Western country, a large amount of cash is needed. Thus, it is very difficult for any North Korean defector to file an exile application with a Western country, except for a few wealthy people and those working overseas. In light of this trend, in 2009, South Korea revised their Protection and Settlement Support of Residents Escaping from North Korea Act as well as their enforcement. In accordance with the Act, any former North Korean who has obtained South Korean nationality and applies for political asylum in a third country afterwards by concealing his/her new nationality may have his/her settlement support suspended by the South Korean government.

## **B. The Reality of Human Rights of North Korean Escapees Abroad**

Because defections have taken place for over a decade, the lives of North Koreans crossing the border into China has undergone significant changes. Most North Koreans quickly returned to North Korea after getting help from their relatives, and the relatives try

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<sup>30</sup>As in 2011, Thailand served as a major destination for North Korean defectors on their way to South Korea in 2012.

their best to protect them. However, as the food crisis persisted in North Korea, many North Koreans who did not have relatives in China began to cross the border in search of food and employment. Some of these people obtained food and clothing from sympathetic ethnic Koreans in China. They stayed with any family who would take them, doing household chores or paying a little to stay longer.

As the food shortage continued over a long period, more North Korean women ventured into China to earn money for family support, and the number of North Korean women in China began to increase. Many North Korean women, not only single women but also married women with husbands and children, chose to live with Chinese men to avoid the famine back home. Some women voluntarily entered into such relationship,<sup>31</sup> while others were sold unknowingly.<sup>32</sup> In cases where female defectors are forced to live as involuntary “domestic partners”, the conditions are often so inhumane and unbearable that the victims take every possible means to run away to a distant region.<sup>33</sup> Others remain, living in fear of forcible deportation, giving up all hope. Since most North Korean women in these situations are traded like merchandise, they are usually under the watchful eye and constant supervision of relatives and neighbors of their masters. Indeed, the reality is that any North Korean woman who illegally crosses the river into China cannot survive unless she chooses

<sup>31</sup> NKHR2010000027 2010-11-26; NKHR2010000084 2010-03-30; NKHR2012000090 2012-05-22 and other 55 testimonies.

<sup>32</sup> NKHR2010000001 2010-05-25 and other 45 testimonies; NKHR2011000014 2011-01-04 and other 85 testimonies; NKHR2012000014 2012-01-04 and other 167 testimonies.

<sup>33</sup> NKHR2010000060 2010-05-18; NKHR2011000052 2011-02-15; NKHR2011000057 2011-02-22; NKHR2011000073 2011-03-22; NKHR2011000109 2011-05-11; NKHR2011000138 2011-06-14; NKHR2011000212 2011-10-04; NKHR2011000224 2011-10-19.



to live with a Chinese man. Consequently, once they realize the dangers of arrest and other unavoidable realities, most North Korean women accept the situation in which they must live with a Chinese man.<sup>34</sup> After prolonged stays in China, some defectors are able to obtain resident permits (Hukou).<sup>35</sup> Others give birth to Chinese babies.<sup>36</sup> In some cases, children born in China to female defectors have been granted resident permits.<sup>37</sup> In some regions such as Hubei Province, it appears to be easier than other regions to obtain resident permits by offering bribes.<sup>38</sup>

As more North Korean women stayed in China for a longer period of time, the practice had to change. Unlike the earlier phase, more North Koreans are living in Chinese homes rather than in the homes of ethnic Koreans. As they quickly learned the Chinese language and became familiar with the Chinese environment, many defectors rented a room of their own. Some take jobs at an office or in the homes of South Korean businessmen in China. In exceptional cases, some women would live with South Korean businessmen in China and subsequently come to South Korea. Some defectors have learned to live in China by saving money and engaging in vending business.<sup>39</sup> Some North Korean

<sup>34</sup> NKHR2010000007 2010-03-16; NKHR2010000015 2010-10-05; NKHR2010000018 2010-10-05.

<sup>35</sup> NKHR2012000069 2012-01-13 and other 8 testimonies.

<sup>36</sup> NKHR2010000001 2010-05-25 and other 28 testimonies; NKHR2011000014 2011-01-04 and other 31 testimonies, NKHR2012000069 2012-01-13 and other 48 testimonies.

<sup>37</sup> NKHR2010000001 2010-05-25 and other 19 testimonies; NKHR2011000014 2011-01-04 and other 21 testimonies, NKHR2012000069 2012-01-13 and other 31 testimonies.

<sup>38</sup> NKHR2012000172 2012-08-21; During the “census survey” in early 2012, a large number of children of North Korean women obtained Chinese resident permits after paying fines. NKHR2012000208 2012-10-09.

<sup>39</sup> NKHR2011000030 2011-01-04.

women in China find out about settlement grants offered by the South Korean government through their husbands, who go to South Korea first to find jobs. Upon their husbands' suggestion, these women come to South Korea through guidance brokers operating in China. In their effort to receive the settlement support grants offered by the South Korean government, some Korean-Chinese couples voluntarily confess that they came to South Korea on employment visas they obtained with fake Chinese passports.<sup>40</sup> Some North Korean defectors would obtain Chinese passports with forged resident permits and come to Jeju Island (South Korea), where no visa is required, and declare upon arrival his/her identity as a North Korean defector. However, many female defectors continue to live in farm villages of China, where there is little information on South Korea.<sup>41</sup>

In January 2007, South Korea revised their laws concerning the protection and settlement of North Korean defectors and decided to exclude those who lived in a country outside North Korea for more than ten years. As a result, North Korean defectors who lived in China for many years began to rush their entry into South Korea. In 2008, some North Korean defectors who entered South Korea after staying in China for over ten years were excluded from the settlement benefits under the revised South Korean laws. These defectors and citizens groups assisting them staged protest rallies against the government decision. Subsequently, in January 2009 the South Korean Government decided to make some adjustments to the law, allowing some exceptions to the rule in cases of special circumstances.<sup>42</sup> As a result, there is an increasing number

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<sup>40</sup> NKHR2011000127 2011-05-31; NKHR2011000192 2011-08-23.

<sup>41</sup> NKHR2012000186 2012-09-11.

<sup>42</sup> Art. 9, Para. 2 of the Act on the Protection and Settlement Support of Residents Escaping from North Korea. Revised on January 30, 2009.

of North Koreans who have stayed in China for an extended period of time entering South Korea with their Chinese-born children.<sup>43</sup>

In June 2012, there was a 15-day intensive search and arrest operation against North Korean defectors in Yenji conducted jointly by the Chinese security forces and North Korean State Security Agency. Approximately 30 defectors were arrested during this operation.<sup>44</sup> The Chinese security forces also tightened “roadside checks” to prevent North Korean defectors from moving toward Southeast Asian countries.<sup>45</sup> In some cases, the authorities recruited people and disguised them as false defectors. They would befriend with real defector-hopefuls, and report them to the authorities.<sup>46</sup>

### C. The Reality of Human Trafficking

Human trafficking is prohibited under international and municipal laws in most countries. Many human rights groups are monitoring human trafficking activities around the world, and promoting international campaigns against these activities. According to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention on Transnational Organized Crime states, “Trafficking of persons means the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other

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<sup>43</sup> NKHR2010000065 2010-10-12; Some North Korean women bring their Chinese-born babies, especially girls, without the father’s permission. These incidents occur because the mothers suspect that the Chinese father or grandparents might agree to raise a boy baby, but not a girl.

<sup>44</sup> NKHR2012000196 2012-09-25.

<sup>45</sup> NKHR2012000224 2012-10-23; NKHR2012000226 2012-10-30.

<sup>46</sup> NKHR2012000285 2012-12-18.

forms of coercion, abduction, fraud, deception, abuse of power, a position of vulnerability, giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. 'Exploitation' here refers to prostitution, sexual exploitation, forced labor or services, slavery or practices similar to slavery or the removal of organs. The main difference between human trafficking and human smuggling is that traffickers continue to exploit women on an on-going basis after the deal (illegal border crossing) has concluded.<sup>47</sup>

Over the years, the international community has repeatedly addressed human trafficking of North Korean women who have crossed the border. Many international reports have pointed out serious human trafficking cases of forced marriages and prostitution involving female escapees. The Trafficking in Persons Report 2012 of U.S. Department of State has put North Korea in Category 3, along with Sudan, Congo and Iran, where no minimum protection standard is available. The report designated North Korea as a country engaged in trafficking of persons, "exporting" adults and under-aged children to forced labor and sexual exploitation for commercial purposes.<sup>48</sup> Furthermore, the report stated North Korean authorities do not acknowledge human trafficking or abuses of human rights and do not distinguish crimes related to trafficking from other types of crime such as illegal entry into the country. North Korea has yet to join the 2000 UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons. Furthermore, they have not taken any protective measures regarding forcibly

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<sup>47</sup>-Norma Kang Muico, *Absence of Choice: The Sexual Exploitation of North Korean Women in China* (London: Anti-Slavery International, 2005), p. 3.

<sup>48</sup>-Since 2005, North Korea has been classified as a Category 3 country. U.S. Department of State. The Trafficking in Persons Report 2012 (June 2012), <<http://www.state.gov/documents/organization/192596.pdf>>, pp. 208-210.

deported women who may have been the victims of human trafficking. Instead, these women are punished.

Human trafficking issue involving North Korean escapees has gone through several stages over the years. Thus, it is necessary to examine the changing patterns at each stage and the punitive measures the North Korean authorities have taken. In the early period, the professional river-crossing guides were involved in human trafficking. These guides approached young attractive women in marketplaces or railroad stations, and tried to entice them by saying “If you get married in China, you can eat and live well and even your family can get financial support.” From 1997 to 1998, when the food crisis was at its worst, it was very important to reduce the number of mouths to feed and the idea that one could help the family was an important incentive. However, given the widespread food crisis in all of North Korea, it was very difficult to distinguish whether certain cases of the illegal border crossings of North Koreans and related brokering activities were actual cases of human trafficking or brokering of illegal entry. In many cases, North Koreans themselves or their families, have asked guides or brokers to help them illegally cross the border to China. In later stages, the brokers would introduce North Koreans to their ethnic Korean contacts in China for money. These professional river-crossing guides inside North Korea operated in close contact with ethnic Koreans in China. They have been involved in the border crossing of many North Koreans.

During the early stages of border crossing, many North Koreans crossed the river without the help of professional guides. For example, some North Koreans crossed the river on their own. Since there was no one around, people waited until someone approached them. If the person who approached them showed

sympathy, the illegal North Koreans were inclined to trust them. Some Korean-Chinese helped the North Korean defectors by connecting them to other Korean-Chinese. They provided food and clothing for the North Koreans and provided transportation if necessary. They suggested that since the border region was risky, the North Koreans would be safer to move inland. The illegal border crossers would agree to follow the person and assist them.

As the number of border crossing increased, organized rings of human traffickers began to appear to make profit by handing North Korean defectors to others. There were many incidents in which these ring members tried to capture North Koreans found in train stations or marketplaces for sale. This type of human trafficking went through several stages and involved many people. There were people who lured women across the river and those who received them on the Chinese side. There are brokers involved in the deals, and the cost of transaction increased at every stage. Organized human traffickers even employed violent means to kidnap North Korean women, regardless of their marital status, and sold them for profit. As these organized traffickers became more involved, the practice of selling North Korean escapees spread to inner areas of China's three northeastern provinces. In most cases, transactions were to trade North Korean women, but North Korean men were also traded to remote areas of China where manpower was in dire need.

As more human trafficking incidents and cases of human rights violation was reported, the Chinese authorities launched a massive roundup campaign targeting human trafficking rings. Subsequently, most organized human trafficking rings have disappeared. As North Koreans stay in China for longer periods of time, the illegal North Koreans become involved in trafficking of fellow

North Koreans. For example, a North Korean woman living with an ethnic Korean or a Chinese can introduce or trade another North Korean woman to a Chinese man or an entertainment establishment for a fee. The broker (mostly Korean-Chinese) trade the female defector to a Chinese man, telling the woman that she can contact him again if she does not like the man or the work. If the female defector contacts the broker, he/she moves her to another area for a fee.

As China industrialized, many women in the rural areas began to move to cities or foreign countries such as South Korea to make more money. In turn, the demand for marriage partners and employees in the entertainment industry increased. As the demand for women increased in China, North Korean women who cross borders became targets of transaction for live-in partners for Chinese men. Some North Korean women are aware of this before being sold, but most women are unaware until the transaction has been completed. In most cases, they are taken to Chinese men. Even if they know that they were destined to be sold to Chinese men, some North Korean women ask for help in river-crossing to save the expense for crossing the border.<sup>49</sup> In the process of moving from the border region to the inner regions, Chinese brokers often rape these women.<sup>50</sup>

Human trafficking is illegal in China, and if detected, those involved are heavily fined. Since the go-betweens usually receive money for their services, others around them keep their distance when they learn of the go-between's activities. It was reported that the border patrol battalions were conducting intensive investiga-

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<sup>49</sup> NKHR2010000031 2010-11-09.

<sup>50</sup> NKHR2011000003 2010-03-16; She was pregnant as a result of rape by a Chinese broker at the time she came to South Korea.

tions on North Korean defectors focusing on human trafficking and narcotics trade.

In some cases, when a North Korean woman is forcibly married to a Chinese man, the marriage can last for a long period. However, if the marriage encounters trouble due to sexual abuse, violence, gambling or drinking from the husband, the woman would try to run away or would be forcibly deported to North Korea, and the relationship would end. When a North Korean woman becomes pregnant after living with a Chinese man, the Chinese man decides whether or not to have the fetus aborted. If the man living with the North Korean woman wants to continue the marriage, he is likely to keep the child, so he will try to obtain a resident permit so she can gain legal status. However, this requires that he invest a significant amount of money to secure the legal status for the woman.<sup>51</sup> Even in forced marriages, the husband desiring to continue the relationship with the North Korean woman is usually required to assume various expenses, such as river-crossing expenses, not only for the woman but also for her family members. Even if a North Korean woman voluntarily decides to “live” with a Chinese man after she illegally crosses the border, her life is not different from a forced marriage. Unable to speak Chinese, it would be impossible for her to work at any public place, such as a restaurant. Since she lacks proper legal papers, she would have to stay at home to avoid security checks. Therefore, staying home is the only safe choice.

As North Korean women remain in China for an extended period of time, they gradually learn simple Chinese expressions

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<sup>51</sup>\_NKHR2011000067 2011-03-15. The testifier paid 2000 yuan (CNY) to have her name listed in the resident permit.



and adjust to life in China, which may lead to a reduction in the number of forced marriages. Even if the woman is forced into a marriage, she can find ways to escape the situation. However, if a child is born, it becomes difficult for the mother to abandon her child, so she stays in her forced marriage. If she marries a Han Chinese, the marriage is easier and likely to last longer with a baby. In fact, many Chinese men encourage their spouses to have children, so they can maintain a relationship on a longer term basis. But as their stay in China is prolonged, many North Korean women choose to move to a third country or to another location in China, even if they give birth to a child in China. Also, if a man suggested living together, the North Korean woman can accept the proposal depending on the person, conditions, etc. It has been reported that many North Korean women have restarted “live-in” relationships with friendly ethnic Koreans or South Korean men they befriend at places such as restaurants. In some cases, they actively ask their partners for economic compensation, including remittances to their families back in North Korea or expenses for their border crossing. In these cases, the North Korean women are likely to defect again and look for a male companion if they are forcibly deported to North Korea. If a woman has given birth to a child in China, she is more likely to re-defect.

Many North Korean women sold in China are forced to provide sex services at restaurants, bars and karaoke joints.<sup>52</sup> In order to prevent them from fleeing, the restaurant owners withhold their pay, stating they are saving money for them.<sup>53</sup> It is also reported that organized criminals are operating pornographic computer

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<sup>52</sup> NKHR2011000030 2011-01-04.

<sup>53</sup> Interview with defector XXX in Seoul on April 6, 2007.

chatting businesses in China, using North Korean women escapees.<sup>54</sup> They are also involved in telephone scams (voice phishing) targeting South Koreans.<sup>55</sup>

## D. Punishment for North Korean Escapees in North Korea

Defection fall into two different categories according to the 1987 North Korea Penal Code. “Article 47” of the Penal Code stipulates that anyone caught fleeing the country has committed treason against the Fatherland and is punished with seven years or more at a correctional labor. At the same time, “Article 117” stipulates that anyone who unlawfully crosses the border of the Republic is sentenced to correctional prison labor for up to three years. The 1999 Penal Code is similar to that of the 1987 version in the classification of defections, but Article 47 has been slightly changed to read, “Any citizen of the Republic who commits acts against the country such as defecting to a foreign country for the purpose of overthrowing the Republic shall be committed to correctional prison labor for five to ten years. In cases of extremely grave offenses, the offender shall be sentenced to correctional prison labor for no less than ten years or shall be sentenced to death and confiscate all property.” “Article 233” of the revised 2004 Penal Code defines border crossing broadly as those “going and coming across the border” instead of “crossing.” Furthermore, the level of the mandatory sentence for the crime of illegal coming and going

<sup>54</sup> NKHR2010000017 2010-10-05; NKHR2010000018 2010-10-05; NKHR2010000080 2010-06-15; NKHR2010000082 2010-06-22; NKHR2012000148 2012-07-17.

<sup>55</sup> NKHR2011000029 2011-01-18.

across the border was reduced from three years to two years of labor training. “Article 62” of the 2004 Penal Code stipulates a mandatory sentence of correctional labor in excess of five years in cases of crime involving treason against the fatherland. In cases of extremely grave offenses, the offender shall be sentenced to lifetime correctional prison labor or shall be sentenced to death and confiscate all property. In addition to North Korea’s Penal Code, the terms of punishment for defection are dictated by the People’s Safety Control Law (enacted on December 28, 1992 and revised on July 26, 2005) and the Administrative Penalty Law (enacted on July 14, 2004 and revised on May 20, 2008). “Article 30” of the Safety Control Law stipulates, “the People’s Security Agency shall check and control violations of travel law and disorderly street wandering behavior.” “Article 57” of the law states violators may be fined on the spot. These provisions are not intended to directly prevent defections, but is utilized to prevent people from moving toward border regions. “Article 123” of the Administrative Penalty Law specifies that up to three months of labor-training penalty can be imposed on violators of public order along the border regions. In addition, “Article 167” (Violation of Traveling Order) states, “Warning, stern warning, fines or up to three months of unpaid labor or labor education may be imposed on violators of traveling order, illegal entry/exit in control areas and border-crossing. In more serious cases, over three months of unpaid labor training or labor education is imposed.”<sup>56</sup>

“Article 4” of the Penal Code revised in 2004 stipulates that

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<sup>56</sup> Article 17 of the “Administrative Penalty Law” defines “correctional labor” and “unpaid labor” as penalties lasting anywhere from five days to six months. The decision to send defectors off to “labor-training camps” without a trial seems to be based on this law.

“even if a person committed acts of treason against the fatherland and the people, the state would not prosecute the crime if he were to demonstrate active efforts for the unification of the fatherland.” Addressing this, North Korea in a letter from the frontline of fatherland took the position that South Korea’s admission of a large group of North Korean defectors in Vietnam in July 2004 was a case of kidnapping and inducement, and encouraged them to return home.<sup>57</sup> “Article 118” of the Penal Code of 1999 stipulated two to seven years of correctional labor for border patrol guards who illegally aided border-crossings. This was revised and significantly mitigated in “Article 234” of the Penal Code of 2004, which only imposes up to two years of correctional labor. This amendment was perhaps inevitable given the increasing number of people crossing the border and the frequent involvement of border guards in providing systematic assistance to them.<sup>58</sup> North Korean defectors could also face additional charges on crimes dealing with foreign currency (Art. 104); or interfering with foreign currency management (“Art. 106”); or illegal transactions of goods and facilities in foreign currency (“Art. 107”); or the crime of smuggling historical assets (“Art. 198”). The Chosun (Korea) Democratic People’s Republic Entry/Exit Law (enacted in 1996, revised in 1999) stipulates, “fines shall be imposed, and in serious cases, criminal responsibilities shall be charged” on those who entered or exited from the border

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<sup>57</sup>—North Korea claimed that South Korea and other human rights organizations had systematically organized, induced and kidnapped the North Korean escapees under the direction of the United States, and demanded their repatriation. These demands came through its front organizations like the Fatherland Unification Committee, the National Reconciliation Council and the North Korean Human Rights Research Association.

<sup>58</sup>—Unlike earlier periods, it is understood that safe border crossing would be possible only if advance arrangements were made between the North Korean and Chinese border guards.

regions without travel permits (“Art. 45”, Entry/Exit Law).

North Korea has revised their Penal Code three times in 2009 (April 28, July 21, and October 19) in the form of SPA Standing Committee “policy directives.” In the last revision, “penalty of fines” was added to the “types of punishment” under “Article 27”, and “Article 28” was revised so that penalty of fines, which used to be a subsidiary penalty, was also applied to anti-state and anti-people criminals.<sup>59</sup>

North Koreans caught in China are deported to military units along the border, then to the State Security Agency for a personal identity check and interrogation. They will then be sent back to their hometown. Depending on the case, deportees are sent to local agencies via the border region labor training camps or to provincial collection centers. Sometimes they are sent directly to their hometown agency (the Ministry of People’s Security). Once in the hands of the local agency, they will be sent to labor training camps, immediately released, sent home on condition that they make daily reports (self-criticism) to the local Ministry of People’s Security. The punishment procedures vary from one detention facility to another. If the initial detention facility is near the detainee’s hometown, the level of punishment is determined more quickly and it is likely that the detainee’s family can exercise some influence or offer bribes to obtain a reduced sentence.<sup>60</sup> However, if the detainee’s hometown is far away, the period of detention is extended, because the detainee’s hometown agents of the Ministry of People’s Security has to travel to the border area detention center in person

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<sup>59</sup> Article 28 of Penal Code (Basic Punishment and Additional Penalties) stipulates, “Penalty of fines and ‘deprivation of voting rights’ may be imposed on anti-state and anti-people crimes, and ‘confiscation of property’ may be imposed on crimes subject to capital punishment.”

<sup>60</sup> NKHR2009000023 2009-04-16.

to sign out the defector. The agent also makes travel arrangements, sets up precautionary measures against unexpected flight, and notifies the immediate family.

Since 2000, the level of punishment has changed and people are rarely sent to political prison camps. Instead, they serve one to six months of labor training penalty. Today, deportees rarely spend more than a year at a detention facility from the time of deportation to final release. In some cases, however, people are detained in the revolutionary district for having contacts with South Koreans.<sup>61</sup> However, punishment for defection became heavier in 2009, and it was reported that forcible banishment of families became frequent in the border regions. Since the death of Kim Jong-il, the level of punishment for defectors has significantly raised.<sup>62</sup> Instead of imposing labor-training penalty, correctional labor penalty is imposed.<sup>63</sup> Even if the case was a simple defection, it was treated as a defection to South Korea, and the duration of correctional labor penalty was equivalent to the duration of stay in China.<sup>64</sup>

The deportees are investigated at a first-level detention facility. Most of the State Security Agency detention centers are located in Onsung, Musan and Hoeryeong of North Hamgyong Province,

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<sup>61</sup> Defector XXX testified that after she was forcibly deported back to North Korea, the interrogating agent told her that she would be released early by stating that she had “contacted South Korean intelligence agents.” She was however later sent to the “Revolutionary District” in Yodok Prison, and served as a platoon leader from 2004. In 2004, the inmates locked up there for 3-year terms included XX Cho (Danchon), XX Kim (Eunduck), XX Choi (Hyesan), and XX Kang (Musan). The “Revolutionary district” of Yodok Prison was created in 1999 to house defectors and bore the signage “Military Unit No. 0000” (Interview with defector XXX in Seoul on August 20, 2008).

<sup>62</sup> NKHR2012000155 2012-07-31.

<sup>63</sup> NKHR2012000151 2012-07-24

<sup>64</sup> NKHR2012000090 2012-05-22; NKHR2012000184 2012-09-11.

and Shinuiju in North Pyongan Province. Deported defectors are detained after undergoing a naked frisk,<sup>65</sup> a pocket frisk, and health examination (AIDS). There are separate facilities for men and women, but when the number of detainees is large, both are often combined in the same facility. Many defectors have testified that the returning North Koreans use a variety of tricks to hide the money earned in China from the inspectors. The inspectors, however, employ numerous methods to find hidden money or valuables. The inspectors thoroughly examine the detainees, including their private parts. They order people to take off their clothes and make them squat down and stand up repeatedly (so called 'pumping'). Moreover, the inspectors even examine human waste. In the early years of this practice, the inspectors would confiscate all items brought from China, but return all personal items and possessions to the detainees upon their release. Many defectors use the money they made in China to reduce the terms of their penalties in the process of interrogation or to support their life inside the labor training camps. In a very rare case, a woman was able to persuade a security agent to accompany her to the border region, where she received financial help from her husband in China who responded favorably to her telephone call. In some cases, the defector will bribe the law enforcement officers to fabricate the contents of their interrogation documents in order to avoid punishment.

The border region State Security Agency check various personal details, including personal data, home address, time and frequency of river-crossing, activities after the river-crossing such as any contacts with South Koreans or Christians, any travels to South Korea,

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<sup>65</sup> NKHR2009000023 2009-04-16.

connections with human trafficking, possession or watching of corrupt videos or South Korean videos, etc. After these interrogations, the deportees are sent either to the Agency detention center or to the provincial collection center.

Under the North Korean Criminal Procedure Law, the pretrial is the stage where prosecutors establish the facts of any crime and indict or exonerate the suspect.<sup>66</sup> The purpose of a pretrial is to discover evidence, scientifically examine any proof on the commission of a crime, and charge the suspect for the crime. In illegal border crossing cases, the testimony of the suspect and other witnesses, along with the personal possessions of the suspect, serve as sources of criminal evidence. According to “Article 114” of North Korea’s Criminal Procedure Law, in the process of investigating or searching for criminal evidence, “two independent witnesses must be present, and a female witness must be present in the case of female suspects.” Investigators try to determine every detail concerning the suspect’s activities in China, and try to obtain relevant information from other witnesses. During this phase, investigators will use blackmail, beatings, as well as abusive language. They will also persuade other deportees to report on the suspect’s activities in China. The duration of a pretrial is two months, but can be extended to two additional months for a total of four months. A new category of punishment called labor training was introduced in the revised Penal Code of 2004. The pretrial for the crime subject to labor training punishment must be completed within 10 days. If the case is too complicated to finish investigation in 10 days, the detention period can be extended up to a month. The

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<sup>66</sup> The Korean Association of North Korean Studies, ed., *Compendium of North Korean Laws under Kim Jong-il* (Seoul: The Korean Association of North Korean Studies, 2005), p. 180.



pretrial for crimes subject to labor training punishments can only be completed if there is sufficient evidence for the crime. Even if arrested and detained, young people are usually released without a criminal penalty or turned over to the “515 Sangmu” (a sangmu is a temporary facility for street orphans).<sup>67</sup>

According to Article 106 of the 1999 and 2004 Criminal Procedure Law, pregnant suspects are not detained within the period three months before and seven months after childbirth. However, many defectors have testified to cases in which the detaining agent conducted interrogations of pregnant women within this period. National Security Agency branch officers at the border region conducted investigations of women within 10 months of childbirth, and sometimes the guards forced these women to undergo abortion.<sup>68</sup> Sometimes forced abortion was inflicted upon these women, and the international community has sharply criticized such cruel practices and abandoning the newborn babies to die. For this reason, North Korean authorities in some areas have tried to allow childbirths, but then send the newborn babies to their Chinese fathers. For example, in October 2003, the Onsung County of North Hamgyong Province State Security Agency permitted a deported pregnant woman to pay for someone from outside to help her deliver the baby. However, cases of forced abortions and disregarding newborn babies to die continue to mount since 2004. Cases of forced abortions and abortions induced by beating and mistreatment of pregnant women forcibly deported from China persist in many parts of North Korea. Some of the cases are shown

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<sup>67</sup>–North Korean defector XXX was forcibly deported in 2006, but was released without any penalty as he/she was considered under-aged. NKHR2011000003 2010-03-16.

<sup>68</sup>–NKHR2009000010 2009-02-26; NKHR2009000048 2009-07-30; NKHR2009000078 2009-12-10.

below <Table VI-2>. On the other hand, some North Korean defectors reported that some detention facilities did not practice forced abortions if a woman was at the end of her pregnancy. Instead, if a woman has to abort a child, they exempt her from work for about a week or let her work in mess halls or other places where workload is relatively light.<sup>69</sup>

<Table VI-2> Cases of Human Rights Abuse on Deported Women

Time	Place	Testimony	Testifier ID	Source
2009	Labor training camp, Onsung County, North Hamgyoung Province	*Abortion victim: Woman (21 year old)	NKHR2011000068 2011-03-15	Witnessed
2009-01	Province Collection Point, Shinuiju, North Pyongan Province	*Abortion victim: Woman (21, Hamhung City, South Hamgyoung Province) *Abortion method: operation at hospital	NKHR2010000097 2010-06-22	Witnessed
2009-09	Security Agency Detention Center, Onsung County, North Hamgyoung Province	*Baby died: Woman *Method of death: left to die (or suffocation)	NKHR2010000031 2010-11-19	Informed
2010	Chongjin Collection point, Chongjin City, North Hamgyoung Province	*Abortion victim: Woman (22, Yonsa County, North Hamgyoung Province) *Reason for abortion: Chinese baby *Method of abortion: Operation at hospital	NKHR2011000068 2011-03-15	Witnessed
2010-12	Collection Point, Hyesan City, Yanggang Province	*Abortion victim: Woman	NKHR2011000231 2011-11-08	Informed
2010-12	Collection point, Shinuiju City, North Pyongan Province	*Abortion victim: Woman (20) *Time of abortion: 24-week pregnant *Reason for abortion: Chinese baby *Method of abortion: Operation at hospital	NKHR2011000253 2011-12-20	Witnessed

<sup>69</sup>\_NKHR2012000198 2012-09-25.

Time	Place	Testimony	Testifier ID	Source
2010-12	Collection point, Shinuiju City, North Pyongan Province	*Abortion victim: Woman (22) *Time of abortion: 24-week pregnant *Reason for abortion: Chinese baby *Method of abortion: Operation at hospital	NKHR2011000253 2011-12-20	Witnessed
2011-06	Collection point, Yanggang Province	*Abortion victim: Three detainees *Reason for abortion: Chinese babies *Method of abortion: Operation at clinic (4th floor), Yanggang Province	NKHR2012000275 2012-12-11	Witnessed
2011-07	Security agency collection point, Hoeryeong City, North Hamgyoung Province	*Abortion victim: XX Oh (26) *Reason for abortion: Chinese baby *Method of abortion: Operation at hospital	NKHR2012000255 2012-11-20	Witnessed
2011-08	Security agency detention center, Musan County, North Hamgyoung Province	*Abortion victim: Detainee (woman, 32) *Reason for abortion: Chinese baby *Method of abortion: Beating	NKHR2012000067 2012-04-24	Witnessed
2011-10	Labor training camp, Onsung County, North Hamgyoung Province	*Abortion victim: Detainee (woman, 36) *Reason for abortion: Chinese baby *Method of abortion: Beating by Agent (ChoHo Kim)	NKHR2012000073 2012-05-08	Witnessed
2011-10	Province collection point, North Pyongan Province	*Abortion victim: Detainee (woman, 26) *Reason for abortion: Chinese baby *Method of abortion: Forcible abortion by a military doctor at hospital.	NKHR2012000198 2012-09-25	Witnessed
2011-11-20	Collection point, Yanggang Province	*Abortion victim: Detainee (woman) *Reason for abortion: Chinese baby *Method of abortion: Beating by agent (Guk-chol Kim)	NKHR2012000174 2012-09-94	Witnessed
2012-02-17	Security Agency detention center, Hoeryeong City, North Hamgyoung Province	*Abortion victim: Two detainees (women) *Reason for abortion: Chinese baby *Method of abortion: Operation at hospital	NKHR2012000285 2012-12-18	Witnessed

A review of sentencing records indicate that since 1999, most deportees received labor training sentences. This labor training punishment was not an option in 1999, but was introduced in the revised 2004 Penal Code. The labor training punishment before 2004 was based on the sentencing guidelines and the Prosecution Supervision Law, which contains regulations concerning labor training and unpaid labor.

If the sentence is set during the first-level investigation, the convict serves out the term of labor training punishment in his or her local labor training camp. Because the camp is an implementing agency and not an investigative facility, the labor is very intensive and daily routines are very strict. Under the law, the terms of service is calculated from the date of detention. However, most deportees have testified that the term was usually calculated from the date of sentence. Many of them are not aware of the reason for their punishment nor when the term will end. Some deportees are detained in the State Security Agency or at a nearby labor training camp without a trial or a court sentence. Apparently, these cases occur when the provincial collection center is crowded with inmates and when the safety agent from the deportee's hometown is unduly delayed from taking the convict to the provincial center. The detention period at a provincial collection center also varies, depending on how quickly the hometown convoy agent arrives at the center. The detainees whose hometowns are located in the inner-regions, such as Hwanghae or Gangwon Provinces, have to stay in the center for a longer period of time than others, and are exposed to life threatening situations due to the poor, unsanitary detention facilities. Disease and hunger constantly threaten the detainee's health.<sup>70</sup>

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<sup>70</sup>\_NKHR2009000011 2009-03-03.

Even after the sentencing, the court can still suspend the enforcement. “If the defendant, who is sentenced to serve correctional labor, labor training or unpaid labor penalty, is seriously ill or is a woman who is three months prior to delivery or less than seven months after the delivery of a baby.” (“Art. 18, Para. 3,” Decisions and Sentencing Enforcement Law) Defectors testified that if the authorities saw death was imminent (due to tuberculosis, dehydration, infirmity) or if the inmate had contracted a contagious disease, the terms were suspended,<sup>71</sup> and the authorities contacted his/her hometown security agency to take the case. However what was taking place at the detention facilities was quite the contrary.<sup>72</sup> Camp guards assigned hard labor to the detainee, including pregnant women three months prior to giving birth or seven months after the delivery.<sup>73</sup> The guards beat or forced the woman to induce abortion, and in these cases drugs were injected to expedite the process. In addition, the People’s Safety agents also take measures to separate newborns from their mothers and let them die or they ask other inmates to kill the newborn with the promise of a reduced penalty. In cases where women are impregnated by Chinese men, the agents do not force abortions or kill the baby if the woman can prove that she was pregnant before leaving North Korea, even if she was forcibly deported from China or if her husband has a stable job.<sup>74</sup> In one very rare case, a pregnant

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<sup>71</sup>-NKHR2011000019 2011-01-18.

<sup>72</sup>-Defector XXX testified that she was forcibly deported in April 2004 while pregnant. She was released from the security agency after 6 days of interrogation. This was an exceptional case. At the time, Kim Jong-il’s instructions came down, so they did not confiscate any of her possessions except for the cash she carried. NKHR2008000003 2008-07-09.

<sup>73</sup>-NKHR2009000025 2009-03-30.

<sup>74</sup>-Defector XXX testified that she was forcibly deported to North Korea on while 8 months pregnant. She was able to prove that she was pregnant before leaving

woman who was deported was able to bribe her way out of the Hyesan collection point.<sup>75</sup>

A defector testified that if a North Korean woman is accompanied by a baby born in China or if she gave birth to a baby in the State Security Agency detention facility or provincial collection center, the North Korean authorities try to contact the Chinese father's family and turn the baby to them. If a new crime subject to a longer sentence is uncovered while the detainee is serving a labor training term, the inmate is transferred to the provincial collection center. The detainee goes through another investigation and is transferred to the State Security Agency or the Ministry of People's Security in the area for additional punishment. Depending on the time and place, different sentences have been given for crimes involving border crossings. In some cases, the perpetrators are detained in their respective local labor training camps or the Ministry of People's Security detention centers.

The North Korean authorities have relaxed the penalty on simple escapees. Recently, they have been enforcing the penalties again.<sup>76</sup> Since 2004, heavier penalties are imposed on those forcibly deported or arrested in the process of border-crossing. If a defecting family is captured as a group, the authorities file "attempted defection to South Korea" charges against them. According to reports, since 2004, the punishment for defectors varied considerably from region to region and from person to person.<sup>77</sup> In some

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North Korea, and she escaped a forced abortion. NKHR2008000003 2008-07-09; Apparently, if a woman is pregnant with a "North Korean baby," she will not be forced to abort the child. NKHR2009000032 2009-05-19.

<sup>75</sup> NKHR2009000023 2009-04-16.

<sup>76</sup> The sentences for captured or deported defectors have been raised by 5-7 years since March 1, 2007. *Good Friends*, "North Korea Today," No. 114 (March 5, 2008).

<sup>77</sup> The penalty level could be brought down significantly if the detainee's family offered bribes as soon as he/she was deported. In August 2006, four persons,

cases, defectors were forced to serve longer terms than those recorded as their official sentences.<sup>78</sup> On the other hand, there were many reported cases in which the level of punishment was raised from labor-training to correctional labor, but through bribery, inmates were often released on bail (for reasons of illness) or released through general amnesties in the middle of their term.<sup>79</sup> Another change is the severity of punishment. As people along the border regions frequently defected due to food shortages, the level of punishment for defector families, which was relaxed, are

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including XXX, had been charged for “repeat defections” and sentenced to serve 3 years of correctional labor at Hamhung No. 3 correctional center. NKHR2008000011 2008-08-12.

<sup>78</sup> North Korean defector XXX testified that he/she was sentenced to serve a year at labor training camp for illegal border crossing, but had to serve one year and four months at No. 11 (Jungsan) labor training camp under Social Safety Agency (current, Ministry of People’s Security). NKHR2008000011 2008-08-12; North Korean defector XXX testified that in March 2004 at Uiju County, North Pyongan Province he/she and two sisters also received one year sentence on charges of illegal border crossing, but had to serve more than a year at No. 11 correctional center. (Interview with defector XXX in Seoul on June 15, 2008).

<sup>79</sup> Defector XXX was arrested while trying to come to South Korea from Qingdao in 2005 because of a whistle-blower (a former defector, Korean), among a total of 13 defectors who were forcibly deported. He was sentenced to a 3-year correctional labor penalty. He was released on general amnesty after serving one and a half years at Jongori Correctional Center. (Interview with defector XXX in Seoul on August 30, 2008.) Defector XXX defected with his wife in 2006. When his wife was arrested, however, he returned to North Korea voluntarily. He was, however, sentenced to two years of labor training on family defection charges. He served six months at Oro Training Camp and was released on general amnesty. His wife was sentenced to one-and-a-half years at Jeungsan Correctional Center, and was also released on general amnesty after serving five months. (Interview with defector XXX in Seoul on September 6, 2008.) Defector XXX was arrested after returning to North Korea on charges of attempted flight to South Korea. When he learned his penalty would be about 6 years, he bribed the agent-in-charge into burning the essential investigation documents. Subsequently, he received a four-month labor-training penalty and served as a “tekgan,” or a “whip” who was responsible for ensuring every inmate at the center reported to work. (Interview with defector XXX in Seoul on July 26, 2008).

tightened. A recent trend is that heavier sentences are imposed on defector families living near the border region as the number of escapees has increased, even though the sentences have been reduced during the deteriorating food crisis. In fact, a great number of families of defectors who used to live near the border regions have been banished to remote regions away from the borders.<sup>80</sup> In rare cases, the decision to banish a family at a public trial is reversed as a result of petitions,<sup>81</sup> but in most cases, the defector families had to move to the designated area and could only return after a certain period of time. If a person defected from the area, the official responsible for the area was dismissed from his position.<sup>82</sup> For this reason, the defector family bribed the official during the early stages of the incident for a lenient ruling on the case. The official would discard the documents or make necessary changes to evade his responsibilities and profit from the case.

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<sup>80</sup> In April 2004, the family of XX Kang living at Ontan-ku, Onsung County, was banished because Kang was caught crossing the border. The families of XX Han and XX Kim were also banished from Kerim-dong, Hoeryeong City in 2005 (Interview with defector XXX in Seoul on July 8, 2008). In November 2007, XX Kim was sentenced to a correctional labor penalty and his family was banished from Onsung to Jangjin, South Hamgyoung Province (Interview with defector XXX in Seoul on July 2, 2008). In 2004, 20-30 defector families were banished from Musan County to Gangwon Province (Interview with defector XXX in Seoul on June 25, 2008). In August 2004, the family of Kim XX was banished from Sechon County, Hoeryeong City, North Hamgyoung Province to a farm in South Hamgyoung Province because XX Kim had crossed the river into China. NKHR2008000011 2008-08-12.

<sup>81</sup> Defector XXX received a public trial in Sinuiju while attempting to defect in January 2005. A decision was made to banish his family, but the decision was reversed as a result of petition (Interview with defector XXX in Seoul on October 21, 2008).

<sup>82</sup> NKHR2008000011 2008-08-12.



<Table VI-3> Punishments for Defections

Time	Place	Testimonies	Testifier ID	Source	Other
2009-02	County labor training camp, Kim Hyung-jik County, Yanggang Province	Six months of disciplinary prison labor	NKHR201000017 2010-10-05	Experienced	-
2009-02	Detention center, Yanggang Province	Five months of disciplinary prison labor	NKHR201000043 2010-11-02	Experienced	Forcibly Deported twice.
2009-07	Labor training camp, Baekam County, Yanggang Province	Six months of disciplinary prison labor	NKHR201000021 2010-10-12	Experienced	Escaped from detention (Only 20 days of actual detention)
2009-08	Nongpo collection point, Chongjin City, North Hamgyoung Province	One month in the Provincial Gathering Facility for Suspects	NKHR201000067 2010-04-27	Experienced	Forcibly Deported twice.
2009-08	Labor training camp, Hyesan City, Yanggang Province	Two months of disciplinary prison labor	NKHR201000097 2010-06-15	Experienced	-
2010-03	Unknown	Released early (on bribes)	Name: XX Huh	-	Forcibly Deported six times.
2010-05	Collection point, Shinuiju City, North Pyongan Province	One month and ten days of custody in the Provincial Gathering Facility for Suspects	NKHR201100018 2011-01-18	Experienced	Forcibly Deported twice.
2011-01	Labor training camp, Baekam County	Six months of disciplinary prison labor	NKHR2011000232 2011-11-08	Experienced	Sentenced to six months in labor training for illegal border border crossing (for South Korea)

Time	Place	Testimonies	Testifier ID	Source	Other
2011-02-16	Hoeryeong City, North Hamgyoung Province	1 year correctional labor	NKHR2012000264 2012-12-04	Experienced	Testifier (19 at the time, from Musan, North Hamgyoung Province) was detained in Jongori correctional center, Hoeryeong City
2011-02	Hyesan City, Yanggang Province	Correctional labor	NKHR2011000143 2011-06-14	Informed	-
2011-02	Security Agency detention center, Shinuiju City, North Pyongan Province	Detained in detention center	NKHR2011000244 2011-11-22	Experienced	Detained for illegal river crossing, but escaped from detention center.
2011-10	Baekam County, Yanggang Province	Six months of disciplinary prison labor	NKHR2012000274 2012-12-11	Informed	XX Kang (25, woman) sentenced to 6 month labor training for illegal border crossing.
2011	Musan County, North Hamgyoung Province	Shot to death on site	NKHR2011000144 2011-06-14	Informed	Heard four people (a family) were shot to death on site at security agency without interrogation. They were forcibly deported in 2011 to Musan, North Hamgyoung Province

Time	Place	Testimonies	Testifier ID	Source	Other
2011	Hoeryeong, North Hamgyoung Province	Political Prison camp	NKHR2011000187 2011-08-16	Informed	Victim XX Kim (man, 26-30 from Hoeryeong) was forcibly deported in 2010, and detained in No. 22 management center in Hoeryeong, North Hamgyoung province on charges of illegal border crossing (for South Korea).
2011	Hamhung City, South Hamgyoung Province	Six months of disciplinary prison labor	NKHR2012000213 2012-10-16	Witnessed	Testifier's relative XX Cho was detained in labor training camp in Donghungsan district, Hamhung City, for "river-crossing."
2011	Hyesan City, Yanggang Province	Disciplinary prison labor	NKHR2012000238 2012-11-06	Witnessed	Illegal border crossing
2012	Hoeryeong City, North Hamgyoung Province	Correctional center	NKHR2012000198 2012-09-25	Informed	-

<Table VI-4> Punishments for Defector's Families

Time	Place	Testimonies	Testifier ID	Means
2009	Hoeryeong, North Hamgyoung Province	<ul style="list-style-type: none"> <li>• Punishment: Banished</li> <li>• Victim: One female (the source's mother)</li> </ul>	NKHR2011000109 2011-05-11	Witnessed
2009-01	Hyesan City, Yanggang Province	<ul style="list-style-type: none"> <li>• Punishment: Banished</li> <li>• Reason: Family of an illegal border crosser</li> <li>• Victims: One male, two females</li> </ul>	NKHR2010000089 2010-06-08	Witnessed

Time	Place	Testimonies	Testifier ID	Means
2009-07	Musan County, North Hamgyoung Province	<ul style="list-style-type: none"> <li>• Punishment: Banished</li> <li>• Reason: Family of an illegal border crosser</li> <li>• Victim: One female</li> </ul>	NKHR2010000041 2010-10-26	Witnessed
2009-07	Hoeryeong, North Hamgyoung Province	<ul style="list-style-type: none"> <li>• Punishment: Banished</li> <li>• Victims: Two male, two females</li> </ul>	NKHR2010000101 2011-06-15	Witnessed
2009-09	Unknown	<ul style="list-style-type: none"> <li>• Punishment: Kim Hyung-jik County Political Prison Camp</li> <li>• Victims: Two males, two females</li> <li>• Detained because a family member defected to South Korea.</li> </ul>	NKHR2011000077 2011-03-22	Witnessed
2010-08	Hyesan City, Yanggang Province	<ul style="list-style-type: none"> <li>• Punishment: Banished</li> <li>• Reason: Family of defector already living in South Korea</li> <li>• Victims: One male, four females</li> </ul>	NKHR2011000231 2011-11-08	Witnessed
2010-10	Sakju, North Pyongan Province	<ul style="list-style-type: none"> <li>• Punishment: Banished</li> <li>• Reason: Family of defector</li> <li>• Victims: Two males, one female</li> <li>• All family members were banished for the defection of a source's brother-in-law.</li> </ul>	NKHR2011000105 2011-05-03	Experienced
2011	Pyongyang City, Daedonggang District	<ul style="list-style-type: none"> <li>• Punishment: "Hwan-gyeong- je-dae"</li> <li>• Reason: Family members of a defector who attempted to enter South Korea</li> <li>* "Hwan-gyeong-je-dae" indicates being discharged from military service due to family problems.</li> </ul>	NKHR2011000209 2011-09-20	Experienced
2011-09	Hyesan City, Yanggang Province	<ul style="list-style-type: none"> <li>• Punishment: Banishment</li> <li>• 30 households of defectors' families living in Hyesan in September 2011.</li> </ul>	NKHR2012000002 2012-01-10	Informed

## E. Punishment for Human Trafficking in North Korea

As the international community expressed their concerns on human trafficking of North Korean women, North Korea launched a strong campaign to apprehend those engaged in such practices. Individuals who sold North Korean women in China were publicly executed, and stern warnings were issued against any and all human trafficking activity.

<Table VI-5> Punishments for Human Trafficking

Time	Place	Testimonies	Testifier ID	Source
2008-06	Hoeryeong, North Hamgyoung Province	<ul style="list-style-type: none"> <li>• Punishment: Public Execution</li> <li>• Execution site: City Stadium at Sanup-dong, Hoeryeong</li> <li>• Victims: Five males, three females</li> </ul>	NKHR2010000069 2010-10-26	Witnessed
2009-01	Musan County, North Hamgyoung Province	<ul style="list-style-type: none"> <li>• Punishment: Public execution</li> <li>• Execution Place: Gangbyeon Garbage Dump, Musan County</li> <li>• Victim: One male</li> </ul>	NKHR2010000011 2010-09-14	Informed
2009-01	Musan County, North Hamgyoung Province	<ul style="list-style-type: none"> <li>• Punishment: Public execution (shooting)</li> <li>• Victims: Two males, two females</li> </ul>	NKHR2011000186 2011-08-16	Informed
2009-01	Hyesan City, Yanggang Province	<ul style="list-style-type: none"> <li>* Penalty: 8-year Correctional labor</li> <li>* Victims: One</li> </ul>	NKHR2011000209 2011-09-20	Informed
2009-03	Musan County, North Hamgyoung Province	<ul style="list-style-type: none"> <li>* Penalty: 6-year Correctional labor</li> <li>* Victims: 11</li> </ul>	NKHR2011000034 2011-01-04	Witnessed
2009-07	Hyesan City, Yanggang Province	<ul style="list-style-type: none"> <li>• Punishment: Public execution (Shooting)</li> <li>• Victim: One male from Hyesan</li> </ul>	NKHR2011000231 2011-11-08	Informed

Time	Place	Testimonies	Testifier ID	Source
2009-09	Musan County, North Hamgyoung Province	<ul style="list-style-type: none"> <li>• Punishment: Public execution (Shooting)</li> <li>• Victims: Two males, two females (XX Kang, XX Choi)</li> <li>• Total people involved in human trafficking: About 55</li> <li>• Out of 14 human traffickers, four were publicly executed at the Musan County, Jang-ma-dang (market) in September 2009, four were given life sentences of correctional prison labor, and the other six were sentenced to 13-15 years of correctional prison labor.</li> </ul>	NKHR2011000155 2011-07-05	Informed
2009-11	Hyesan City, Yanggang Province	<ul style="list-style-type: none"> <li>• Punishment: Public execution (shooting)</li> <li>• Victim: One female from Hyesan</li> </ul>	NKHR2011000070 2011-03-15	Informed
2010-03	Unknown	<ul style="list-style-type: none"> <li>* Penalty: 13-year correctional labor</li> <li>• Victim: One male (XX Lee, 30 years old)</li> </ul>	NKHR2011000129 2011-05-31	Witnessed
2010-06	Hyesan City, Yanggang Province	<ul style="list-style-type: none"> <li>• Punishment: Public Execution (shooting)</li> <li>• Victim: One female</li> </ul>	NKHR2011000052 2011-02-15	Informed
2010-08	Onsung County, North Hamgyoung Province	<ul style="list-style-type: none"> <li>* Penalty: 13-year correctional labor (human trafficking and illegal border crossing)</li> <li>• Victim: one male (XX Nam, 36 years old, from Onsung County)</li> </ul>	NKHR2011000183 2011-08-09	Experienced
2011-01	Kim Hyung-jik County, Yanggang Province	<ul style="list-style-type: none"> <li>• Punishment: Not known</li> <li>• Victim: one male (political officer of a squad), one male (soldier)</li> </ul>	NKHR2011000191 2011-08-23	Witnessed
2011-01	Yeongsa, North Hamgyoung Province	<ul style="list-style-type: none"> <li>* Penalty: 15-year correctional labor</li> <li>• Victim: One male (XX Lee)</li> </ul>	NKHR2011000191 2011-08-23	Informed
2011-03	Unknown	<ul style="list-style-type: none"> <li>* Penalty: 15-year correctional labor</li> <li>• Victim: One male (XX Chang, 45 years old, from Yeongsa County)</li> </ul>	NKHR2011000195 2011-08-23	Witnessed

Time	Place	Testimonies	Testifier ID	Source
2011-05	Jilin Province, China	* Detained for human trafficking of a North Korean defector (woman, 39)	NKHR2013000010 2013-01-08	Witnessed
2011-07	Musan County, North Hamgyoung Province	* Penalty: life-term correctional labor * Victim: man	NKHR2012000055 2012-04-03	Informed
2011-Summer	Hyesan City, Yanggang Province	* Penalty: 5-year correctional labor * Victim: Woman (32)	NKHR2012000092 2012-05-22	Witnessed
2011	Bochon, Yanggang Province	* Penalty: set-term correctional labor * Victim: Woman	NKHR2012000116 2012-06-19	Witnessed
2011	Samjiyon County, Yanggang Province	* Penalty: life-term correctional labor * Victim: Mother and daughter (XX Ahn, XX Yoo)	NKHR2013000018 2013-01-22	Witnessed
2012-02	Hyesan City, Yanggang Province	* Penalty: 7-year correctional labor * Victim: Arrested on site while helping 5 defectors	NKHR2012000155 2012-07-31	Informed
2012-05	Hyesan City, Yanggang Province	* Penalty: life-term correctional labor * Victim: 8 persons	NKHR2012000214 2012-10-16	Witnessed

As <Table VI-5> shows, North Korea imposed harsh punishment on human traffickers, not for simple river crossing guides. Public executions were carried out in certain cases of human trafficking, dealing in narcotics or smuggling antique along the border regions. Public executions for human trafficking took place mostly in areas where border traffic was most frequent, such as Musan, Hoeryeong, Chongjin, and Onsung, North Hamgyoung Provinces. Clearly, the North Korean authorities, similar to the Chinese, have taken extreme measures against human trafficking in response to the concerns by the international community. Since 1998, North Korea has increased the level of punishment for human trafficking. The fact that North Korea has publicly executed all human traffickers

indicates that they have attempted to remove sources of human trafficking, similar to the Chinese. In 2007 and 2008, the Central authorities conducted extensive inspections concerning missing persons (defectors). Some family members (parents, siblings) of the defectors (missing persons) were punished on “human trafficking” charges.<sup>83</sup> In 2010 and 2011, families of defectors were charged with crimes of human trafficking and forcibly exiled out of town.<sup>84</sup> Even in 2012, many families of defectors were forcibly moved out of their own towns to remote areas.

## F. North Korean Defectors in South Korea

Since 1994, the number of defectors coming to South Korea has rapidly increased. 312 defectors came to South Korea in 2000, 583 in 2001, 1,138 in 2002, 1,281 in 2003, and 1,894 in 2004. However, in 2005, only 1,383 defectors arrived in South Korea. The reason for this decrease may be attributed to a tighter control and surveillance in China and less involvement of individuals and NGOs who previously assisted defectors’ entry into South Korea. However, there is increasing trend overall. A total of 2,018 defectors came to South Korea in 2006; 2,554 in 2007; 2,809 in 2008, and 2,927 in 2009. In 2010, the number of defectors arriving in South Korea totaled 2,379, indicating a slight decrease. In 2011, a total of 2,737 North Korean defectors came to South Korea, and in

<sup>83</sup>-A report released during the “Hyesan City Anti-Socialist Group” on December 27, 2007, contained a list of names of missing persons and human traffickers. Defector XXX testified that he was banished to a coal mine region in Kapsan County, Yanggang Province on charges of “selling off (human trafficking)” his daughter, who had in fact fled to South Korea. NKHR2008000020 2008-09-17.

<sup>84</sup>-NKHR2012000010 2012-01-31; NKHR2012000029 2012-02-21.



2012, a total of 1,509 defectors came to South Korea. Currently, there are 24,609 North Korean defectors living in South Korea. Recently, the ratio of family defection is steadily increasing. Some defectors come with their families while others who are in North Korea or in China come to South Korea with the help of family members already in South Korea.<sup>85</sup> Since 2004, planned entry attempts through foreign missions or foreign facilities in China have decreased. Attempting to travel to South Korea through China takes a long time, up to two years. Therefore, many efforts have been made to come to South Korea through Southeast Asian countries such as Thailand. The time required for a North Korean defector to reach South Korea has reduced. The proportion of those who arrive in the South within a year of defection has increased from 30 percent in 2009, 39 percent in 2010, and 52 percent during the first half of 2011. Due to persuasion and financial support from relatives in South Korea, many defectors' families are coming to South Korea. Their number continued to increase in 2012. Defectors settled in South Korea helping the escape of their relatives is a desirable trend in terms of fulfilling the right of family.

<Table VI-6> Time-gap from Defection to Arrival in South Korea (in 2012)

Time-gap between Defection and Entry into South Korea	Number of Cases
Under one month	4
One-two months	101
2-3 months	34
3-4 months	6

<sup>85</sup> According to the Ministry of Unification, the ratio of families entering South Korea increased rapidly from 12 percent in 2010 to 39 percent in 2010, and 49 percent in the first half of 2011. The ratio of defectors who already have family resettled in South Korea also increased from 23 percent in 2009 to 33.4 percent in 2010 and 47 percent in the first half of 2011.

Time-gap between Defection and Entry into South Korea	Number of Cases
4-5 months	7
5-6 months	4
6-12 months	18
12-18 months	17
18-24 months	8
2-3 years	11
3-4 years	8
4-5 years	4
5-6 years	2
6-7 years	3
7-8 years	4
8-9 years	5
9-10 years	3
Over 10 years	4
No response	43
Total	286

<Table VI-7> Motives of Defection (in 2012)

Defection motives	Number of cases	Ratio (percent)
Financial reasons	81	28.3
Grudges against North Korean regime	35	12.2
Persuasion of family already in South Korea	77	26.9
Fear of punishment	11	3.8
To avoid punishment for illegal behaviors	7	2.4
Other	33	11.5
No response	42	14.7
Total	286	100 percent

As the number of North Korean defectors entering South Korea rapidly increased, South Korea became more aware of the

changing motivations, defection types, ages, and occupations of North Koreans. The types of North Korean defectors entering into South Korea in 2012 were similar to previous years. Similar to the past, the majority of the North Koreans arriving in South Korea were women (72 percent) traveling alone from Hamgyoung provinces. Their jobs included workers/farmers (38 percent) and jobless/getting help from family (50 percent). A few defectors, though not many, came to South Korea traveling by sea.

In the past, most family defections to South Korea was a last resort as a result of background discrimination and/or human rights violation they experience in North Korea. Recently, the increase in family defections include (a) increasing risks due to tightened Chinese surveillance, (b) more access to information about the South Korean society, (c) economic assistance from defectors who are already in South Korea, and (d) increasing activities of professional intermediaries and business agencies. Many North Korean defectors who have settled in South Korea are working as “entry-visa” brokers. A significant number of brokers engaged in making arrangements for entry into South Korea are former female defectors. The broker’s fee in 2012 for arranging and helping entry into South Korea from China was approximately 2.5 million won in South Korean currency (approximately US\$2,200). As the number of brokers has increased, competition among them is also getting fierce. Some of them even visit Korean towns in China where they believe many defectors are hiding in an effort to find and persuade them to relocate to South Korea for money in return.<sup>86</sup>

<sup>86</sup> In many cases, female defectors staying in “Korean towns” in remote areas of China do not have accurate information about relocating to South Korea. In those areas, there is invariably conflict between “relocation brokers” and church activists who are trying to protect female defectors in China. See XX Yoon, “Current Status and Prospects for Defectors in China,” Korea Institute for National Unification undisclosed advisory meeting, June 14, 2010.

As family defections increased, the average age of North Korean defectors were more evenly distributed. However, among the defectors, 20 to 40-year old group still represent the highest ratio. There are also cases in which earlier defectors plan and assist their families to defect to South Korea. The cases of North Korean women bringing their children or parents they had left behind in the North are also increasing. There are also various occupational backgrounds of defectors. They range from high officials (such as Hwang Jang-yop), diplomats, medical doctors, to soldiers, foreign currency handlers, students, teachers, workers, and peasants.

There are a number of cases of North Korean defectors who received South Korean citizenship and resettlement funds that have relocated to third countries such as the United States or Great Britain where they have applied for political asylum or refugee status. A number of these individuals have found to be “disguised asylum seekers” and repatriated to South Korea.<sup>87</sup> Other defectors return to North Korea, live with their families in North Korea, re-defect from the North and re-enter the South, whereupon they are arrested and punished for violation of South Korea’s National Security Act. In 2012, there were four cases (or, 8 persons) in which former defectors who settled in South Korea, returned to North Korea and appeared in an interview on the news. They spoke of lawsuits by their brokers, social discrimination and other “human rights abuses” in South Korea, and made political adulations to the North Korean authorities who detained them as traitors. There was nothing new about some defectors, who settled in South Korea, returning to North Korea. What was new about this situation was that the North Korean authorities were taking advantage

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<sup>87</sup>–*Yonhap News*, October 6, 2011.

of these “returnees” and using their stories to discourage potential defectors from fleeing North Korea.

In December 2012, South Korea opened an additional facility, called ‘Hanawon No. 2,’ to accommodate and educate newly arriving North Korean defectors. This facility is designed to give orientation to the newly arriving North Korean defectors and compile personal data and information on past activities. “Hanawon 2” houses and educates up to 5,000 defectors a year. It is a mandatory procedure under the South Korean law to hold newly arrived North Koreans and offer adjustment education. For this reason, some of them have brought lawsuits against the government, claiming that they were held under mandatory detention, hence experienced violation of certain human rights.

## **G. Assessment**

The forcible deportation of North Korean defectors is an important human rights issue (“refoulement”) that needs improvement. North Korea has a passport system, but the authorities issue passports to a very limited number of people. It is a serious human rights violation to impose political penalty for the simple reason that a person crossed the border illegally. The penalty puts the person’s life at risk and has serious impact on his/her entire family which is an additional problem. In the aftermath of Kim Jong-il’s death, North Korean authorities have further tightened controls on people’s movements, and raised the punishment levels for violators. They have also imposed heavier responsibilities on local agents and ‘civilian unit (people’s committee) leaders’ to prevent re-defection of citizens. The authorities are also offering incentives

such as grain rations and clothing distributions to discourage defection. North Korea has also installed “electronic walls” and cameras, as well as detection devices along the border regions to prohibit broker activities. By rotating the border guards, the authorities are also trying to remove defection related corruption.

As defection continues, many North Korean female defectors, who are forced to live with Chinese men, are not properly protected because they lack Chinese resident permits. If these women are deported back to North Korea, their children are left behind in China and are not able to receive proper nursing, raising or education, which constitutes as a breach of human rights. Trafficking defectors is also a serious issue. In addition, North Korean female defectors often fall victim to other crimes, such as voice phishing fraud, forced marriage, forced service at sex establishments, and other fraudulent schemes. As Chinese authorities tightened surveillance over North Korean defectors in 2012, the activities of defection brokers have diminished and the number of North Korean defectors entering South Korea or third countries has also significantly decreased.

**White Paper on Human Rights in North Korea 2013**





# VII

## Other Humanitarian Issues

1. Separated Families
2. Abducted South Koreans in North Korea
3. Korean War POWs







# 1



## *Separated Families*

### **A. Status of Separated Families**

Separated Family refers to family members who are living separately in South and North Korea, including spouses, relatives, cousins and second cousins. Many families were involuntarily separated during the process of division of Korea (August 1945) and the Korean War (1950-1953). General Douglas MacArthur, Supreme Commander of Allied Powers, issued General Order No. 2 on September 2, 1945, dividing the Korean Peninsula in half along the 38th Parallel Northern Latitude. American and Soviet Forces moved in to occupy South and North Korea, respectively. As a result, many Korean families were forced to live separately since free movement across the 38th Parallel was arbitrarily cut off. The situation deteriorated when the two sides during the Korean War agreed on a cease-fire on July 27, 1953 along the Military Demarcation Line through the middle of De-militarized Zone (DMZ) on the Korean Peninsula, which remains unchanged today. There are many underlying causes of family separation, although

the Korean War was the main reason. First, there was the arbitrary division of Korea, and many people voluntarily crossed the dividing line into North or South Korea followed by the Korean War. During the war, North Korea systematically apprehended thousands of South Korean leaders and intellectuals in the occupied zone and took them to the North, and thousands of others were forced to “volunteer” into the military service. Once the war ended (cease-fire), North Korea held thousands of South Korean POWs. In the years following the war, many Korean families living in Japan were induced to return to North Korea. During the subsequent decades, many North Koreans began to flee to China, South Korea and other countries. The number of separated families is not definite. Several surveys were conducted, but they showed different results over the years depending on who conducted the survey and when. According to a population and housing census conducted in 1955 by South Korea’s Central Statistical Office, a total of 735,501 North Koreans came to South Korea (283,313 before the Korean War and 452,188 during the war). According to more recent Statistical Office surveys, in 1990, a total of 418,000 persons (in South Korea) said they were born in North Korea. The number in 1995 was about 403,000 and in 2000, it was 355,000 persons.<sup>1</sup> The survey conducted in 2005 showed that there were 161,605 persons in South Korea who were born in North Korea.<sup>2</sup> The reason the number of North Korea-born persons decreased after 2000 is because many of them died of old age.

The Ministry of Unification and the Korean Red Cross, along

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<sup>1</sup> Korean Red Cross, *Sixty Years of Reunion of Separated Families* (Seoul: Korean Red Cross, 2005), pp. 6-7.

<sup>2</sup> National Statistical Office, Population Census, National Statistics Portal <<http://kosis.kr>> (search date: December 19, 2012).

with the Committee of Five North Korean Provinces, jointly established and operate the Unified Information Center for Separated Families. At the end of 2011, the number of separated families registered with the center was 128,668 persons, including 78,892 living and 49,996 deceased. The number as the end of 2012 was 128,779, including 74,836 living and 54,943 deceased. Compared to the number in 2011, the number of deceased persons increased by 3,947 in 2012. At the end of 2012, the number of persons over the age of 70 was 79 percent of the total.

<Table VII-1> Number of Registered Separated Families in Recent 5 Years

Year	No. Registered (persons)	Living (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

Source: Compiled from the "data center" at Unified Information Center for Separated Families <<http://www.reunion.unikorea.go.kr>>

<Table VII-2> Status of Surviving Separated Families  
(as of December 30, 2012)

Groups	Over 90 years old	80-89 years old	70-79 years old	60-69 years old	Under 59 years old	Total
Persons	5,429	28,796	24,913	9,531	6,347	74,836
Ratio (percent)	7.2	38.5	33.3	12.1	8.5	100

Source: Compiled from "data center" of Unified Information Center for Separated Families <[reunion.unikorea.go.kr](http://reunion.unikorea.go.kr)>

<Table VII-3> Status of Deceased Separated Families  
(as of December 30, 2012)

Groups	Over 90 years old	80-89 years old	70-79 years old	60-69 years old	Under 59 years old	Total
Persons	22,808	23,184	6,985	803	163	53,943
Ratio (percent)	42.3	43.0	12.9	1.5	0.3	100

Source: Compiled from 'data center' of Unified Information Center for Separated Families  
<reunion.unikorea.go.kr>

## B. Confirming Current Status of Separated Families and Mutual Contacts

Separated Families are living in South and North Korea respectively and they are not allowed to meet or exchange letters. In fact, many of them do not even know whether their family members are alive or deceased. In short, their “family rights” are seriously breached. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (Geneva Convention IV) specifically protects the family rights:

“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...” (Art. 27, Para. 1)

At the time of the Korean War, South and North Korea were not parties to the Geneva Convention (IV). South Korea signed the Convention on August 16, 1966, and North Korea joined the Convention on August 27, 1957. Soon after the outbreak of the Korean War, the President of the International Committee of the Red Cross (ICRC) stated that both South and North Korea are

entitled to the benefits of the Convention even if they are not signatories. On July 5, 1950, South Korean President Syng-man Rhee publicly pledged that his government would observe all provisions of the Geneva Convention. On July 13, 1950, North Korea also sent an official cable to the UN Secretary General accepting the proposition of ICRC. Consequently, 1949 Geneva Convention IV has a legally binding effect on both South and North Korea since the Korean War.<sup>3</sup>

The family rights include the right of a family to live together or the “right to family unification.” The Universal Declaration of Human Rights and other international human rights treaties stipulate that “men and women of full age have the right to marry and to found a family,” and the family “is entitled to protection by the society and the State.”<sup>4</sup> A family consists of husband, wife, and their children. Article 9 of the CRC stipulates, “a child shall not be separated from his/her parents against his/her will.” The right to family unification is an integral part of the right to marry and found a family, and the right of the child not to be separated from his/her parents.

The family rights and the right to family unification are stipulated in the Constitution of both South and North Korea. “Article 36, Para. 1,” of the South Korean Constitution stipulates, “marriage and family life are founded and maintained based on personal dignity and gender equality, and are guaranteed by the State.” Article 78 of the North Korean Constitution stipulates, “marriage and

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<sup>3</sup> Sung-ho Je, “Kidnapping of Civilians in Times of War – from the Perspective of International Humanitarian Law,” *Seoul International Law Study*, No. 18, Vol. 1 (Seoul International Law Institute, 2011), p. 200.

<sup>4</sup> See Art. 16, Para. 3 of UDHR; Art. 17 and 23 of ICCPR; Art. 5 (d)(iv) of ICERD (racial discrimination); Art. 12 of ECPHRFF (European Convention); and Art. 17, Para. 2 of ACHR (American Convention).

family shall be protected by the state. The state shall take deep interest in consolidating the family, the basic unit of social life.”

On August 12, 1971, South Korean Red Cross proposed to the North Korean Red Cross an inter-Korean Red Cross meeting to discuss an inter-Korean campaign for the reunion of separated families. As the North Korean side accepted the proposal, the first preliminary meeting for Inter-Korean Red Cross Talks was held on September 20, 1971.<sup>5</sup> The South Korean Government sought to resolve the “separated family” issue through various channels, including the Red Cross Talks and Ministerial meetings. From 2000 to 2011, there has been a total of 18 family reunion meetings, and a total of 4,321 families (21,734 persons) who have met their family members. Based on the agreement made at three Red Cross “working level talks” held between September 17 and October 1, 2010, two inter-Korean “family reunion” meetings were held at Mt. Keumkang Resorts on the occasion of “Korean Thanksgiving (or, Chusok)” in 2009 and 2010. From October 30 to November 2, 2010, 110 persons representing 97 North Korean families met with 436 South Korean family members. From November 3 to November 5, 2010, 137 persons representing 94 South Korean families met with 203 North Korean family members.<sup>6</sup> However, the family reunion meetings at the official levels have not taken place since the 18th meeting in 2010 (October 30-November 5). The main reason for this discontinuation is because North Korean authorities are approaching this humanitarian issue from a political perspective, particularly as inter-Korean relations entered a cooling-off period.

<sup>5</sup> Korean Red Cross, *60 Years of Reunion of Separated Families*, p. 18.

<sup>6</sup> Ministry of Unification, *2012 Unification White Paper* (Seoul: Ministry of Unification, 2012), p. 137.

<Table VII-4> Status of Officially-sanctioned Separated Family Meetings

(Unit: Cases)

Category	2008	2009	2010	2011	2012
Confirmation of living/dead	-	302 (2,399 persons)	302 (2,176 persons)	-	-
Exchange of letters	-	-	-	-	-
Visits to the South (persons)	-	-	-	-	-
Visits to the North (persons)	-	195 (888 persons)	191 (886 persons)	-	-
Meetings via television/other media	-	-	-	-	-

Source: Ministry of Unification, Separated Families Division

In addition to the separated family reunion meetings, South and North Korea have held a number of inter-Korean Red Cross Talks to solve the separated family issue. During the Red Cross Talks held on October 26-27, 2010, South Korea called on North Korea for a fundamental resolution of the separated family issue, including confirmation on the current status of separated family members, exchange of letters, regular meetings, year-round meetings, and hometown visits for senior citizens. On November 25, 2010, the two sides agreed to resume consultations on humanitarian issues, including the separated family issue. However, on November 23, 2010, the North Korean military chose to provoke a confrontation by firing artillery shells on Yonpyong Island in South Korea's West Sea, and the talks have been canceled ever since.<sup>7</sup>

In addition to government sanctioned exchanges, the South Korean Government has extended support for separated family exchanges at the civilian level. From February 2009, in an effort to promote civilian level exchanges, the government has increased

<sup>7</sup>-Ministry of Unification, 2012 *Unification White Paper*, p. 138.

the amount of expense grant for the reunion project. The government has raised the amount from 800,000 to 1,000,000 won (about \$1,000) for the confirmation of personal status, and from 400,000 to 500,000 won for continued contacts after confirmation of status. The government also decided to increase the amount of the grant from 1.8 to 3 million won in the event of a personal reunion for separated family members. However, the number of separated family contacts at the civilian level has decreased every year. There were 314 cases in 2008, 119 cases in 2009, 38 cases in 2010, 28 cases in 2011, and 25 cases in 2012. The 25 cases in 2012 consisted of three personal meetings, 16 exchanges of letters, and six cases of confirmation of personal status.

<Table VII-5> Civilian-level Separated Family Contacts in Recent 5 Years  
(Unit: Cases)

Category	2008	2009	2010	2011	2012
Confirmation of living/ Idead (persons)	50	35	16 (40)	3 (5)	6 (10)
Exchange of letters	228	61	15	21	16
Personal meetings (persons)	36 (97)	23 (51)	7 (18)	4 (14)	3 (6)

Source: Ministry of Unification, Separated Families Division

On February 9, 2012, the Ministry of Unification revised the Instructions on Expense Grants for Separated Family Reunion Meetings, and raised the amount from one to two million won for confirmation of personal status, and from 3 million to 5 million won for family reunions in a third country. The previous 500,000 won grant remains unchanged for contacts after the confirmation of personal status.



## C. Current Status of Separated Family Program

On March 25, 2009, South Korea enacted the Law for Confirmation of Personal Status and Promotion of Exchanges between Separated Families. (or, the Separated Family Law) The law went into effect on September 26, 2009. The law stipulates that a status survey be conducted to identify the current situation and exchange levels between the separated families. (“Art. 6, Para. 1”) Accordingly, the Ministry of Unification and Korean Red Cross jointly conducted an extensive survey on all surviving members of the registered 128,000 persons (As of March 2011, 81,800 were surviving). The Matrix Corporation, under contract with the government, conducted a survey from April to November of 2011. Of the 81,800 survivors in South Korea, the survey confirmed 66,611 (81.4 percent) persons. As a part of the survey, questionnaires were distributed to 10,605 persons to collect data and responses necessary for future separated family policies. The survey revealed that separated family members preferred exchange methods in the following order: confirmation of personal status (40.4 percent), personal meetings (35.9 percent), and exchange of letters (10.0 percent). Only 8.4 percent of the respondents were able to confirm the status of their family members (living or dead). In addition, 55 percent of them agreed and 45 percent disagreed on the collection and preservation of personal DNA for confirmation of family relationship in the future. 44.6 percent of the respondents preferred extending “simple humanitarian assistance” directly to North Koreans, rather than to the North Korean government (34.0 percent).<sup>8</sup>

The Separated Family Law requires revision and implemen-

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<sup>8</sup>–Ministry of Unification, *Press Release: Results of Current Status of Separated Families*, December 15, 2011.

tation of the basic plan for the promotion of inter-Korean separated family exchanges every three years. (“Art. 5, Para. 1”) Accordingly on July 30, 2012, the government revised and released the Basic Plan for the Promotion of Separated Family Exchanges.

## D. Inheriting the Property of Separated Families

The need to resolve the issue of inheritance has been raised for a long time. This involves relationship between the family members living separately in the South and the North, and the need for legal measures. For this reason, the Ministry of Justice enacted the Law on Inheritance and Family Relationship between the Inhabitants in South and North Korea on February 10, 2012 which went into effect on May 11, 2012. Based on this law, a South Korean court ruled on November 30, 2012 that even if the children of a separated family member inherits the property based on his/her will, the property should go to a trust managed by an independent attorney, rather than going directly to the children.<sup>9</sup> The law prescribes that if a North Korean resident inherits property rights, he/she should appoint a legal receiver who can manage the property. (Art. 13) XX Yoon came to South Korea during the Korean War with his late father, who left his wife, two other sons and three daughters behind in North Korea. Yoon’s father remarried his new mother in South Korea and had four children. When his father passed away in 1987 he left some property to his four children, which Yoon claimed he was entitled to, so Yoon filed a lawsuit in 2011.

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<sup>9</sup>–*Chosun Ilbo*, daily, November 30, 2012.

## E. Human Rights Abuses on Separated Family Members in North Korea

Separated Family members left behind in North Korea are socially discriminated against, especially in terms of Party membership, military service, college admissions, and marriage.

Testimonies	Testifier ID
North Korean defector XXX testified that he/she had seen a member of a separated family seeking to join the military but was denied.	NKHR2010000054 2010-06-22
North Korean defector XXX testified that in July 1997, his/her son was discriminated against in his college admission, Party membership and staff positions, because he had a member of his family who fled to South Korea. During the 1990s, several Party instructions were issued emphasizing personal capabilities rather than personal background, so he had some hope, but the instructions were not observed.	NKHR2011000126 2011-05-31
North Korean defector XXX testified that her husband was denied Party membership, and had to get a “discharge for livelihood” because his aunt fled to South Korea.	NKHR2011000112 2011-05-17
North Korean defector XXX testified that North Koreans regarded families of those who fled to South Korea during the Korean War as “families of reactionaries.” It was impossible for these children to get Party membership or college admission.	NKHR2012000062 2012-04-17

However, the people’s perception sometimes change towards the person who had someone in the family that fled to South Korea during the Korean War, provided that he/she works honestly and diligently.<sup>10</sup> Initially, people cast negative eyes on the person, but if he/she works diligently, the opinion of that person changed positively. North Korean defector XXX testified that his grandfather’s

<sup>10</sup>-NKHR2010000072 2010-10-19.

brothers fled to South Korea during the Korean War, so his grandfather was discriminated against in Party membership and education. However today, most North Koreans do not discriminate against families of those who fled to South Korea during the war.<sup>11</sup>

## F. Assessment

As separated families population age, it is more difficult to confirm their personal status and pursue personal contacts. To this extent, their family rights are breached. The 1949 Geneva Convention IV mandates the protection of family rights. South and North Korea were not signatories to this particular convention at the time of Korean War, but both are bound by the terms of the convention, as both have accepted the terms of the convention by taking appropriate actions during the early phase of the war. Family rights are also prescribed in the Constitutions of both Koreas. As recent tensions mounted between South and North Korea, confirming current status or developing new contacts between the separated families has not progressed nor has the realization of their family rights. Moreover, the prospects for another family reunion is dim in view of North Korea's recent launch of a long range missile, called Eunha No. 3, and the third nuclear test, which had a negative impact on the inter-Korean relations. However, family rights of separated families can still be protected if both Koreas agree to treat the separated family problem as a humanitarian issue, unrelated to the political situation, and resume confirmation of personal status and exchange of contacts.

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<sup>11</sup>-NKHR2012000046 2012-03-23.



# 2



## *Abducted South Koreans in North Korea*

### **A. South Koreans Abducted during the Korean War**

- **Current Status of South Koreans Abducted during the Korean War**

The exact number of South Koreans abducted by North Korea during the Korean War is unclear at this time. The seven lists of abducted persons identified thus far show significant differences. For example, the Statistics Bureau of South Korea's Ministry of Public Information listed the number of abducted Seoul citizens to be 2,438. The Family Association for the Korean War Abducted Persons published a list in 1951, including the names of 2,316 abducted persons. In 1952 the South Korean government published a list of names of 82,959 abducted persons during the war, but the 1953 Statistical Almanac listed 84,532 names. The Police Headquarters of the Ministry of Internal Affairs documented 17,940 abducted persons. However the Missing Civilians List compiled by Korean Red Cross in 1956 reported 7,034 persons, and the Missing

Civilians List compiled by the Ministry of Defense reported 11,700 persons. Many names appear on different lists, indicating that they were clearly abducted by the North during the war.

<Table VII-6> Statistics of Persons Abducted during the Korean War<sup>12</sup>

Category	Source (compiled by)	Year	Number of victims	List exists?
List of victims from Seoul City	Statistical Bureau, Ministry of Public Information	1950	2,438	yes
List of persons abducted during the Korean War	Statistical Bureau, Ministry of Public Information	1952	82,959	yes
Number of persons abducted during the Korean War	Police Headquarters, Ministry of Internal Affairs	1952	(126,325)	no
List of persons abducted during the Korean War	Statistical Office, Ministry of Public Information	1953	(84,532)	no
List of persons abducted due to circumstances of the Korean War	Police Headquarters, Ministry of Internal Affairs	1954	17,940	yes
List of citizens registered as missing	Korean Red Cross	1956	7,034	yes
List of missing citizens	Ministry of Defense	1963	11,700	Vol. 1 yes Vol. 2 no

Based on the lists available thus far, the Association of Families of Korean War Abducted Persons has concluded 96,013 persons as abducted, excluding overlapping names. The following <Table VII-7> shows the distribution of their age at the time of abduction.

<sup>12</sup>The Institute for Data and Materials on Korean War Abducted Persons (IDMKWAP), A Compilation of Data and Materials on Korean War Abducted Persons, Vol. II (Seoul: IDMKWAP, 2006).

<Table VII-7> Age Distribution of Abducted Persons during the Korean War

(Unit: People)

Age	1-10	11-15	16-20	21-30	31-40	41-50	51-60	61-older	Unknown	Total
Number	338	376	20,409	51,436	14,773	5,456	1,675	746	804	96,013
Ratio	0.4	0.4	21.2	53.6	15.4	5.7	1.7	0.8	0.8	100

It has not been officially confirmed whether anyone forcibly abducted to the North during the Korean War has returned to South Korea. The fact that no one out of such a large group has been able to return to the South indicates that most of the abductees have been forced to adjust to life in North Korea. 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 of old age or perhaps they may have chosen not to reveal to their North Korean family that they had been forcibly abducted during the war.

- **Confirmation of Personal Status and Contacts with South Korean Civilians Abducted to the North during the Korean War**

The abducted persons during the war are also victims of human rights abuses similar to separated family members with respect to family reunions, exchange of letters and personal contacts. The Geneva Convention (No. IV) stipulates, “individual or mass forcible transfers from occupied territory to the territory of the Occupying Power are prohibited, regardless of their motive.” (“Art. 49”) Furthermore, detention of civilians is also prohibited. (“Art. 79”) North Korea’s abduction of civilians in times of war amounts to crimes against humanity and war crimes under the international law. In accordance with the Convention on the Non-

Applicability of Statutory Limitations to War Crimes and Crimes against Humanity adopted on November 26, 1968, the statute of limitation is not applied on North Korea's abduction of civilians in times of war.<sup>13</sup> North Korea acceded to this convention on November 8, 1984.

During the fourth Inter-Korean Red Cross meeting held in September of 2002, the two sides agreed to discuss and resolve the status and addresses of "those who went missing during the wartime." During the 15th Inter-Korean Ministerial Meeting (June 21-24, 2005) the two sides agreed to "consult humanitarian issues," including the confirmation of status of those who went missing during the wartime (Sec. 3, Joint Press Release). During the sixth Inter-Korean Red Cross meeting (August 23-25, 2005) and the 16th Inter-Korean Ministerial Meeting (September 13-16, 2005), the two sides agreed again to continue their consultations on confirming the status of those who went missing during the war. During the 13th Family Reunion meeting held on March 22, 2006, an attempt was made to include the families of abducted persons. For that purpose, a request was made to confirm the whereabouts of four abducted persons, but none was confirmed. Only one person (Kyung-chan Lee) was able to meet with the families (an aunt and a cousin) of his uncle (who had formed a new family in North Korea). During the 14th Family Reunion meeting in June 2006, eight families of abducted persons requested a meeting. North Korea confirmed the status of one living person (Bong-woo Lee, father of Jung-ok Yoo), but after two weeks said he was the wrong

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<sup>13</sup>Ji-yoon Cha, "Can the concept of 'forced missing persons' under international law be applied to the South Korean civilians forcibly abducted by North Korea during the Korean War?" Citizens' Alliance for North Korean Human Rights, *et al.*, *The 11th International Conference on North Korean Human Rights and Refugees*, November 23, 2011.



person, canceling the planned meeting. Thereafter, eight families of abducted persons received notice from the North that they were unable to confirm the status of their family members. During the 15th Family Reunion meeting in May 2007, four families of abducted persons requested confirmation of the status of their family members. North Korea confirmed one had died, but was unable to confirm the status of the others. However, the (South Korean) family of the deceased was able to meet with the family members from the North. In 2010, the inter-Korean family reunions were resumed. During this meeting, South Korea asked the North Korean authorities to confirm the status of five family members abducted during the Korean War, but North Korea sent notice that they were unable to confirm their status.<sup>14</sup>

- **Fact-finding on the Abduction of South Koreans during the Korean War and Restoring their Honor**

The issue of South Koreans abducted during the Korean War was not adequately discussed in the period following the formal cessation of overt hostilities. This was due to the difficulty of distinguishing between defection and abduction that took place during the chaos of the war. In fact, the ‘missing’ status of the abductees has created difficulties in the lives of entire families. In April 2004 and again in July 2008, National Human Rights Commission of Korea called for studies and special legislation of abductees’ relief and compensation.

On March 26, 2010, South Korea enacted the “Law on Fact-finding on Victims of Abduction during the Korean War and Restoring

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<sup>14</sup>-*Naeil Newspaper*, November 4, 2010.

their Honor.” On December 13, 2010, the Committee on Fact-finding about Victims of Abduction during the Korean War and Restoring their Honor was officially launched. The committee is chaired by the Prime Minister and consists of five cabinet members (including Ministers of Defense, Unification, and Foreign Affairs), three representatives of abducted persons’ families, and six civilian experts. The 15-member committee is expected to conduct fact finding missions and research concerning forcible abduction of South Korean civilians during the Korean War and restoring their honor. The Committee, formally established in February 11, 2011, now operates through a subcommittee with the Vice Minister of Unification as the president. It is further comprised of director-level civil servants, experts, and abductee family groups. The subcommittee discusses preliminary determination of abductee status, ways to encourage reporting, and other matters related to the Committee’s work.

The fact finding committee met seven times until December of 2012. The first meeting (December 13, 2010) adopted operating rules, fact finding guidelines, and rules for assistance. At the second meeting, held on March 18, 2011, the committee established basic identification rules on the abducted persons during the Korean War. The identification of abducted persons started from the third meeting, which identified 55 abducted persons. The committee’s fourth meeting confirmed an additional 217 persons; the fifth meeting, 120 persons; the sixth meeting, 386 persons; and the seventh meeting found 364 persons as forcibly abducted. Thus far, the committee decided that a total of 1,107 persons have been forcibly abducted to North Korea during the Korean War.

<Table VII-8> Status of Identification of Abducted Persons

(Unit: Persons)

Committee meeting	Time	Number of decisions	Contents of decision			
			Decided as abducted	Abduction undecided	Unable to determine as abduction	Appeals denied
3rd meeting	August 2, 2011	55	55			
4th meeting	December 3-13, 2011	264	217	28	19	
5th meeting	March 19- April 4, 2012	144	120	11	13	
6th meeting	June 20, 2012	386	351	11	24	
7th meeting	September 19- October 4, 2012	399	364	7	27	1
Total		1,248	1,107	57	83	1

Source: Compiled based on "Home-page" of the "Abduction Fact-finding Committee," Ministry of Unification

## B. The Abducted Persons in the Postwar Years

### • Current Status of Postwar Abductees

A total of 3,835 persons have been abducted to North Korea since the cease-fire of the Korean War. Some of them have been involuntarily held in North Korea as a result of their usefulness, physical conditions, and educational background.<sup>15</sup> A total of 3,310 of them (86.5 percent) returned to South Korea after being held for six months to a year. Eight of them defected from North Korea

<sup>15</sup> XX Lee who returned to South Korea after abduction to North Korea, testified that the 27-men crew of boats Bongsan No. 21 and No. 22 were transferred from Haeju to Pyongyang. They were interrogated to ascertain whether or not they were spies. In the process, they picked seven healthy and educated (10-years of education or higher) individuals, and gave them special training in Chongjin. The North released the rest of the crew back to South Korea.

and returned to South Korea. It is estimated that a total of 517 abducted South Koreans are still held in North Korea.

<Table VII-9> Status of Abducted Persons in the post-Korean War Period

(Unit: People)

Category	Total	Fishermen	Korean Airlines	Soldiers/ Policemen	Other	
					Domestic	Overseas
Abducted to the North	3,835	3,729	50	30	6	20
Returned to the South	3,318	3,271	39	–	–	8
Detained in the North	517	458	11	30	6	12

Source: Ministry of Unification, Separated Families Division

<Table VII-10> Number of Abductees by Year

(Unit: People)

Year	Number detained	Cumulative total	Year	Number detained	Cumulative total
1955	10	10	1973	8	430
1957	2	12	1974	30	460
1958	23	35	1975	28	488
1962	4	39	1977	4	492
1964	16	55	1978	4	496
1965	20	75	1980	1	497
1966	19	94	1985	3	500
1967	52	146	1987	13	513
1968	133	279	1992	1	514
1969	20	299	1995	1	515
1970	36	335	1999	1	516
1971	20	355	2000	1	517
1972	67	422			

Source: Ministry of Unification, Separated Families Division

<Table VII-11> Abducted Persons who have Returned to South Korea

Name	Date of Abduction	Occupation	Date of Return
XX Lee	April. 29, 1970	Crew, the Bongsan No. 22 (fishing boat)	July 26, 2000
XX Jin	April 12, 1967	Crew, the Chundae No. 11	October 30, 2001
XX Kim	November 24, 1973	Engineer, the Daeyoungho	June 23, 2003
XX Koh	August 17, 1975	Crew, the Chunwangho	July 12, 2005
XX Choi	August 17, 1975	Crew, the Chunwangho	January 16, 2007
XX Lee	August 17, 1975	Crew, the Chunwangho	September 10, 2007
XX Yoon	July 2, 1968	Crew, the Geunyungho	January 9, 2008
XX Yoon	August 17, 1975	Crew, the Chunwangho	February 26, 2009

Source: Ministry of Unification, Separated Families Division

<Table VII-12> List of Additionally Confirmed Abducted Persons

Incident	Date	Name	Date of birth	Address	Occupation
Army 2nd Division	July 14, 1962	Je-ha Choi	March 4, 1939	Youngyang, North Gyeongsang Province	Army corporal Boat owner
Army 3rd Ordinance Command	October 12, 1977	Byung-wook Cho	January 31, 1940	Jinhae, South Gyeongsang Province	Military civilian
The Kilyong-ho	January 22, 1966	Sung-man Park	February 23, 1917	Tongyoung, South Gyeongsang Province	Skipper
"	"	Kwang-sup Kim	October 9, 1918	"	Engineer
"	"	Ho-keun Yang	March 5, 1925	Wando, South Cholla Province	Crew
"	"	Bok-sik Jeong	August 28, 1941	"	"
"	"	Duk-hwan Lee	October 23, 1911	Tongyoung, South Gyeongsang Province	"

Incident	Date	Name	Date of birth	Address	Occupation
The Kilyong-ho	January 22, 1966	Du-sok Kim	January 19, 1931	Kyungnam Koje, South Gyeongsang Province	Crew
"	"	Jeong-sik Nam	February 15, 1928	Sanchung, South Gyeongsang Province	"
"	"	Seng-ki Lee	December 1919	Namhae, South Gyeongsang Province	"
"	"	Kyung-nam Kim	1935	Tongyoung, South Gyeongsang Province	"
"	"	Su-tae Lee	1935	"	"
"	"	Ui-doh Jeong	August 10, 1938	Seoku, Busan	"
"	"	Il-yong Suh	July 23, 1937	Young-il, North Gyeongsang Province	"
"	"	Jang-woon Park	July 18, 1937	Tongyoung, South Gyeongsang Province	"
"	"	Bok-geum Park	November 17, 1926	Yeongdo, Busan	"
The Nampoong-ho	December 21, 1967	Young-pil Kim	May 18, 1935	Goseong, Gangwon Province	Engineer, Boat owner
"	"	Dong-hyun Paik	March 14, 1942	"	Crew
"	"	Seung-ok Kim	July 9, 1919	"	"
"	"	Young-jun Lee	May 16, 1945	Yangyang, Gangwon Province	"
"	"	Bong-rae Kim	December 7, 1928	Goseong, Gangwon Province	Skipper
"	"	Sung-mun Choi	1936	"	Crew

Incident	Date	Name	Date of birth	Address	Occupation
Soldier in Vietnam	September 9, 1966	Hak-su Ahn	September 23, 1943	Pohang, North Gyeongsang Province	Army Staff Sergeant
Row boat	August 5, 1967	Seung-yoon Bae	February 10, 1929	Ongjin, Incheon	Boat owner
"	"	Seung-ku Bae	"	"	Crew
"	"	Chul-kyu Jeong	May 5, 1943	"	"
"	"	Heung-ho An	June 4, 1967	"	"
"	"	Jung-soon Hwang	February 9, 1947	"	"
Soldier in Vietnam	November 3, 1965	Sung-ryol Park	October 19, 1943	Jinchun, North Chungcheong Province	Army sergeant
The Jinbok-ho	August 27, 1992	Chol-jin Lee	February 5, 1947	Sinahn, South Jeolla Province	Boat owner, Skipper
The Duksung-ho	July 12, 1968	Yang-jin Lee	May 20, 1945	"	Crew
The Odaeyang-ho No. 61	December 28, 1972	Wook-pyo Chun	November 18, 1946	Gojai, South Gyeongsang Province	"
The Daehan-ho	January 11, 1968	Young-chan Jang	February 23, 1938	Kosung, Gangwon Province	"
"	"	Ku-yang Kim	1933	Unknown	Engineer
"	"	Tae-soon Kim	1945	Unknown	Crew
"	"	Young-ju Yoon	October 20, 1933	Kosung, Gangwon Province	"
"	"	Sang-ki Lee	1918	Unknown	"
"	"	Kuk-hyon Lee	December 29, 1943	Kwangsan-ku, Kwangju City	"
Army 2nd Division	July 14, 1962	Ji-won Woo	October 5, 1930	Changwon, South Gyeongsang Province	First lieutenant
"	"	Keum-sop Lee	July 19, 1934	Chungwon, North Chungcheong Province	Sergeant First Class
"	"	Ki-chan Park	January 19, 1939	Yongdungpo-ku, Seoul	Sergeant

## • Human Rights Abuses on Abducted Persons

Some of the abducted South Koreans are being used in broadcasts to South Korea or in espionage training. The flight attendants from Korean Airlines Kyung-Hee Sung and Kyung-sook Chung have been used in broadcasts to South Korea. Other detainees are used as instructors for North Korean espionage agents sent to the South. According to the testimonies of defectors who came to South Korea in 1993, about 20 unidentified abductees from South Korea are working as spy instructors at the “Enter for Revolutionizing South Korea” located in the Yongsung district of Pyongyang. This center is a replica of South Korea designed to teach and train graduates of the Kim Il-sung 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 formerly kidnapped fisherman XXX, who defected from North Korea in June of 2000, some of his colleagues were also engaged in anti-South Korea operations after undergoing a period of special training. XXX himself admitted to having some espionage training.<sup>16</sup>

The remainder of the abducted, whom North Korea presumably did not find useful, are likely to be detained in various prison camps. Some abducted individuals from South Korea are detained in prison camps and can be identified from the Amnesty International(AI) report above. In a special report entitled “New Information on Political Prisoners in North Korea” published in 1994 by AI,

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<sup>16</sup>-Interview with defector XXX in Seoul on January 7, 2004.



the names of abducted individuals, who seemed to be detained in the now defunct prison camp at Seunghori until 1990, are included. In January 1999, South Korea's National Security Planning Agency also reported that 22 South Korean abducted individuals, including Jae-hwan Lee, were detained in a political prison camp.

<Table VII-13> List of Abducted Persons Reportedly Detained in Political Prison Camps (22 persons)

Name	Abducted Year	Occupation
Young-hoon Lee	April 1992	Law Office, manager
Rak-ho Jeong	July 1991	Crew, Chokwang Marine Company
Jae-kwan Lee	December 1989	Samsung Electronics Branch Office
Heung-rae Cho	August 1992	Owner, Sports Shop
Hee-chang Choi	October 1991	Crew, Chokwang Marine Company
Dae-sik Lee	September 1988	Former immigrant to Paraguay
Won-shik Shin	June 1991	Bridge Designer in USA
Kwang-suk Kang	December 1992	Realtor
Sung-bae Kim	May 1983	Director, Construction Co.
Soon-sung Kim	Unknown	Former miner in Germany
Jae-hwan Lee	July 1987	Son of former National Assemblymen Young-wook Lee, studying in USA
Jong-suk Choi	January 1987	Crew, the No. 27 Dongjin-ho
Won-suk Kim	February 1990	President, Tourist Agency
Chil-sung Yang	September 1988	Realtor
Sung-jin Kim	September 1984	Army private
O-mun Kwon		Identity unknown
Seng-ku Cho		Identify unknown
Hak-sik Suh		Identity unknown
Chong-shin Park		Identity unknown
Chan-soo Lee		Identify unknown
Jae-won Yoo		Identity unknown
Choon-gil Kim		Identity unknown

Source: *Yonhap News*, January 31, 1991.

- **North Korea's Reaction to Status Confirmation and Repatriation Requests**

North Korea has refused to return abducted South Koreans, arguing that they came to North Korea “voluntarily,” or that they want to remain in North Korea. North Korea even denied holding any South Korean citizens and refused South Korea’s proposal to discuss the issue. In the process of inter-Korean discussions on such issues as Korean War POWs and abducted South Koreans, a new concept or description of these people was introduced; namely, “missing persons who lost contact during the war-time.” During the Fourth South-North Red Cross Talks in September 2002, the two sides agreed to consult and resolve the problem of confirming the status and addresses of those who lost contact during the period of the Korean War. Moreover, the two sides agreed “to consult humanitarian issues including the current status of the “missing persons during the war time” at the 15th Inter-Korean Ministerial Meeting (June 21-24, 2005). At the sixth Red Cross talks (August 23-25, 2005) and the 16th Inter-Korean Ministerial Meeting (September 13-16, 2005), South Korea repeated their call for an early resolution of the two issues, including a pilot project on the status and whereabouts of the missing persons. In response, North Korea proposed that the project be limited to the confirmation on the status of “missing persons during the war time” without civil military distinctions and also restricted the publication of the results to only family reunion framework. In short, North Korea still refuses to admit any cases of South Korean civilian abductions during the postwar years. At the seventh Red Cross talks (February 21-23, 2006), the two sides officially agreed to consult and resolve the issue by including the status confirmation of “those missing during

and after the war” within the framework of family reunion meetings, thus allowing discussion of the abduction issue. However, due to the tension in inter-Korean relations during 2008, discussions on the abducted persons have ceased. In order to continue their effort, the Family Association later inserted the list of abducted persons’ names in leaflets and flew them to North Korea, which caused a strong protest among the North Korean authorities. In accordance with an agreement of Red Cross Talks, a family reunion meeting was held during Chusok (Korean Thanksgiving) holidays in 2009 (September 26-October 1, 2009) at Mt. Keumkang Resorts. For this occasion, South Korea requested confirmation of personal status of 12 post-Korean War abducted persons. Two of the post Korean War abductees came to meet with their South Korean families. For the 2010 reunion, South Korea requested confirmation of personal status of 11 additional persons who had been abducted in the post-war period, but North Korea replied that they were unable to confirm any of them.<sup>17</sup>

<Table VII-14> Reunions of Post-war Abducted Persons (2010-2011)

(Unit: Persons)

Category	Status unknown	Living	Deceased	Unable to confirm	Reunion with family	Number of persons at reunion
Post-war abducted persons	120	17	22	81	16	18 families (81 persons)

Source: Ministry of Unification, 2012 Unification White Paper, p. 143.

<sup>17</sup>-*Naeil Newspaper*, November 4, 2010.

## • Grants and Assistance for Post-war Abducted Persons to the North

On April 27, 2007, the Post-war Abduction Victims Assistance Law was enacted. (Official title: the “Law for Grants and Assistance for Abduction Victims since the Conclusion of the Military Cease-fire Agreement) Accordingly, when an abductee returns home, he/she will receive government grant for re-settlement, and his family is also entitled to assistance and compensation from the government.

In accordance with “Article 6” of the law, a committee was formed on November 30, 2007 to review and determine the amount of grant and the scope of assistance and compensation. As of December 2011, the committee has held 40 meetings and decided the amount of grant, scope of compensation, qualification of applicants, etc. The following tables provide the details.

<Table VII-15> Status of Abduction Damage Application and Decision  
(Unit: Cases)

Case	Damage Compensation					Settlement and Housing Stipend	Compensation	Total
	Fisherman	KAL (Korean Airline)	Military, Police	Etc.	Sub-total			
Application	377	11	20	20	428	8	12	448
Accepted Case	370	11	20	15	416	8	1	425
Rejected Case	7	0	0	5	12	0	11	23

Source: Ministry of Unification, Separated Families Division

<Table VII-16> Status of Decisions on Consolation Payments for Abduction Victims

Category	Number of applications (cases)	Disbursement decisions (cases)	Amount (thousand won)	Remarks
Total	448	425	14,510,497	Based on disbursement decisions
Consolation payments	428	416	12,914,573	–
Settlement and Housing stipend	8	8	1,528,320	Settlement: 1,017,767,000 won Housing: 510,553,000 won
Compensations and medical stipend	12	1	67,604	Compensation: 51,491,000 won Medical: 16,113,000 won

Source: Ministry of Unification, Separated Families Division

The Ministry of Unification published a White Paper on Grants and Assistance for Post-war Abduction Victims, with details on the committee's activities and various data and status of abduction victims. On December 16, 2012, the government announced new rules concerning the formation and operation of a new action committee for abduction victims and launched the Action Committee for Abducted Persons which is composed of related government agencies.<sup>18</sup>

- Reactions to Major Abduction Incidents

<Forcible Detention of Sook-ja Shin and her two daughters>

Gil-nam Oh and his family (wife Sook-ja Shin, two daughters Hei-won Oh and Gyu-won Oh) were living in Germany. In 1985,

<sup>18</sup>-Ministry of Unification, 2012 Unification White Paper, pp. 146-147.

the entire family voluntarily went to North Korea. A year later Oh alone was able to flee from North Korea, but his wife and two daughters were detained. In March 2011, a campaign to release them from North Korea began in the southern port city of Tongyoung, which is Shin's hometown, and the campaign spread across South Korea. ("Return Daughters of Tongyoung Home!") In November 2011, the UN Special Rapporteur on North Korean Human Rights Marzuki Darusman personally interviewed Gil-nam Oh. On December 8, 2011, the Canadian Parliament adopted a resolution for an early release of Sook-ja Shin. On July 20, 2012, the "Return Daughters of Tongyoung Committee" was launched, and on October 4, 2012, an international seminar was held to discuss the "return of Sook-ja Shin and her daughters." In November 2011, ICNK (International Coalition against North Korea's humanitarian crimes) filed a petition for the release of Sook-ja Shin and her daughters with the Office of High Commissioner of Human Rights (OHCHR) in New York for action by the Working Group on Arbitrary Detention (WGAD) under the UN Human Rights Council in Geneva. In their response on April 27, 2012, North Korea reported that Sook-ja Shin died from hepatitis she suffered from since the 1980s. Her two daughters did not regard Oh as their father since he abandoned the family altogether. The precise time and date of her death was unknown.<sup>19</sup> The WGAD concluded that North Korea's detention of Sook-ja Shin and her two daughters was arbitrary and that it was in violation of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.<sup>20</sup>

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<sup>19</sup> UN Doc. A/HRC/WGAD/2012/4(16 July 2012), "Opinions adopted by the Working Group on Arbitrary Detention at its sixty-third session, 30 April-4 May 2012," para. 15.

<sup>20</sup> *Ibid.*, para. 27.

### <The 1969 Skyjacking of a Korean Airliner>

During the third reunion meeting of separated families held in 2001, Kyung-hee Sung and Hu-dok Lee came to meet their South Korean family members. They were among the kidnapped persons aboard the Korean Airliner in 1969. Subsequently, the families of passengers and crew of the skyjacked airliner began a new campaign for the status confirmation and reunion with their missing family members.<sup>21</sup> In May of 2008, the Family Association for the Kidnap Victims of KAL was launched.<sup>22</sup> The “Family Association” has filed three petitions with the Working Group on Enforced or Involuntary Disappearance (WGEID) under the UN Human Rights Council for the return of their missing family members: Won Hwang (file date: June 17, 2010), Dong-ki Lee (file date: October 10, 2010), and Jeong-woong Choi (file date: November 8, 2010). In addition, on March 10, 2011, the association also filed a letter with South Korea’s Unification Ministry addressed to North Korea’s Red Cross and the Director of Unification Front requesting confirmation of personal status and an early return of 11 family members aboard KAL. The Unification Ministry attempted to deliver the letter to the North Korean side of Panmunjom on March 30, 2011, but North Korea refused to accept the letter. On April 20, 2011, Korean Red Cross filed a request in cooperation with ICRC concerning the safe return of 11 KAL kidnap victims to South Korea.<sup>23</sup> In response to the petition of the family association, North Korea said that “the

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<sup>21</sup>-In 1969, a total of 50 persons (46 passengers and 4 crew) aboard Korean Airliner were kidnapped to North Korea. On February 14, 1970, North Korea did return 39 passengers, but refused to return 7 passengers and 4 crew members.

<sup>22</sup>-In-chol Hwang (son of kidnap victim Won Hwang) is heading the “family association.”

<sup>23</sup>-In-chol Hwang, “*The Tragedy of Families of KAL Kidnap Victims*,” Citizens’ Alliance for North Korean Human Rights, et al., *The 11th International Conference on North Korean Human Rights and Refugees*, November 23, 2011.

three unreturned persons did not meet “enforced or involuntary disappearance criteria,” and that “there was absolutely no one in North Korea who was detained against their will or part of ‘enforced or involuntary disappearance.’” During a meeting of “enforced and involuntary disappearance group” held in Geneva in March 2012, North Korea argued that the kidnapped persons issue “was a product of provocative scheme of the forces hostile to North Korea.” As for the ICRC’s repatriation request of April 2011 and the South Korean Government’s June 2006 request for confirmation of personal status, North Korea said “confirmation of personal status is impossible.”<sup>24</sup> Meanwhile, on February 14, 2012, the family association filed a lawsuit in Seoul against Chang-hee Cho, who skyjacked the Korean Airliner in 1969. However, South Korea’s Prosecutors’ Office dismissed the case on March 20, 2012 based on statutory limitation.

### C. Assessment

North Korea’s abduction of civilians in times of war is a flagrant violation of the 1949 Geneva Convention (IV) which prohibits forcible transfer and detention of civilians, and kidnapping civilians in the post-war period is tantamount to crimes against humanity and war crimes under international law. Abduction and kidnapping also violates the victims’ family rights. The South Korean Government has been trying to confirm the current status of war time abduction victims, but there has been no progress since 2010 when North Korea notified that they were unable to confirm the status of five persons who were abducted during the Korean War.

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<sup>24</sup> *Yonhap News*, <[www.yonhapnews.co.kr](http://www.yonhapnews.co.kr)>, September 18, 2012.



There also has been no progress on post-war kidnap victims since North Korea responded in 2010 that they were unable to confirm the personal status of the 11 post-war kidnap victims. Should inter-Korean tensions persist, it would be difficult to expect any progress in 2013. In 2012, the international community actively responded to the Daughters of Tongyoung case and the 1969 KAL Abduction case. These activities are expected to continue in 2013.



# 3



## *Korean War POWs*

### **A. The Status of Korean War POWs**

The term “Korean Armed Forces prisoners” refers to those members of the Republic of Korea Armed Forces who were taken as prisoners of war (POWs) during the Korean War, detained in North Korea or other enemy countries, unable to return to South Korea. The U.N. Command at the time of the armistice following the Korean War estimated 82,000 members of the Korean Armed Forces to be missing, but the number of POWs who returned during prisoner exchanges between April 1953 and January 1954 was only 8,343. Accordingly, it is estimated that many more South Koreans remain detained in North Korea.<sup>25</sup>

According to the defectors and POWs who have returned to South Korea, as of the end of 2012, there are approximately 500 surviving Korean War POWs still held in North Korea. Military personnel regulations require all POWs and MIAs be re-classified

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<sup>25</sup> Ministry of Defense (ROK), *2012 Defense White Paper* (Seoul: Ministry of Defense, 2012), p. 110.

as killed in action after a certain period has elapsed, so that their families may benefit from compensation and consolation payments. Since the late Lt. Chang-ho Cho, a former Korean War POW, returned to South Korea in 1994, few other POWs have also returned. As of September 2012, 80 former Korean War POWs have returned to South Korea, and there are approximately 400 surviving POW family members.

<Table VII-17> Status of Returned Korean War POWs by Year

(Unit: People)

Year	1994	1997	1998	1999	2000	2001	2002	2003	2004
No. of POWs	1	1	4	2	9	6	6	5	14
Year	2005	2006	2007	2008	2009	2010	2011	2012	Total
No. of POWs	11	7	4	6	3	1	-	-	80

Source: The Ministry of Defense, 2012 Defense White Paper, p. 111.

According to the testimonies of defectors and returned POWs, many POWs were re-enlisted into the People's Army during the war and after the war between 1954 and 1956. During this time, they were group assigned to coal mines, factories, and farm villages to participate in rehabilitation projects. According to a U.S. Defense Department document declassified on April 12, 2007 (A Report on the Transfer of Korean POWs to the Soviet Region),<sup>26</sup> several thousand South Korean POWs were transferred to Okhotsk and other Soviet Far Eastern ports between November of 1951 and April of 1952. They were then detained in Kholima Detention Center

<sup>26</sup> This report was written on August 26, 1993, as 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.

near Yakutsk.<sup>27</sup> The number of POWs transferred to the Chukotski Sea region was at least 12,000. The report also mentioned that the death toll was high from difficult road and airfield construction work they were sent to. With regard to this issue, the South Korean Defense Ministry announced on December 18, 2007 that they were unable to confirm or discover any evidence concerning the transfer of South Korean soldiers (POWs) to the Russian Far Eastern Province. The Ministry of Defense commissioned a project in 2008 called “Research on Transfers of South Korean POWs to the Soviet Union during the Korean War.”<sup>28</sup> As part of a fact finding mission, a team of researchers from the Institute of Military History paid a visit to the “Magadan” region of Siberia where a Soviet prison camp was located. The team also collected and analyzed a United States-Russia joint research report on the United States POWs and MIAs during the Korean War. However, the research team was unable to find conclusive evidence concerning the transfer of Korean POWs to Siberia during the war. The team was only able to collect a few testimonies from North Korean defectors about their transfer story.

## **B. Human Rights Abuses on POWs and their Families**

Most South Korean POWs are believed to have been assigned to coal mines in North and South Hamgyong Provinces. At the time, many South Korean POWs were employed there as North Korea was in great need of manpower at their coal mines and ordinary North

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<sup>27</sup>–*Yonhap News*, April 13, 2007.

<sup>28</sup>–Dr. Sung-hoon Cho at the Institute of Military History conducted this research from December 2008 to August 2009.

Koreans were reluctant to work in them. North Korean defectors testified that many former South Korean POWs were assigned to work and live at various coal mines. Working at the Sanghwa Coal Mine in Onsung County, North Hamgyong Province, were former POWs Hwa-sik Ahn, Kwang-yoon Woo, XX Jang, Seung-ro Hong, In-kong Park, Sang-jin Kim, Sang-won Shin, XX Choi, Sam-sik Ok, Myong-jo Bae, Bu-jae Baek, Won-mo Chung, and Bok-man Lee.<sup>29</sup> Working at the Musan Coal Mine (North Hamgyong Province) were Gap-do Lee, Young-ho Kang, and Hee-keun Lee.<sup>30</sup> Working at the Hakpo Coal Mine in Seichon County, Hoeryeong City, were Yong-yon Jang, Tae-in Ryu, XX Oh, Jeung-ho Lee, and Soo-hwan Jeong.<sup>31</sup>

After the Korean War, South Korean POWs were apparently detained in No. 25 Management Center in Chongjin City. This center was used as a “POW camp,” and later transformed into a political prison camp.<sup>32</sup> South Korean POWs were given citizen ID cards and released to the society from collective detention centers in June 1956, but most were assigned to coal mines near their previous collective detention centers as the authorities needed more manpower. In addition, they were 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 was certain to impact the lives of their children, many POWs chose not to tell their children about their past personal history. Notwithstanding that fact, the children of former POWs are discriminated against in their careers, as well as in cases of Party membership, and college admission. A defector

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<sup>29</sup> NKHR2008000021 2008-09-23.

<sup>30</sup> NKHR2008000016 2008-09-02.

<sup>31</sup> NKHR2008000011 2008-08-12.

<sup>32</sup> Interview with defector XXX in Seoul on September 27, 2012.

testified that North Koreans called the South Korean POWs “puppet soldiers” (captured soldiers).<sup>33</sup>

Former South Korean POWs and their families are severely discriminated against in North Korea. North Korean defector XXX testified that her husband’s colleague was the son of a former POW, and he could not join the Party even though he had served 10 years in the military.<sup>34</sup> But other defectors testified that even the families of former POWs can join the Party, and it does not have any negative impact in their daily lives. North Korean defector XXX testified that his father was a former POW who returned to North Korea. Initially he was not permitted to join the Party, but later he was allowed to join, after Party instructions decided to look forward rather than backward.<sup>35</sup> Another North Korean defector testified that his father was not allowed to join the Party because both his grandfathers were former South Korean POWs. However, they were not discriminated by North Koreans in their daily life.<sup>36</sup>

### C. Confirmation of Personal Status and Family Reunion

Similar to the kidnapped South Koreans and other separated families, the human rights of former POWs are routinely violated in regards to family reunions and exchange of letters. For this reason, former POWs are classified as special separated families along with

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<sup>33</sup>\_NKHR2008000011 2008-08-12.

<sup>34</sup>\_NKHR2011000044 2011-02-08.

<sup>35</sup>\_NKHR2011000178 2011-08-02.

<sup>36</sup>\_NKHR2011000176 2011-08-02.

the kidnapped persons. With a view of protecting POWs, the international community has adopted the Geneva Convention Relative to the Treatment of Prisoners of War (Geneva Convention III) on August 12, 1949. “Article 118” of 1949 Geneva Convention III stipulates that prisoners of war must be released or returned without delay after the cessation of hostilities. The Convention further specifies, “prisoners of war must at all times be humanely treated.” (Art. 13) Article 52 also prohibits endangering the health of a prisoner of war. At the time of the Korean War, North Korea was not a party to this convention, but joined on August 27, 1957. As discussed earlier in connection with separated families, North Korea did express their willingness to abide by the 1949 Geneva Convention III.

<Table VII-18> Major Provisions in the 1949 Geneva Convention III

1949 Geneva Convention III Art. 13	Prisoners of war must at all times be humanely treated. Any unlawful act or omission 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.
Art. 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.
Art. 52	Unless it is voluntary, no prisoner of war may be employed on labor unhealthy or dangerous in nature.
Art. 118	Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

From the time the prisoner exchanges that took place after the war, to the 1960s, the United Nations Command at Military Armistice Committee meetings repeatedly demanded the resolution of the remaining South Korean POWs to North Korea. But North

Korea insisted that they returned “all” South Korean POWs to the Neutral Nations Transfer Committee, and that there are no South Korean POWs forcibly detained in North Korea. North Korea’s position on this issue remains unchanged.<sup>37</sup>

After the inter-Korean summit meeting in June 2000, inter-Korean Red Cross Talks and inter-Korean Ministerial meetings were held. At these meetings, the two sides agreed to consult and resolve the POW issue, along with the separated family issue. At the seventh inter-Korean Red Cross Talks held in February 2006, the two sides agreed to consult and resolve the issue of confirming the current status of those who lost contact during and after the wartime as part of the separated family issue. This principle was reaffirmed at the 20th Ministerial meeting held in February 2007 and at the eight inter-Korean Red Cross Talks held in April 2007.<sup>38</sup> From the second to the 18th Red Cross reunion meetings of separated families a total of 126 requests were made about POW status confirmation, and North Korea confirmed 19 alive, 14 deceased, but were unable to confirm status of 93 POWs. 17 former POWs were able to meet with their South Korean families.<sup>39</sup> During the 2009 reunion of separated families on Chusok (Korean Thanksgiving), the status of 10 former POWs were confirmed, but only one, who was identified, was able to meet with his South Korean family. On the same occasion in 2010, South Korea again requested the status of 10 POWs, and North Korea responded by confirming that one had deceased.

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<sup>37</sup> Ministry of Defense, *2012 Defense White Paper*, p. 110.

<sup>38</sup> *Ibid.*, p. 111.

<sup>39</sup> On the occasion of the family reunion meeting in 2010, it was confirmed that former POW Pil-hwan Suh (82) had died, while four POWs previously classified as “killed-in-action” attended and met with their loved ones from South Korea. They were Won-jik Lee, 77, Jong-ryol Lee, 90, Tae-young Yoon, 79, and Young-won Bang, 81.



<Table VII-19> Status of Reunion of former POWs (2010-2011)

Category	Status Request	Living	Deceased	Unable to confirm/ Etc.	Reunion	Number of families
South Korean POWs	126	19	14	93	17	26 families (119 persons)

Source: Ministry of Unification, 2012 Unification White Paper, p. 143.

## D. Treatment and Assistance for Returning POWs

South Korean Government has set standards and detailed rules about the treatment and assistance for the former POWs who have returned, and on January 29, 1999, enacted the “Law concerning the Treatment of POWs.” They also enacted the “Law concerning the Return and Treatment of former POWs” on March 24, 2006 in an effort to help resettle and assist returned POWs and their families. Based on these laws, all returned POWs receive back pays, 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 deceased in North Korea, where he had been detained, his spouse or children upon return to South Korea receive special grants for the POW families in addition to normal settlement assistance other North Korean defectors receive upon entry into South Korea.

Since the late 2008, Ministry of Defense has conducted special reorientation programs for the returned POWs so they can quickly adjust to their life in South Korea. They also receive professional education and psychiatric assistance offered by civilian

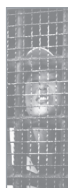
organizations to gain necessary skills and knowledge for new life in South Korea.<sup>40</sup>

## E. Assessment

Detention of POWs by North Korean authorities is in violation of the 1949 Geneva Convention III and the duty to release and return them without delay after the cessation of hostilities and to treat them humanely at all times. Similar to other humanitarian issues such as separated families and abducted persons issues, the South Korean POWs issue has not seen any progress in 2012. Should the inter-Korean tension persist in 2013 as it did in 2012, status confirmation and reunion of former POWs with their South Korean families would be difficult to expect in 2013. But, if and when the Korean Peninsula Trust-building Process gets under way between the two Koreas, there is a good chance that these humanitarian issues will see a significant progress.

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<sup>40</sup>Ministry of Defense, *2012 Defense White Paper*, p. 112.



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