

White

Paper

on

Human

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Foreword

The Korea Institute for National Unification (KINU) established the Center for North Korean Human Rights Studies in 1994 under the recognition that unification with an aim to build one national community could not be achieved without the democratization and the improved human rights conditions in North Korea. The Center has annually published *White Paper on Human Rights in North Korea* both in Korean and English since 1996.

During the last 21 years, the concerns and interests of the international community over the severity of the North Korean human rights issues have grown remarkably - the level of which reached a peak after the Commission of Inquiry on Human Rights in the DPRK (COI) released a report in 2014. According to the COI report, systematic, widespread, and gross human rights violations have been committed in North Korea, which constitute the crimes against humanity.

The COI's findings have encouraged intensive and substantial discussions on how to improve the human rights situation in the North. The UN Human Rights Council and the UN General Assembly adopted strong resolutions on North Korean human rights, and the UN Security Council formally added the issue of

North Korean human rights to its agenda. In addition to that, the UN field-based structure-UN Human Rights Office (Seoul)-was established in June 2015. Also, various efforts have been made at the individual country level to improve the North Korean human rights situation-with Australia, Italy, New Zealand, and Argentina adopting the resolution on North Korean human rights for the first time. The United States put eleven North Korean senior officials including Kim Jong Un and five entities including Ministry of State Security on the U.S. sanctions list for their ties to human rights abuses.

Domestically, there have been lively discussions on the enhancement of North Korean human rights, as illustrated by the passage of North Korean Human Rights Act – a breakthrough taken place in 11 years thanks to the agreement reached between the ruling party and the opposition parties. The value of human rights can never be separate from the value of unification. And making the efforts to improve the human rights situation in the DPRK is a shortcut to achieving unification. The ideal picture of a future unified-Korea is that the residents of both South and North happily enjoy the universal human rights and realize the liberal democracy and the market economy.

KINU will continue to make a strenuous effort to present the objective and trustworthy research findings based on the systematic and specialized investigation system and database management

system.

I hope that this *White Paper* can domestically and internationally facilitate the discussions and activities for the enhancement of North Korean human rights, thereby ultimately contributing to the substantial improvement of North Korean human rights.

Jinwook Choi
President, KINU

Chapter I

Purpose for Publication and Research Methodology

The *White Paper on Human Rights in North Korea 2016* aims to draw more attention, in Korea and abroad, to North Korean human rights violations and provide the basic data needed for discussion and activities for improvement of the situation by objectively investigating and analyzing the status of human rights in North Korea through comprehensive and systematic handling of the related issues.

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

State Party to these treaties.

Under the circumstances where we do not have direct access to internal information on North Korea, the Korea Institute for National Unification (hereinafter KINU) uses in-depth interviews of North Koreans who have escaped North Korea and settled in South Korea as the most important tool to investigate the realities. The *White Paper on Human Rights in North Korea 2016* incorporates information from the in-depth interviews of 186 interviewees selected in consideration of demographic and social background of the North Koreans who have recently escaped from North Korea to South Korea. In addition, we refer to materials, in South Korea and abroad, related to North Korean human rights including official documents from North Korea and the United Nations (UN), etc.

This *White Paper on Human Rights in North Korea 2016* mainly describes what was investigated in 2015, with the major focus of investigation and analysis being the events taking place within 5 years from the year of this investigation. Moreover, it mainly includes events experienced or witnessed by North Korean defectors. As for North Korean laws, the latest versions of the ones collected by KINU are used.

Chapter II

The Reality of Civil and Political Rights

■ Right to Life

The right to life is a supreme right and the basis of all other human rights. However, it is identified that the right to life of the North Korean people is seriously threatened. In North Korea, there are continuous extrajudicial, summary or arbitrary executions in various contexts including purges of high-ranking figures. Moreover, North Korea has an extensive list of the crimes that are punishable by death defined not only by the Criminal Law but also by a unique form of law, the Addendum to Criminal Law (General Crimes), and the death penalty is carried out frequently. In particular, the cases of executions for smuggling and trafficking of narcotics and watching and distributing South Korean video recordings have increased substantially in recent years. In the 2015 survey, eye-witness testimonies of executions for crimes related to narcotics and South Korean recordings were collected. It is also identified that there are continuous violations of the right to life including deaths within detention facilities, etc.

■ Right to Not be Tortured or Receive Inhumane Treatment

North Korea has regulations against torture and inhumane

treatment in its Criminal Law and Criminal Procedure Law. In spite of such regulations, however, it is identified that there are frequent cases of torture and inhumane treatment in the process of handling criminal cases, and many such cases were collected in the 2015 survey. Moreover, it is confirmed that public executions are carried out continuously in North Korea. This is equivalent to cruel, inhumane or degrading treatment or “punishment” from the perspective of the person who is executed and equivalent to cruel, inhumane or degrading “treatment” to those who witness the executions. By region, Hyesan, Yanggang Province accounts for many of the witnessed cases and there are also some cases witnessed in Hoeryeong, North Hamgyeong Province and Sinuiju, North Pyeongan Province. This is analyzed to be a reflection of the fact that there are relatively more illegal activities in border regions and cities, and the North Korean authorities intend to warn and incite fear among the residents through these public executions.

■ Right to Not be Forced into Labor

Separately from correctional labor punishment and labor training punishment stipulated in the North Korean Criminal Law, “labor training discipline” as a legal discipline imposed by prosecutors on those who violate laws, is stipulated in the North Korean Prosecution and Surveillance Law, and “unpaid labor discipline” and “reeducational labor discipline” are stipulated as the

kinds of administrative penalties in the North Korean Administrative Penalty Law. In reality, there has been a continuous stream of testimonies of cases where people had such disciplines imposed on them and were mobilized for labor, and relevant testimonies were also collected in the 2015 survey. It was also found that forced labor has been imposed on prisoners of holding centers (*jipkyulso*) where travelers who went outside of their designated regions or overstayed their authorized duration, homeless children, those whose cases are pending, and deported defectors are interrogated and detained. While the International Covenant on Civil and Political Rights (hereinafter the ICCPR) prohibits the imposing of forced or compulsory labor, it recognizes exceptions in certain cases including when detention with hard labor may be imposed as punishment for a crime in the country, and the performance of hard labor is based on the sentence to such punishment by a competent court. The issue of forced labor is raised on those who are forced into “labor training discipline”, “unpaid labor discipline”, and “reeducational labor discipline” and those detained in the holding centers (*jipkyulso*) as they are forced into it for reasons that are not recognized as exceptions to the prohibition against forced labor under the ICCPR.

■ Right to Liberty and Security of Person

The North Korean Constitution stipulates the inviolability of the person, and the North Korean Criminal Procedure Law

includes regulations on liberty and security. However, in reality, it is identified that there are frequent arbitrary or illegal arrests and detention, with detention of political criminals providing a representative case of this. There were testimonies collected on cases of detention at political prison camps (*kwanliso*) in the 2015 survey which will be described in more detail in the section on political prison camps (*kwanliso*) in Chapter V, *Major Issues*. In addition, there are also frequent arrests and detention as punishment for the legitimate exercise in North Korea of the rights guaranteed in the ICCPR, which are also clearly applicable to arbitrary arrest and detention. It is identified that the overall procedural guarantee of liberty and security is insufficient, including in terms of notification of the reason for arrest, notification of alleged details to criminal suspects, quick execution of criminal procedures, and reviews of legality for arrest and detention, etc.

■ Right to Humane Treatment in Detention

It is also identified that there are serious human rights violations in various detention facilities including prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*) and detention centers, etc. Violence and mistreatment have become daily practice, the situation regarding nutrition, sanitation and healthcare is very poor, and due to these reasons, there are constant cases of prisoners dying. Many testimonies to this fact were collected in the 2015 survey. Moreover, the guaranteed treatment

for unconvicted prisoners is confirmed to be very insufficient except that unconvicted and convicted prisoners are separately detained in terms of facilities. As for the treatment of convicted prisoners, it is also identified that there are measures that do not benefit the original goals of the correctional system including imposition of excessive labor, etc. This is assessed to be related to the prevalent trend of refusing human dignity for criminals or deviants.

■ Right to Freedom of Residence and Movement

The 2015 survey identified that the right to freedom of residence and movement of the North Korean people is severely violated by the policies of the North Korean authorities. When compared to the previous year, there is a lack of evidence that the right to freedom of residence and movement has expanded in North Korea. A case in point is restriction of the right to freedom of movement through maintenance of a travel permit system and crackdowns by zone. The forced deportation and measures of limiting or prohibiting access to certain regions for political reactionaries, as defined by the North Korean authorities, are also identified to be continuing. Forced deportation as a policy used by the North Korean authorities to maintain the regime and social order seems to be carried out in line with increasing anti-socialist irregularities including the sex trade, narcotics trade, illegal use of mobile phones and defection of family members, etc. North

Korea, under the Kim Jong-un regime, regards such attempts, which have reached a massive scale of late, by North Korean people to leave the country as illegal. Such attempts are punished in accordance with the unrelenting control over the overall North Korean society.

■ Right to a Fair Trial

While North Korea stipulates the independence of trials and judges, in reality, it denies the independence of trials. Moreover, it carries out trials only perfunctorily and conducts them unfairly, including imposition of conflicting punishments for the same crime. Moreover, North Korea operates a comrade trial system and a State Security Department (hereinafter SSD) political criminal trial system which are not through an official trial institution, and diverse institutions, including the Socialist Law-Abiding Life Guidance Committee, impose administrative penalties, which is a violation of the right to receive trials at “a court established by laws.” Prohibition against appealing the judgment and decisions in the first trial of the Supreme Court goes against Article 14, paragraph 5 of the ICCPR, which guarantees everyone’s right to appeal. In reality, denial of the independence of trials, unfair trials, perfunctory operation of an appeal system and the right to counsel continues.

Meanwhile, Guk-gi Kim and Chun-gil Choi, who are South

Korean citizens, and Hyun-soo Lim, who is a Canadian citizen, received a criminal trial in North Korea. North Korea's stance of not recognizing the right to consultation with a consul for South Korean people while guaranteeing the right to consultation with a consul for foreigners continued in 2015. This violation of the individual right to consultation with a consul, which is a violation of consular conventions, may also go against the right to a fair trial.

■ Right to Privacy

While North Korea stipulates in its constitution what is stipulated as the right to privacy in the ICCPR, it is identified that protection of the privacy of its people is not properly implemented. Rather, extensive and organizational surveillance and controls by the country on the privacy of the people are confirmed to have long been carried out institutionally. This serious violation of the right to privacy has been structuralized for a long time. Surveillance of privacy through the “five-household-surveillance system (*Shodamdangje*),” “neighborhood watch (*inminban*) system,” and “daily-life re-education (*saeng-hwal-chong-hwa*) system” that were established in the 1970s have been confirmed to be operating strongly. Moreover, with many testimonies of illegal searches of residential spaces collected in the 2015 survey, it is identified that the right of inviolability of residential space is seriously violated in the actual lives of the people. What is noteworthy is that the pretexts for

surveillance and illegal house searches have the characteristic of random crackdowns on contact with family members who have defected from North Korea, or engaged in smuggling or theft. Technically based on the assumption that all people are potential criminals, surveillance and illegal searches are often carried out.

■ Right to Freedom of Ideology, Conscience and Religion

The right to ideology, conscience and religion of the North Korean people is identified as seriously violated. The Ten Principles of Unitary Ideology of the Kim Jong-il regime was changed to the Ten Principles of the Unitary Leadership System under Kim Jong-un, but it is a change in name only: their nature remains the same. Above all, the *Juche* ideology that North Korea believes and the Ten Principles of the Unitary Leadership System centered around *Suryong* is fundamentally limited in that they cannot guarantee the right to freedom of ideology, conscience and religion. Furthermore, as one can know from the legislative reality of North Korea, where freedom of ideology and conscience is not even mentioned in the constitution, there is a lack of awareness of freedom of ideology and conscience among the North Korean people. In terms of religious freedom, although it is stipulated as a legal right in its perfunctory mention in the North Korean Constitution, the lack of awareness and restrictions on religious freedom is prevalent to the extent where most people have never heard the word “religion.”

■ Right to Freedom of Expression

While the North Korean authorities argue that they guarantee freedom of expression by law and the North Korean people fully exercise this freedom, it is only perfunctorily recognized and not allowed in North Korea in practical terms. The North Korean people live in fear of being punished for negative comments or criticism of the supreme leader and his family or the North Korean regime and Party policies, and are extreme in their refraining from expressing political opinions. This is due to the controlling mechanism of the political prison camps (*kwanliso*). The press and publications that are supposed to be tools for expressing diverse opinions instead focus on instigating people to idolize Kim Il-sung, Kim Jong-il and Kim Jong-un under the direction and control of the Korean Workers' Party (hereinafter KWP), and arbitrary censorship and regulation of publications by the North Korean authorities continue. Meanwhile, crackdowns and punishment for illegal recordings and illegal use of mobile phones, which play important roles in the inflow of external information, are reinforced, which constitutes a serious violation of the right-to-know of the North Korean people.

■ Right to Freedom of Assembly and Association

The 2015 survey shows that the freedom of assembly and association by the North Korean people is still not guaranteed.

Based on Article 21 and 22 the ICCPR, North Korean people have the right to peaceful assembly and to establish and join voluntary associations for improvement of benefits. However, in the reality of North Korea, not only are such freedoms of assembly and association not allowed, the people are forced to participate in assemblies or organizations that are allowed and institutionalized by the North Korean authorities. Under the reality of North Korea, where social and Party-level controls are reinforced at the national level, it is also true that social disintegration is taking place in a variety of ways among the North Korean people. According to many North Korean defectors, due to marketization and liberalization caused by the inflow of external information, North Korean society is much more disintegrated than before, and therefore, there is a greater divide between the authorities that are reinforcing control and the disintegrating society. Although such social liberalization is sometimes linked with the disintegration phenomenon in government-led meetings or the attitude of organizational life itself including daily-life re-education (*saeng-hwal-chong-hwa*) imposed by the authorities, the chance of expansion of the freedom of assembly and association for the North Korean people in the short-term is slim as the North Korean authorities view establishment of the Kim Jong-un Unitary Leadership System as their top priority.

■ Right to Political Participation

In the real political scene of North Korea, while the North Korean people regularly participate in elections under the control of the KWP, it is identified that the principles of direct, popular, equal and secret vote mentioned in its Constitution and Deputy Election Law are not abided by. For the North Korean people, elections are conducted under strict supervision and control of the SSD and the Ministry of People's Security (MPS) and the elections are regarded as something in which they must participate as they face political suspicion or other negative consequences in their daily lives if they do not or refuse to vote. Moreover, according to North Korean defectors who gave testimonies, most North Korean people do not even know there are such principles of direct, popular, equal and secret vote in elections. Most of the testimonies showed that in reality, people do not know who the candidates are most of the time and secret voting is something unimaginable. Based on this, it is difficult to say that the right to political participation in the true sense is realized in North Korea.

■ Right to Equality

The right to equality of the North Korean people is identified as not properly protected. Personal background (*songbun*) and class still function as the key institution that creates inequality in diverse areas of the lives of the people. Discrimination based on

this *songbun* and class is an important foundation for maintaining the North Korean regime and has been carried out in a structured way. What is noteworthy in the 2015 survey, is the testimony that there was a lightning “reform (reorganization)” of resident registration documents in March 2012 after Kim Jong-un came to power. It is said that the system has eased, and the scope of “family background”, which had influenced job assignments, school entrance and social life, has narrowed. This can be regarded as some alleviation of the systematized discrimination framework. However, as there are testimonies that movement of people from cities and farming areas has been more strictly prohibited since Kim Jong-un came to power, it seems that the reform will negatively impact mitigation of the existing discrimination and inequality.

Chapter III

The Reality of Economic, Social and Cultural Rights

■ Right to Food

Food production in North Korea has continuously improved since the 2000s. The North Korean authorities are also taking limited measures for reform, including introduction of a “paddy unit responsibility” system to increase food production. However, due to the decreased food production caused by drought and the reduced food imports also in 2015, the overall availability of food

is assessed to have decreased. Although the availability of food is insufficient, if the rationing system works normally, North Korean people can receive a substantial part of the decided ration. However, due to the inefficiency and discriminatory nature of the rationing system, many people are excluded from food rations, causing the polarization in access to food to continue. To supplement this insufficient food supply, people continue to involve themselves in vending and peddling and cultivate their own paddies. In particular, in spite of introduction of the “paddy unit responsibility” system, worsening of the right to food continues due to excessive skimming by officials.

■ Right to Health

The health care system in North Korea continues to collapse. The reality in local clinics and People’s hospitals that are mainly used by the North Korean people has worsened. In contrast, as there is relatively higher investment in large hospitals in Pyongyang, the polarization of the right to health between classes and regions has not been resolved. While the availability of medicine is insufficient, it has become general practice for people to purchase it at marketplaces or private pharmacies. While the North Korean authorities perfunctorily maintain a free treatment system, the situation where patients have to pay for most of the free items stipulated in the Public Health Law is becoming a fixed aspect of life. In particular, it is identified that violation of the right to

health of vulnerable groups who do not receive the benefits of free treatment has become serious. Moreover, while some vaccination is provided, prevention and control of diseases are still assessed to be poor.

■ Right to Work

Based on the 2015 survey, the freedom to choose jobs based on personal abilities and desire, the right to work under favorable conditions, the right to receive just compensation for labor, the freedom to establish, join and withdraw from a labor union, etc., are still not protected or guaranteed. Of particular note is that “group allocations” of people forced to work at various construction sites and engage in harmful labor, etc., is rather increasing. This seems to be a phenomenon taking place as the authorities push ahead with large-scale civil engineering constructions to be able to show their achievements with Kim Jong-un coming to power. It is identified that there is illegal extension of labor hours in an excessive manner at construction sites and due rest time and workplace safety are not provided.

■ Right to Education

The right to education in North Korea is still assessed to be insufficient. In particular, when analyzing the educational situation in North Korea in terms of availability, acceptability and appropriateness, it was found to be inadequate in all criteria. The ideology

education that the North Korean authorities have stressed continuously is assessed to be a serious violation of the freedom of learning and the right to choose of students. Moreover, North Korean children are known to engage in labor as part of school life, and North Korea limits the freedom of choice of students by assigning a certain time for labor as part of the educational curriculum.

■ Right to Social Security

In terms of legal institutions, North Korea is fulfilling its obligations in terms of availability of social security through enactment of the Social Security Law and other sub-laws in a variety of areas. However, due to the economic crisis, the social security system for people in North Korea is in name only. In other words, social security in North Korea is extremely insufficient to properly fulfill the requirement for appropriateness, which refers to a level where people can maintain appropriate standards of living. Moreover, while North Korea has officially abolished its taxation system, it actually continues collecting money from people under various pretexts. As such required payment exceeds what North Korean people can bear, the social security system in North Korea is assessed as failing in accessibility. Old age pensions and subsidies for senior citizens are not provided in most cases. Even when they are provided, an absolute minimum of money or goods, insufficient even for the cost of living for one

day, is given. As a result, senior citizens in North Korea must work on the side or receive support from other sources. The situation is the same for industrial accidents. While the regulations stipulate that pensions or subsidies shall be paid, they are not in practical terms, or amount to so little that it is impossible to maintain life with what is provided.

Chapter IV

Vulnerable Groups

■ Women

North Korea claims to advocate a socialist regime, and has historically enacted laws on gender equality, etc., and joined the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW). Moreover, in North Korean society, which has changed as it has undergone economic difficulties, women have been more active than men and shown a strong commitment to life. However, at the same time, there are innumerable challenges that North Korean women face, including a male-oriented political system and culture and social discrimination, etc. Specifically, the major actors in the marketplaces that are prevalent in North Korea are women, and they are also fully responsible for housework and childcare. The paternalistic Confucian culture that has taken strong root in North Korea is the most significant obstacle to

division of roles at home and improvement of women's status and rights as reflected in reality. Most North Korean defectors point out that treatment of women in North Korea is still unfair. The fact that North Korea withdrew from some saving clauses of the CEDAW in 2015 can be assessed as a positive change.

■ Children

Since Kim Jong-un came to power, measures have been taken to protect children by defining them as targets for particular protection, and through diverse laws. However, in disagreement with the Convention on the Rights of the Child (hereinafter CRC), North Korea defines children as “those aged up to 16 years” old, connoting elements of violations in the areas of human rights related to military service and prohibition against child labor, etc. Moreover, the malnutrition among North Korean children, including chronic malnutrition, is assessed to be at a level of concern. In particular, as found in a UN investigation, the nutrition gap between regions, including between large cities such as Pyongyang and the northeastern region, is serious. While North Korea is taking protective measures for children who cannot be protected through *Aeyukwon* (homes for preschool orphans) or other facilities, those who wander as homeless child beggars (*kotjebi*) due to the poor environments at the facilities, etc., are also assessed to be in dire situations.

■ Persons with Disabilities

North Korea has continuously pursued domestic measures and international cooperation for protection of persons with disabilities since it signed the Convention on the Rights of Persons with Disabilities (hereinafter CRPD). It has designated persons with disabilities as targets for particular protection and has responded to policies on persons with disabilities in a forward-looking manner. While North Korea is making efforts to raise awareness regarding persons with disabilities, it is identified that there still exist strong negative perceptions of the handicapped. Moreover, suspicion of actions that go against social integration and respect for the household, including separation and sterilization of midget persons, is yet to be resolved. While the authorities are making efforts through honored veterans factories, factories for general persons with disabilities and rehabilitation, the efforts are assessed to have been ineffective due to economic crisis. While care for persons with disabilities is emphasized, insignificant financial investment seems to have been made in 2015. In particular, it is assessed that there have been no meaningful policies or measures regarding mobility of persons with disabilities.

Chapter V

North Korean Defectors and Other Humanitarian Issues

■ Political Prison Camps

Although North Korea denies their existence, there are political prison camps called “*kwanliso*” in North Korea. In that they are not official detention facilities, there are fundamental elements of human rights violations inherent in these political prison camps (*kwanliso*). It is identified that there are continuous cases of detention at political prison camps (*kwanliso*) in North Korea for attempting to go to South Korea or contacting South Korean citizens. However, in the 2015 survey, there were testimonies that cases of remaining family members being sent to political prison camps when a family member escaped North Korea and went to South Korea have decreased and that children have been excluded even when the remaining family members were detained. It is identified that legal procedures are barely abided by in the process of arresting political crime suspects and detaining them at political prison camps (*kwanliso*). Meanwhile, there were no additional testimonies on the actual lives of prisoners at political prison camps (*kwanliso*) in the 2015 survey.

■ Corruption

As rationing for the general population was technically suspended after the economic crisis in the 1990s, the North Korean people sought ways to survive through markets and amid such circumstances, illegal and anti-socialist behaviors of pursuing “abnormal” private profits have spread rapidly. North Korea is punishing bribery through the Criminal Law and Administrative Penalty Law. However, in spite of such legal remedies, corruption, including bribery, is prevalent. The 2015 survey also found that this is the case in North Korean society at large. Bribery during investigations and preliminary examinations and at detention facilities including prison camps (*kyohwaso*) etc., and during the trial process shows that corruption in the judicial authorities and bureaucratic society is at a serious level in North Korea. Some cases are closely related to the daily lives of the North Korean people. With regard to issuance of travel permits, sale of houses, and job assignments, bribery is the general practice. The corruption prevalent in North Korea can be a factor that undermines the civil and political rights of all, as well as the fair sharing of economic, social and cultural rights.

■ Overseas Defectors

Since the late 2000s, the number of defectors staying in China has decreased remarkably. This is because the number of new

defectors has decreased due to reinforced border defenses and controls, continuous forced repatriations, the increased cost of defection, expansion of legal visits to China through expansion of the issuance of border crossing cards, improvements in the North Korean economy including reinvigoration of marketplaces and increases of those settling in third countries, including South Korea. The 2015 survey found that the level of punishment for defection changed around 2014. Collected testimonies revealed that while 6 months at labor training camps (*rodongdanryundae*) was the punishment upon the first repatriation, and correctional labor punishment was imposed on the second or further repatriations by 2013, correctional labor punishment has been imposed since 2014 for defection, regardless of the number of times. As border defenses and controls have been reinforced since inauguration of the Kim Jong-un regime, it is identified that there are significantly fewer cases of successful defection after repatriation.

Meanwhile, in response to the increasing number of North Korean workers breaking away from work sites in Russia, North Korea and Russia are reinforcing cooperation on criminal justice to crack down on and repatriate illegal immigrants. North Korea and Russia are reported to have signed an agreement on treatment of illegal immigrants in November 2014. In addition, the two countries signed treaties for cooperation on criminal justice and extradition in November 2015, and also an agreement and protocol

on repatriation of illegal immigrants on February 2, 2016. This is a matter of concern in that they are part of the measures to reinforce control over and repatriation of defectors in Russia by that nation and North Korea.

■ Overseas Workers

It seems that the size of North Korea's labor force sent overseas has increased in recent years. In the surveys from 2013 to 2015, reports of overseas North Korean workers dispatched to Qatar, the UAE, Kuwait, Libya, Russia and China were collected and these workers were found to be working mostly in logging and construction. North Korean workers are dispatched overseas through application to enterprises that dispatch such workers after physical check-ups and interviews, etc. It is identified that these overseas North Korean workers work under poor conditions without their basic right to work guaranteed. It was found that their daily lives are controlled by officers dispatched to their locations by the North Korean authorities. A substantial part of their wages is paid to the authorities under the term "planned quota" and workers do not receive due payment for their work. Although they are dispatched upon voluntary application, it was found that there are risks that they may face forced labor as they live in groups under the control of the North Korean authorities and the duty to repay the cost of dispatching them.

■ Separated Families, Abductees, Korean War POWs

The issues of separated families, abductees and Korean War POWs are humanitarian matters to which international humanitarian law applies. At the same time, they are human rights issues to which international human rights law applies. There are continuous violations of relevant international treaties and breaches of rights by the North Korean authorities. There were no additional testimonies secured on specific situations and human rights violations related to separated families, abductees, and Korean War POWs in the 2015 survey.

The family rights of separated families, based on international humanitarian law (Article 27, Geneva Convention (IV)), are infringed upon. Moreover, the right to family unification (Article 17 of the ICCPR), which is the right of families not to be interfered with arbitrarily or illegally, and the right of separated families, abductees and Korean War POWs to form families and be protected by society and the state (Article 23 of the ICCPR) are infringed upon.

South Korea and North Korea held a reunion for separated family members at Mt. Kumgang in October 2015. During this reunion, an abducted fisherman saw his mother again. However, South Korea and North Korea are not making much progress on the issues of separated families, abductees and Korean War POWs. To realize the right to family unification for separated

families, abductees and Korean War POWs, there should be a comprehensive check of who remains alive and who has died, family reunions should be made on a regular basis and the size of the reunions should increase.

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White Paper on Human Rights
in North Korea 2016



Chapter I

White Paper on Human Rights in North Korea 2016

- 1 Purpose for Publication
 - 2 Research Methodology
-

1

Purpose for Publication

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

¹- The UN HRC adopted a resolution on North Korean human rights by a vote of 27 in favor, 6 against and 14 abstaining on April 8, 2015. UN Doc. A/HRC/RES/28/22 (2015).

²- The UN General Assembly adopted resolutions on North Korean human rights by a vote of 119 in favor, 19 against and 14 abstaining on December 17, 2015. UN Doc. A/RES/70/172 (2015).

People's Republic of Korea (hereinafter COI) was established with a term of one year. Through this year of investigative activities, the COI indicated that systematic, widespread and grave human rights violations have been committed by the North Korean government, agencies and officials, its institutions and officials and in many instances, and the violations of human rights found by the Commission constitute crimes against humanity. In June 2015, a field office on North Korean Human Rights under the Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR) was established in Seoul as part of the follow-up measures to the COI report. In the meantime, North Korean human rights became an agenda item for the first time at a UN Security Council meeting on December 22 2014. North Korean human rights were also discussed at a UN Security Council meeting on December 10, 2015. An objective investigation and analysis should be made towards realizing substantial results from the multi-faceted endeavors to improve the human rights situation in North Korea.

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

North Korean human rights issues and provide basic material for discussion and action through objective investigation and analysis of the North Korean human rights situation and comprehensive, systematic exploration of North Korean human rights issues.

2

Research Methodology

This *White Paper* views the human rights situation of North Korean people based on the framework of international human rights standards. As is well known, North Korea is a State Party to the International Covenant on Civil and Political Rights (hereinafter the ICCPR), the International Covenant on Economic, Social and Cultural Rights (hereinafter the ICESCR), the CRC and Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (CRC-OP2), the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter the CEDAW) and a signatory to the Convention on the Rights of Persons with Disabilities (hereinafter the CRPD).

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

| Treaty | Status | Date of Access/ Ratification (based on date of notification/deposit) | Effective Date | Remark |
|---------|------------------------------------------|-------------------------------------------------------------------------------|-------------------|----------------------------------------|
| ICCPR | Accessed ³ | September 14, 1981 | December 14, 1981 | |
| ICESCR | Accessed | September 14, 1981 | December 14, 1981 | |
| CRC | Ratified | September 21, 1990 | October 21, 1990 | |
| CRC-OP2 | Ratified | November 10, 2014 | December 10, 2014 | |
| CEDAW | Accessed | February 27, 2001 | March 29, 2001 | Reservation to Article 29, Paragraph 1 |
| CRPD | Not ratified (Signed on July 3, 2013) | - | | |

The Vienna Convention on the Law of Treaties stipulates that a State Party to a treaty has the duty to faithfully fulfill the treaty and a signatory State to a treaty has the duty to refrain from actions that would undermine the target and objective of the treaty (Article 18 and 26). Meanwhile, a substantial part of the contents of the Universal Declaration of Human Rights (hereinafter UDHR), which

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

sets out a minimum universal standard for dignity and rights that every human being deserves, can be assessed to have developed into the international customary law of today, although it is not legally binding as it was adopted by a resolution of the UN General Assembly.

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

Human rights realities in a certain country should be identified through direct visits to the country. The international community has requested the North Korean authorities to grant continuous

access to the country to identify the human rights situation in North Korea. However, the North Korean authorities have refused to allow a visit by the UN Special Rapporteur on the Situation of Human Rights in the DPRK as well as by any international human rights organization or international non-governmental organization (NGO). As a result, it is impossible to monitor human rights conditions independently or access internal information directly. Under such constraints, KINU has investigated the reality of North Korean human rights itself and published the *White Paper on Human Rights in North Korea 2016* using the following methods.

First, KINU utilizes in-depth interviews of North Korean defectors who have settled in South Korea as the most important tool to investigate reality. The White Paper on Human Rights in North Korea 2016 is based on interviews with 186 North Korean defectors who have recently entered South Korea. These interviewees were selected based on their demographic and social background (area of residence, experience in detention facilities, etc.). The demographic profile of the 186 samples with whom we had in-depth interviews in 2015 is as follows:

Table I -2 Demographic Profile of In-depth Interviewees in 2015

| Category | Details | Events (persons) | Percent |
|------------------------------|------------------|------------------|---------|
| Gender | Male | 56 | 30.11 |
| | Female | 130 | 69.89 |
| Total | | 186 | 100 |
| Year of Final Defection | Before 2000 | 2 | 1.08 |
| | 2001~2006 | 7 | 3.76 |
| | 2007~2011 | 29 | 15.6 |
| | 2012 | 16 | 8.60 |
| | 2013 | 14 | 7.53 |
| | 2014 | 59 | 31.72 |
| | 2015 | 59 | 31.72 |
| Total | | 186 | 100 |
| Date Arriving in South Korea | 2014 | 47 | 25.27 |
| | 2015 | 139 | 74.73 |
| Total | | 186 | 100 |
| Age Groups | Teens (1996~) | 15 | 8.06 |
| | 20s (1986~1995) | 63 | 33.9 |
| | 30s (1976~1985) | 52 | 27.9 |
| | 40s (1966~1975) | 34 | 18.3 |
| | 50s (1956~1965) | 21 | 11.3 |
| | Over 60s (~1955) | 1 | 0.54 |
| Total | | 186 | 100 |
| Number of River Crossings | Once | 152 | 81.7 |
| | Twice | 21 | 11.3 |
| | 3 Times | 8 | 4.3 |
| | 4 Times | 1 | 0.54 |
| | 5 Times or More | 2 | 1.08 |
| | No Response | 2 | 1.08 |
| Total | | 186 | 100 |

KINU systematically manages data by assigning unique personal identification numbers (e.g., NKHR2015000000) to all North Korean defectors participating in the in-depth interviews. When citing their responses in the *White Paper on Human Rights in North Korea 2016*, the interviewees are referred to by their identification numbers to protect their personal information. When more detailed interviews were needed on certain rights in addition to the in-depth interviews conducted in the early stages of their stay in South Korea, additional interviews were carried out. As for these additional interviews, the sources of information are marked as “North Korean defector ○○○, [Month] [Day], [Year], interviewed in Seoul.” In addition, memoirs by North Korean defectors were used as supplementary data.

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

Third, we used UN documents on North Korean human rights including reports submitted by the North Korean authorities to the UN human rights organizations, General Comments and Concluding Observations of the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights, related material on Universal Periodic Review (UPR) on North Korea by the UN HRC and the COI report, etc.

Fourth, we utilized survey results and statistics from the World Health Organization (hereinafter WHO), the United Nation’s

Children’s Fund (hereinafter UNICEF), the United Nation’s Population Fund (hereinafter UNFPA), Statistics Korea (South Korea), and various other organizations.

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

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

The *White Paper on Human Rights in North Korea 2016* is written in accordance with the following principles.

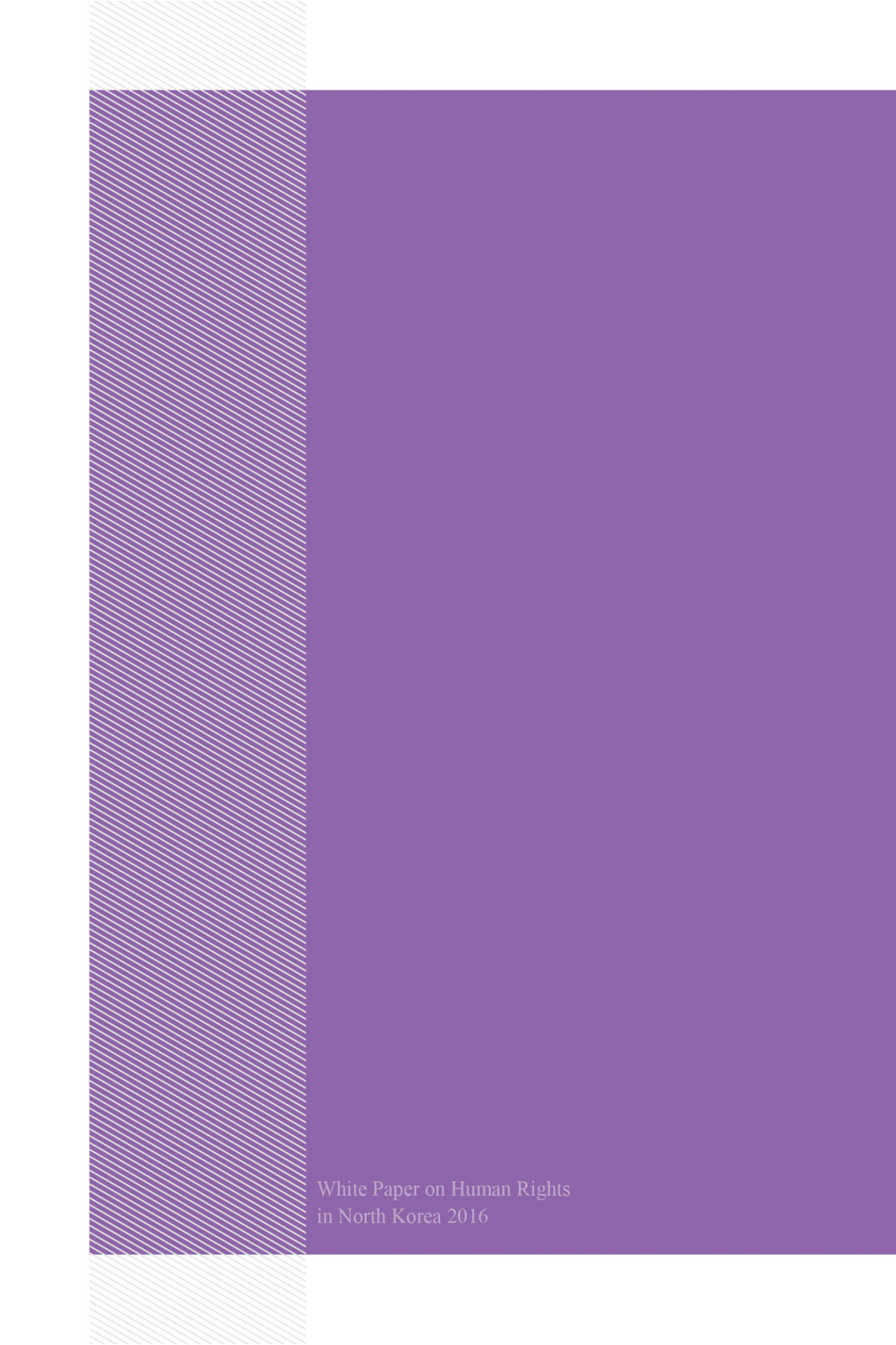
First, as the *White Paper on Human Rights in North Korea 2016* incorporates the results of the 2015 survey, we focused on describing the contents of that 2015 survey. However, when it is assessed there is a need to mention a previous survey, including to present a tendency or trend in changes of reality, the results of the survey in 2014 or before were referred to. Moreover, when dealing with topics about which it is difficult to secure sufficient data, we utilized the results of surveys in 2014 or previous years.

Second, in order to take note of the relatively recent conditions of North Korean human rights, we used events that took place within 5 years from the year of the survey as the target for survey and analysis. In other words, the *White Paper on Human Rights in North Korea 2016*, which is based on the 2015 survey, deals

with events that took place between 2011 and 2015. However, if assessed to be particularly meaningful, events that took place before 2011 were included as exceptions.

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

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



White Paper on Human Rights
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Chapter II

The Reality of Civil and Political Rights

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

1

Right to Life

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

Table II-1 Article 6 of the ICCPR

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

We will now examine how the right to life is exercised in North Korea by major issue.

A. Extrajudicial, Summary or Arbitrary Execution

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

importance, and has indicated that deprivation of life by the authorities of a state in particular should be strictly controlled and limited as deprivation of life by the authorities of the state is a matter of the utmost gravity.⁴ While the meaning of “arbitrary” is somewhat ambiguous, it is a broader concept than “illegal.” In other words, even the deprivation of life regarded as “legal” under the domestic laws of the State Party could be regarded as “arbitrary” under Article 6 of the ICCPR. In the end, prohibition against the “arbitrary” deprivation of life means that life should not be deprived unreasonably. According to these provisions of Article 6 of the ICCPR, Article 14 of the ICCPR which stipulates the right to fair trial, and Article 15 of the ICCPR which stipulates the principle of non-retroactivity of punishment, extrajudicial, summary or arbitrary execution is prohibited.

In North Korea, it has been identified that extrajudicial, summary or arbitrary executions have often been carried out. In past surveys, there were many testimonies from those who witnessed detainees shot to death without any trial procedures, for escaping detention facilities including prison camps (*kyohwaso*), etc. Although in many cases such executions are carried out in public to incite fear among and control the other detainees, it is said that they are sometimes carried out in secret. In the 2015 survey, there were cases of prisoners who attempted to escape

⁴- UN HRC, General Comment No. 6 (1982), paragraph 3.

from the prison camps (*kyohwaso*) and were shot to death after open trials. According to North Korean defector ○○○, a male prisoner who was imprisoned after being sentenced to 12 years at Jeongeori *kyohwaso* was arrested while escaping around August 2012. An open trial occurred with all of the male and female convicted prisoners gathered together and he was sentenced to death.⁵ In this case, while the specific manner in which these trials proceeded is not clear, if the trials were only perfunctory, the existence of such trials may not be particularly meaningful.

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

⁵- NKHR2015000031 2015-02-10.

granted to suspects or accused persons were guaranteed as only 4 days passed from arrest to execution. Former Minister of the People's Armed Forces, Hyun Young-chul, who was purged in 2015, was reported to have been executed without trial only three days after his arrest.

B. Broad imposition of Death Sentence for Crimes

Article 6, paragraph 2 of the ICCPR states that in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime. Here “the law” is generally understood as law in a formal sense. There may be room for argument as to what constitutes a “most serious” crime due to the ambiguity of the notion, but the Human Rights Committee explained in its General Comment on the right to life that the expression “most serious crimes” must be read restrictively to mean that the death penalty should be a quite exceptional measure.⁶ In its Concluding Observations on multiple national reports, the Committee pointed out that imposing the death penalty for treason, piracy, robbery, trading of toxic or hazardous substances, narcotics-related crimes, draft dodging, property crimes, economic crimes, adultery, corruption, and political

⁶- UN HRC, General Comment No. 6 (1982), paragraph 7.

crimes violates Article 6 of the ICCPR as these offences do not constitute the “most serious crimes.” This leaves nothing but premeditated murder or attempted murder, and deliberate infliction of serious injury to be classified as the “most serious crimes.”

The North Korean Criminal Law stipulates the death penalty as the most severe statutory punishment for conspiracy to overturn the State, terrorism, treason against the fatherland, crimes of clandestine destruction, treason against the people, smuggling and trafficking of narcotics, and premeditated murder. Crimes subject to capital punishment under the Criminal Law and their elements and related statutory penalties can be seen in <Table II-2>.

Meanwhile, North Korea added a unique supplementary provision called “Addendum to the Criminal Law (General Crimes)” in 2007. With the Addendum, it reinforced punishment for general crimes while making it possible to impose the death penalty for extremely serious willful destruction of combat equipment and military facilities, extremely serious plundering of state property, extremely serious theft of state property, extremely serious willful destruction or damaging of state property, extremely serious counterfeiting of currency, extremely serious smuggling/trafficking of precious or colored metals, extremely serious smuggling of state resources, extremely serious smuggling/trafficking of narcotics, extremely serious escape by a prisoner, extremely serious gangster-like behavior, operation of an unlawful business, extremely serious deliberate infliction of serious injury, extremely

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

| | | |
|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Conspiracy to overturn the State (Article 60) | Extremely serious cases of participation in political revolts, civil disturbances, demonstrations or violent attacks, and conspiracies for anti-state purposes. | Unlimited-term correctional labor punishment or death penalty and confiscation of property |
| Terrorism (Article 61) | Extremely serious cases of murder, kidnapping or harming of officials or citizens for anti-state purposes. | Unlimited-term correctional labor punishment or death penalty and confiscation of property |
| Treason against the fatherland (Article 63) | Extremely serious cases of betraying the fatherland by fleeing and surrendering to another country; betraying the fatherland or turn over secrets to the enemy. | Unlimited-term correctional labor punishment or death penalty and confiscation of property |
| Crime of clandestine destruction (Article 65) | Extremely serious cases of disloyal destruction for anti-state purposes | Unlimited-term correctional labor punishment or death penalty and confiscation of property |
| Treason against the people (Article 68) | Extremely serious cases of treason against nationals where Korean nationals, living under imperialist rule, engage in persecution of North Korea's National Liberation Movement, hinder the struggle for unification of the fatherland, or sell the benefits of Korean nationals to imperialists. | Unlimited-term correctional labor punishment or death penalty and confiscation of property |
| Crime of smuggling/trafficking of narcotics (Article 208) | Extremely serious cases of smuggling/trafficking of large amounts of narcotics. | Unlimited-term correctional labor punishment or death penalty |
| Premeditated murder (Article 266) | Extremely serious cases of premeditated murder based on greed, jealousy or other despicable motivation. | Unlimited-term correctional labor punishment or death penalty |

serious kidnapping, extremely serious rape, and extremely serious

theft of private property. For some crimes, only the death penalty or the death penalty together with confiscation of property are stipulated as the statutory penalty. Furthermore, the Addendum to the Criminal Law stipulates that “cases in which multiple crimes committed by a single criminal are extremely serious or in which the criminal displays no remorse at all” are punishable by the death penalty. This raises the problem that the range of crimes for which the death penalty is applicable can be expanded without limit, based only on the discretion of the North Korean authorities. Crimes subject to capital punishment under the Addendum to the Criminal Law (General Crimes) and its elements and the related statutory penalties can be seen in <Table II-3>.

Table II-3 Crimes Subject to Capital Punishment under the Addendum to the Criminal Law (General Crimes) and its Elements and Statutory Penalties

| | | |
|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|-----------------------------------------|
| Extremely serious willful destruction of combat equipment and military facilities (Article 1) | Extremely serious cases of willfully destroying combat equipment and/or military facilities | Death penalty |
| Extremely serious plundering of state property (Article 2) | Extremely serious cases of plundering of state property | Death penalty, confiscation of property |
| Extremely serious theft of state property (Article 3) | Extremely serious cases of theft of state property | Death penalty, confiscation of property |
| Extremely serious willful destruction or damaging of state property (Article 4) | Extremely serious cases of willfully destroying or damaging state property | Death penalty |
| Extremely serious counterfeiting of currency (Article 5) | Extremely serious cases of counterfeiting currency | Death penalty |

| | | |
|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Extremely serious smuggling/trafficking of precious or colored metals (Article 6) | Extremely serious cases of smuggling/trafficking of precious or colored metals | Death penalty, confiscation of property |
| Smuggling of state resources (Article 8) | Extremely serious cases of unlawfully selling state resources such as state-owned underground resources, forest resources, and fishery resources to another country | Unlimited-term correctional labor punishment or death penalty and confiscation of property |
| Extremely serious smuggling/trafficking of narcotics (Article 11) | Extremely serious cases of smuggling/trafficking of narcotics | Death penalty, confiscation of property |
| Extremely serious escape by a prisoner (Article 14) | Cases in which a prisoner serving a heavy prison term flees before the term ends | Unlimited-term correctional labor punishment or death penalty |
| Extremely serious gangster-like behavior (Article 17) | Extremely serious cases of gangster-like behavior | Unlimited-term correctional labor punishment or death penalty |
| Operation of an unlawful business (Article 18) | Cases in which sexual services are organized at restaurants or boarding houses | Unlimited-term correctional labor punishment or death penalty |
| Extremely serious deliberate infliction of serious injury (Article 19) | Extremely serious cases of deliberately inflicting serious injury | Unlimited-term correctional labor punishment or death penalty |
| Extremely serious kidnapping (Article 20) | Extremely serious cases of kidnapping of a person or persons | Death penalty |
| Extremely serious rape (Article 21) | Extremely serious cases of rape | Unlimited-term correctional labor punishment or death penalty |
| Extremely serious theft of private property (Article 22) | Extremely serious cases of stealing another person's private property | Death penalty, confiscation of property |
| Other exceptional crimes subject to unlimited-term correctional labor punishment or death penalty (Article 23) | Cases in which multiple crimes committed by a single criminal are extremely serious or in which the criminal displays no remorse at all | Unlimited-term correctional labor punishment or death penalty |

Testimonies from North Korean defectors who personally witnessed public executions show how laws and regulations on capital punishment are implemented in practice. In the surveys so far, there have been many testimonies of witnessing people put to death for smuggling/trafficking narcotics, watching/distributing South Korean recordings, murder, plundering, stealing or destroying state property, human trafficking, and sexual violence, etc. What is noteworthy here is that the number of people executed for watching/distributing South Korean video recordings or smuggling/trafficking narcotics has risen dramatically over the last few years. In the 2015 survey, there were also testimonies collected on witnessing executions of people charged in relation to narcotics or South Korean recordings. It is assessed that the North Korean authorities are reinforcing their crackdowns and punishments as narcotics have spread throughout all of North Korea, and there are increasing cases of North Koreans watching/distributing South Korean recordings. However, testimonies collected recently on the death penalty do not reveal instances of the death penalty being applied only for watching/distributing South Korean recordings. The death penalty given in relation to watching/distributing South Korean recordings were all combined with other crimes such as smuggling/trafficking of narcotics . Many North Korean defectors gave testimonies that persons charged with watching/distributing South Korean recordings were sentenced to labor training punishment

Table II-4 Testimonies of the Death Penalty Given in Relation to Narcotics and South Korean Recordings

| Testimonies | Testifier ID |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In July 2011, a 45-year-old man living in Hamheung, South Hamgyeong Province was shot on the banks of Hoeryeong Stream, Hoeryeong, North Hamgyeong Province for trafficking 9 kg of drugs (<i>bingdu</i>). | NKHR2012000041 2012-03-20 |
| On December 4, 2011, three men and one woman (including two agents) were shot on the banks of Susong Stream, Cheongjin, North Hamgyeong Province for trading drugs (<i>bingdu</i>). | NKHR2012000107 2012-06-12 |
| | NKHR2012000122 2012-06-26 |
| In 2013, three men and one woman (including the witness's cousin and cousin-in-law) were shot to death on the banks of Susong Stream, Cheongjin, North Hamgyeong Province for trading drugs (<i>bingdu</i>). | NKHR2013000155 2013-08-20 |
| In 2013, a man (in his mid-40s) and a woman (in her early 50s) were shot to death on the banks of Susong Stream, Cheongjin, North Hamgyeong Province for trading 9 and 12 kg of narcotics, respectively. | NKHR2013000163 2013-09-03 |
| In 2013, two university students were shot to death in Jedangryong, Hyesan, Yanggang Province for taking narcotics and watching South Korean adult videos. | NKHR2014000109 2014-07-29 |
| In 2013, three people, including a student of Hyesan University of Agriculture and Forestry, were shot to death on charges related to narcotics and copying and distribution of Korean CDs. | NKHR2015000072 2015-04-07 |
| In January 2013, two men were executed in Sunam District, Cheongjin, North Hamgyeong Province for a crime related to South Korean video recordings and drugs (<i>bingdu</i>). | NKHR2014000056 2014-05-20 |
| In October 2013, three people (including one man and one woman) were shot to death in Pyeongseong, South Pyeongan Province for trading drugs (<i>bingdu</i>). | NKHR2014000158 2014-09-23 |
| In October 2013, two men were shot to death in Sinuiju, North Pyeongan Province for trading drugs (<i>bingdu</i>). | NKHR2015000034 2015-02-10 |
| In 2014, two men were shot to death for watching Korean drama and crimes related to narcotics at an airfield in Hyesan, Yanggang Province. | NKHR2015000027 2015-02-10 |
| In May 2014, two men were shot to death for trading drugs (<i>bingdu</i>) in hop farm, Yeonbong-dong, Hyesan, Yanggang Province. | NKHR2015000039 2015-02-24 |

or correctional labor punishment.⁷ However, testimonies were collected in the 2015 survey that many proclamations were posted stating that those who watched/distributed South Korean recordings would be executed⁸ and in 2013, instructions were given that two people would be executed in each province every month for distributing South Korean recordings.⁹

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

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

North Korea added a provision on limiting the death penalty for juveniles and pregnant women in the 1999 revision of the Criminal Law. Article 29 of the current Criminal Law stipulates, “Those below the age of 18 at the time of commission of a crime

⁷- NKHR2015000031 2015-02-10 ; NKHR2015000043 2015-02-24 ; NKHR2015000122 2015-09-08 ; NKHR2015000134 2015-09-22 ; NKHR2015000153 2015-11-17 and many other testimonies.

⁸- NKHR2015000099 2015-05-19.

⁹- NKHR2015000117 2015-09-08.

shall not be sentenced to death; sentences of death shall not be carried out on pregnant women.” These provisions meet the Article 6, paragraph 5 of the ICCPR. However, there were cases confirmed in the past survey where such provisions were not complied with. North Korean defector ○○○ testified that he or she witnessed five boys and girls, who seemed to be around 15 years of age, being taken out of the State Security Department (hereinafter SSD) detention center and executed on charges of economic crimes and social delinquencies in August 2007.¹⁰ In addition, North Korean defector ○○○ testified that he or she witnessed that a 16 year-old boy who killed two people was shot to death, with the authorities waiting for one and a half years from the time of the crime until his status as a citizen was issued.¹¹ As the death penalty was handed down and carried out on a person who was aged under 18 at the time of the commission of the crime, this constitutes a clear violation of relevant provisions even though the judgment and execution were carried out after he turned 18. Meanwhile, North Korean defector ○○○ testified that four men and women were executed in September 2009 after an open trial on charges of human trafficking at the MPS county branch detention center in Musan County, North Hamgyeong Province. One of them, who was pregnant, underwent a forced

¹⁰- NKHR2014000012 2014-03-04.

¹¹- NKHR2012000066 2012-04-20.

abortion at a local hospital and then was shot.¹² North Korea may claim that they did not breach relevant provisions as the woman was not pregnant at the time of execution. Banning the execution of a death sentence on pregnant women, however, is intended to protect unborn children, so forcing a pregnant woman to undergo a surgical abortion and subsequently executing her should be seen as a violation of the ICCPR. There were no cases of death sentences for crimes by juveniles or the execution of a sentence of death on pregnant women confirmed in the 2015 survey.

D. Other Infringements on the Right to Life

Article 6, paragraph 1 of the ICCPR stipulates that the inherent right to life should be protected by law. The UN Human Rights Committee mentioned in its General Comments on the right to life that the right to life has been too often narrowly interpreted and stressed that the expression “inherent right to life” cannot be properly understood in a restrictive manner, and the protection of this right requires that States adopt positive measures.¹³

From such a perspective, there are many infringements related to the right to life in North Korea. As examined in detail later, in official and unofficial detention facilities there are continuous

¹² NKHR2013000225 2013–12–10.

¹³ UN HRC, General Comment No. 6 (1982), paragraph 5.

cases of death caused by violence and mistreatment, poor nutrition, sanitation and healthcare conditions (see Chapter II, Section 5, “Right to Humane Treatment in Detention”). In the area of social rights where there are duties that the North Korean authorities should actively fulfill, there are cases where people in the general population lose their lives due to a lack of proper treatment. These cases are also related to the right to life (See Chapter III, Section 2, “Right to Health”).

E. Evaluation

According to the 2015 survey, the right to life of the North Korean people is identified as not being protected properly. Including the purges of high-ranking figures, extrajudicial, summary or arbitrary executions in various contexts run against Article 6, paragraph 1, which stipulates protection of the right to life and prohibits arbitrary deprivation of life. North Korea’s imposition of the death penalty for an extensive range of crimes based on a unique form of law in the Addendum to the Criminal Law (General Crimes), in addition to the Criminal Law, and frequent execution of the death penalty based on such laws breach Article 6, paragraph 2 of the ICCPR which states that, in countries which have not abolished the death penalty, sentence of death may be imposed in accordance with the law in force at the time of the commission of the crime and only for the most serious crimes. In the 2015 survey,

testimonies were collected of witnessing execution in 2013 and 2014 for crimes related to narcotics and South Korean recordings, etc. Such broad imposition of the death sentence for crimes also does not coincide with the reports that North Korea submitted to the UN HRC for the second UPR and the reports announced by the DPRK Association for Human Rights Studies. In these reports, North Korea explained that the death penalty is imposed only in extremely limited cases. They did not mention the crimes subject to the death penalty in the Addendum to the Criminal Law at all. Meanwhile, there were no testimonies of the death sentence given for crimes by juveniles or the execution of a sentence of death on pregnant women found in the 2015 survey. However, it is confirmed that there are continuous cases of infringement on the right to life including death at detention facilities which will be examined in more detail in the sections on the right to humane treatment in detention and the right to health, etc.

2

Right to Not Receive Torture or Inhumane Treatment

The prohibition against torture and other cruel, inhumane and degrading treatment or punishment aims to protect dignity and physical and mental integrity, and has been stipulated in many major international documents on human rights at the universal and regional level after being stipulated in Article 5 of the UDHR in 1948. Similarly to the UDHR and other treaties, Article 7 of the ICCPR prohibits torture and inhumane treatment, and, taking one step further, it states that medical and scientific experimentations shall be prohibited. Article 7 of the ICCPR is complemented by Article 10, paragraph 1 of the ICCPR which stipulates “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

Table II-5 Article 7 of the ICCPR

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

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

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

While Article 7 of the UN International Covenant on Civil and Political Rights does not define torture, according to the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, which specifically defines it, torture is understood as the act of intentionally inflicting severe physical or mental pain on individuals by persons in an official capacity for specific purposes, including to obtain information or a confession and to punish, or based on discrimination of any kind. Other types of acts inflicting harsh pain that cannot be recognized as torture due to the lack of key elements such as specific purposes, intentional nature and severe pain fall under cruel, inhumane or degrading treatment or punishment. While the conceptual distinction between “torture” and “cruel, inhumane or degrading treatment or punishment” may not be clear, both clearly constitute a violation of Article 7 of the ICCPR.

North Korea has set forth regulations on torture and inhumane treatment in its Criminal Law and Criminal Procedure Law. Article 242 of the North Korean Criminal Law stipulates that “law

enforcement workers conducting any illegal interrogation or exaggerating and fabricating cases shall be subject to one year or less of labor training punishment,” and that those who cause serious injury or loss of life, or falsely hold someone criminally liable, shall be subject to five years or less of correctional labor punishment and, in serious cases, five years or more to ten years or less of such a punishment. Article 6 of the Criminal Procedure Law stipulates that “the country shall strictly guarantee human rights in the handling of criminal cases,” and Article 37 stipulates that “the testimony of those undergoing preliminary examination or accused of a crime obtained through force and inducement cannot be used as evidence.” Article 167 stipulates that “preliminary examination officers shall not forcibly require those undergoing preliminary examination to admit their guilt or induce statements.” Moreover, Article 225 stipulates that witnesses are protected from threats or compulsory measures in interrogation.

However, despite these regulations in the Criminal Law and Criminal Procedure Law, it has been identified that torture and inhumane treatment frequently occur in the actual process of handling criminal cases. Many such cases were collected in the 2015 investigation. North Korean defector ○○○ testified that he or she experienced severe violence and mistreatment in the investigation process that took place during his or her 16-day detention at the SSD county branch of Musan County, North Hamgyeong Province after being deported from China in July

2012.¹⁴

“I was ordered to remain in a fixed position throughout the day while in the detention room. I sat on the floor without any mat although it was a wooden floor. I put my hands on my knees and kept my eyes downcast as I was not allowed to look at the officer. If I made any movements or began to doze off, then they made me do one hundred “pumps” (repeatedly sitting and standing up) from a squatting position with my hands folded behind my back. If I fell while doing the pumps, I was forced to repeat them, and sometimes I fainted. Other prisoners around me would wake me by rubbing me, and sometimes I was forced to keep doing pumps... If I dozed off, then the agent would tell me to hold out my hands and strike them with a metal cable. If I flinched, I would be struck more. So, I just kept holding out my hands until the agent was finished. The backs of my hands would get swollen like this. Or they made me sit on my knees with my back straight and then I fell as I got cramps... they asked me to come out and beat me again.. How they beat me is like this.. Once I went out to be interrogated. And if I do not reflect on myself properly, then the interrogator told the guard to punish me because I am not properly responding to the interrogation. Then, they beat me because I did not respond properly to the interrogation. They punched me, kicked me, struck me and you have all this blood spray. And they struck me with a belt and threw whatever was in front of them at me.”

According to this testifier, a man in his mid-50s who was interrogated with him or her was beaten up to the point of death for not saying his area of residence properly and left behind, ultimately died from pressure sores. Another North Korean defector ○○○ testified that he or she heard from an acquaintance that the

¹⁴ NKHR2015000123 2015-09-08.

acquaintance's sister was beaten to death in the preliminary examination process by preliminary examination officers.¹⁵ As treatment in criminal case procedures is related to Article 10 of the ICCPR, which stipulates humane treatment for detainees, we will further examine this issue later (See Chapter II, Section 5, “Right to Humane Treatment in Detention”).

B. Public Execution of the Death Penalty

Even countries that allow the death penalty can breach Article 7 of the ICCPR depending on the method of execution adopted. The UN Human Rights Committee has stipulated in its General Comments on prohibition of torture and inhumane treatment that states must carry out the death penalty in such a way as to cause the least possible physical and mental suffering.¹⁶ Regarding this, one should note that execution of the death penalty in public may constitute cruel, inhumane or degrading punishment, which violates Article 7.¹⁷ Here, “execution of the death penalty in public” refers

¹⁵- NKHR2015000027 2015-02-10.

¹⁶- UN HRC, General Comment No. 20 (1992), paragraph 6.

¹⁷- The UN Human Rights Committee expressed concern over public execution of the death penalty in some national reports including the one by North Korea. UN HRC, Concluding Observations: Islamic Republic of Iran, UN Doc. CCPR/C/IRN/CO/3 (2011); Democratic People's Republic of Korea, 27 August 2001 UN Doc. CCPR/CO/72/PRK; Nigeria, UN Doc. CCPR/C/79/Add.65 (1996). The UN Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment also pointed out the issue of public execution of the death penalty. Note by Secretary-General, Interim report of the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, UN Doc. A/67/279 (2012).

to cases where the death penalty, although carried out according to certain procedures for crimes stipulated in the Criminal Law, are carried out in public. If it is an extrajudicial, summary or arbitrary execution and carried out in public, it would breach both Article 6 and 7 of the ICCPR. Meanwhile, whether it is execution of the death penalty or extrajudicial, summary or arbitrary execution, it is bound to be seen by the general population if it is carried out in public. And from the perspective of those who witness the execution, the act may constitute cruel, inhumane or degrading treatment, which violates Article 7.¹⁸

Although North Korea has provisions on procedures and methods of carrying out the death penalty in its Criminal Procedure Law and Sentence and Decisions Enforcement Law,¹⁹ it does not have explicit stipulations on making the execution of the death penalty public. However, according to testimonies of North Korean defectors, it is identified that public execution of the death penalty

¹⁸-The COI also stated in its report of the detailed findings, *“Especially for young children and relatives of the victim, the experience of [watching such killings] is often so horrifying, that the witnesses must themselves also be considered victims of inhuman and cruel treatment in contravention of Article 7 of the ICCPR”*. Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People’s Republic of Korea, UN Doc. A/HRC/25/CRP.1 (2014), paragraph 830.

¹⁹-Article 421 of the North Korean Criminal Procedure Law stipulates that the death penalty ruling shall be carried out by the punishment enforcement institution that received the death penalty document on direction of enforcement and a certified copy of written judgment issued by the Supreme Court. Article 32 of the Sentencing and Decisions Enforcement Law has the same provisions as the Criminal Procedure Law and stipulates that the death penalty is “carried out in the same way as death by shooting.”

has been carried out frequently in North Korea. There were also many testimonies collected on public executions in the 2015 survey, as well as testimonies on being forced to watch public executions. North Korean defector ○○○ testified that the *inminban* chief gives the order to come to the public execution site through directions and if people refuse, they are not forced to go, but if those people have a poor attitude toward life, they are certainly taken to the site.²⁰ However, it is difficult to clearly divide the collected cases into those where public execution of the death penalty was carried out and those where extrajudicial, summary or arbitrary executions were carried out in public. This is because, for the general population, it is difficult to tell whether the execution is carried out after due legal procedures, including trials, only by witnessing the execution on-site. Even when the execution seemed to have been carried out formally through trial procedures, it is even more difficult to tell if the minimum rights supposed to be granted to accused persons were guaranteed or not. In either case, as the inhumane nature of making the scene of death by shooting “public” is problematic under Article 7 of the ICCPR, the cases in the table below at the very least constitute violations of Article 7 of the ICCPR.

²⁰- NKHR2015000121 2015-09-08.

Table II-6 Public Execution by Shooting

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In January 2012, three people, including at least one man and at least one woman, were publicly executed by shooting on a hill (field) to the airfield in Hyesan, Yanggang Province. | NKHR2015000072 2015-04-07 |
| In October 2013, two men were publicly executed by shooting in Sinuiju, North Pyeongan Province. | NKHR2015000034 2015-02-10 |
| In October 2013, two men were publicly executed by shooting at Hyesan Airfield in Yeonbong 2-dong, Hyesan, Yanggang Province | NKHR2015000014 2015-01-27 |
| In May 2014, two men were publicly executed by shooting for trading drugs (<i>bingdu</i>) in hop farm, Yeonbong-dong, Hyesan, Yanggang Province. | NKHR2015000039 2015-02-24 |
| In May 2014, two men were publicly executed by shooting in Hyesan, Yanggang Province. | NKHR2015000040 2015-02-24 |
| In fall of 2014, two men were publicly executed by shooting on the plain of the airfield in Hyesan, Yanggang Province. | NKHR2015000027 2015-02-10 |

By region, executions witnessed in Hyesan, Yanggang Province account for many of the cases, while there are some cases in Hoeryeong, North Hamgyeong Province and Sinuiju, North Pyeongan Province. It seems that public execution of the death penalty is more concentrated in the border areas than in the inland areas, and more in city areas than in rural areas. This is analyzed to be a reflection of the fact that there are relatively more illegal activities in border regions and cities, and the North Korean authorities intend to warn and incite fear among residents there through public executions. It may also be related to the fact that many of the interviewees resided in North Hamgyeong Province and Yanggang Province.

C. Enforced Disappearances

The UN Human Rights Committee views that enforced disappearances may constitute torture and/or inhumane treatment on the person in the enforced disappearance and his/her family.²¹ Its view is that as people in enforced disappearances would be under detention, separated from their families for a long time, the families have no choice but to live in worry and concern without knowing the whereabouts of the person, or whether he/she is alive or dead, all of them are victims of torture and/or inhumane treatment.

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

D. Evaluation

Also in the 2015 survey, there were cases collected that constitute torture and inhumane treatment, which is prohibited by Article 7 of the ICCPR. Contrary to what is stipulated in the North Korean Criminal Law and Criminal Procedure Law, it is identified

²¹For example, the Committee on Civil and Political Rights Communications 950/2000, *Sarma v. Sri Lanka*, 31 July 2003, paragraph 9.5; 1295/2004, *El Alwani v. Libyan Arab Jamahiriya*, 11 July 2007, paras 6.5 and 6.6; and 1327/2004, *Grioua v. Algeria*, 10 July 2007, paragraph 7.6. and 7.7.

that there are frequent cases of violence and mistreatment in the criminal case procedures. Moreover, it is confirmed that public executions are still carried out. This may constitute cruel, inhumane or degrading punishment from the perspective of the executed person and also cruel, inhumane or degrading treatment to those who witness the execution. In the second UPR on North Korea, many countries recommended that North Korea take steps to prohibit torture and inhumane treatment, ratify the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment and refrain from public executions, and, in response, North Korea expressed its stance that it will continue to review the possibility of implementing such recommendations going forward. North Korea should be reminded of its duties in relation to the ICCPR, which it voluntarily accessed, and take effective measures to prevent torture and inhumane treatment. Meanwhile, in the second UPR, North Korea accepted the recommendation to conduct human rights training and education, and provide more materials related to international human rights treaties to its law enforcement officers. North Korea should understand that such matters are particularly important in relation to prohibiting torture and inhumane treatment and immediately implement these recommendations.

3

Right to Not be Forced into Labor

Article 4 of the UDHR stipulates that no one shall be held in slavery or servitude, and slavery and the slave trade shall be prohibited in all their forms. Article 8 of the ICCPR prohibits slavery

| Table II-7 Article 8 of the ICCPR | |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Paragraph 1 | No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited |
| Paragraph 2 | No one shall be held in servitude. |
| Paragraph 3 | <p>(a) No one shall be required to perform forced or compulsory labour,</p> <p>(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.</p> <p>(c) For the purpose of this paragraph the term “forced or compulsory labour” shall not include:</p> <p>(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;</p> <p>(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;</p> <p>(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;</p> <p>(iv) Any work or service which forms part of normal civil obligations</p> |

and the slave trade, servitude and forced labor in Article 8. However, while there are no exceptions regarding the prohibition against slavery and the slave trade, and servitude, there are exceptions recognized to the prohibition against forced labor.

We will examine the implementation by North Korea regarding the right to not be forced into labor.

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

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

The North Korean Criminal Law stipulates that punishments depriving liberty and engaging in prescribed labor include correctional labor punishment (unlimited-term correctional labor punishment, limited-term correctional labor punishment) and labor training punishment (Article 27). Unlimited-term correctional labor punishment and limited-term correctional labor punishment is about detaining criminals in prison camps (*kyohwaso*) and putting them to labor, with the term of limited-term correctional labor punishment from 1 year to 15 years (Article 30). Labor

training punishment is about sending criminals to a certain place and putting them to labor, with the term from 6 months to 1 year (Article 31). According to Article 8, paragraph 3 (b) of the ICCPR, imprisonment with hard labor by the state as punishment for crimes is allowed only if in pursuance of a sentence to such punishment by a competent court. Therefore, detaining those who are sentenced to correctional labor punishment or labor training punishment at prison camps (*kyohwaso*) or other certain places and putting them to labor does not constitute “forced labor.” However, imposing excessive labor on convicted prisoners may not comply with Article 10, paragraph 3 of the ICCPR, which stipulates appropriate treatment of convicted prisoners (See Chapter II, Section 5 “Right to Humane Treatment in Detention”).

However, the North Korean Prosecution and Surveillance Law shows that it grants prosecutors authority to impose labor training discipline on those who violate laws separately from the provisions in the above Criminal Law (Article 40). In other words, in the North Korean laws, besides the “labor training punishment” sentenced through trials, “labor training discipline” can be imposed by prosecutors on those who violate laws. According to testimonies of North Korean defectors, those who are sentenced to labor training discipline are detained in labor training camps (*rodongdanryundae*) at city, county and district under the labor mobilization division of the People’s Committee for up to 6 months. In such cases, there is an issue of forced labor as the

exceptions recognized to the prohibition against forced labor in the ICCPR do not apply. Relevant cases of this were also collected in the 2015 survey. North Korean defector ○○○ testified that he or she was detained in a labor training camp at Geomdeok Mine, Dancheon, South Hamgyeong Province in 2013 and was mobilized for mine labor for 5 months.²² Another North Korean defector ○○○ testified that he or she was detained in a labor training camp (*rodongdanryundae*) in Hoeryeong, North Hamgyeong Province in 2012, and did hard labor including mine labor and road construction for 18 hours per day for a month.²³ There were also testimonies of cases of adolescents who were found to have South Korean CD-Rs were given 1 to 6 months of labor training discipline in 2012.²⁴

In addition, the North Korean Administrative Penalty Law stipulates unpaid labor discipline and reeducational labor discipline as administrative punishment (Article 14), and in this case, the issue of forced labor can be raised. The North Korea Administrative Penalty Law stipulates that unpaid labor is an administrative punishment imposed on those who commit serious violations of law regarding performance of duties, with the term from 1 month to 6 months (Article 16). Reeducational labor discipline is an

22_ NKHR2015000079 2015-04-21.

23_ NKHR2015000085 2015-04-21.

24_ NKHR2015000134 2015-09-22.

administrative penalty imposed on those who violate laws that are not so serious as to impose labor training punishment, with the term from 5 days to 6 months (Article 17). Institutions which are authorized to impose unpaid labor discipline and/or reeducational labor discipline institutions can be seen in <Table II-8>.

Table II -8 Institutions Authorized to Impose Unpaid Labor Discipline and/or Reeducational Labor Discipline under the Administrative Penalty Law

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

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

Holding centers (*jipkyulso*) are where travelers who went outside of their designated region or overstayed their authorized duration,

homeless children, those whose cases are pending, and deported defectors, etc., are investigated and detained. When a holding center (*jipkyulso*) sends notification to the MPS city/county branch in charge of the residence area of the prisoner, MPS officers of that area come to the holding center (*jipkyulso*) and transfer the prisoner to the residence area. However, according to testimonies by North Korean defectors collected by KINU since it began investigation, some holding centers (*jipkyulso*) force prisoners into labor. Many testimonies of this were also collected in the 2015 survey. North Korean defector ○○○ testified that prisoners stay in holding centers (*jipkyulso*) for three to six months, based on the time of notification from holding centers (*jipkyulso*) to the MPS city/county branch in charge of the residence area, and holding centers (*jipkyulso*) intentionally send notification to the MPS city/county branch belatedly to force prisoners to work.²⁵ The testifier said that he or she was mobilized for farm work when he or she was detained at a holding center (*jipkyulso*) in Cheongjin, North Hamgyeong Province in 2012.

²⁵_ NKHR2015000123 2015-09-08.

Table II-9 Reality of Forced Labor at Holding Centers (*Jipkyulso*)

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In September 2011, the testifier was engaged in construction labor while detained at a holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province. Approximately 15 people died because of the harsh labor conditions. | NKHR2012000174 2012-09-04 |
| In September 2011, the testifier was mobilized for farm work from 4 am to 8 pm except for meal times when he or she was detained at a holding center (<i>jipkyulso</i>) in Cheongjin, North Hamgyeong Province. | NKHR2015000152 2015-11-17 |
| In March 2013, the testifier was mobilized for apartment construction work when he or she was detained in the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province . | NKHR2015000159 2015-12-01 |
| From June to August of 2013, the testifier engaged in construction work from 5 am to 7 pm when he or she was detained in the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province. | NKHR2015000153 2015-11-17 |

C. Evaluation

In the 2015 survey as well, there continued to be many cases of mobilization for labor after being imposed with labor training discipline or forced into hard work while detained at holding centers (*jipkyulso*). Article 8, paragraph 3 of the ICCPR prohibits forced labor. However, it recognizes certain exceptions in countries where imprisonment with hard labor may be imposed as punishment for a crime, if the performance of hard labor is in pursuance of a sentence to such punishment by a competent court. According to such regulations, forcing labor on people sentenced to labor training discipline without any trial procedures or on those detained in holding centers (*jipkyulso*) is assessed to constitute the forced labor prohibited by Article 8, paragraph 3 of the ICCPR.

4

Right to Liberty and Security of Person

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

Table II-10 Article 9 of the ICCPR

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

We will examine the status of implementation of the right to liberty and security of person by North Korea by major issue.

A. Arbitrary or Unlawful Arrest, Detention

Article 9, paragraph 1 of the ICCPR prohibits arbitrary or unlawful arrest or detention. Unlawful arrest or detention refers to arrest or detention that is not imposed on such grounds and in accordance with such procedures as are established by law.²⁶ Arbitrariness has a broader sense than “unlawfulness” and includes

elements of inappropriateness, injustice, lack of predictability, due process of law, reasonableness, necessity and proportionality.²⁷ Therefore, the prohibition against arbitrary arrest/detention and the prohibition against unlawful arrest or detention can overlap. According to the General Comments of the UN Human Rights Committee, although conditions of detention are addressed primarily by Articles 7 and 10, the question of whether detention is arbitrary or not can be raised if the manner in which the prisoners are treated does not relate to the purpose for which they are ostensibly being detained.²⁸ Moreover, arrest or detention as punishment for legitimate exercise of freedom of opinion and expression, freedom of assembly and association, freedom of religion and right to privacy guaranteed by the ICCPR, arrest or detention on discriminatory grounds, detention in violation of the principle of non-retroactivity of punishment are regarded as arbitrary, and enforced disappearances, in particular, constitute a serious form of arbitrary detention that violates numerous substantive and procedural provisions of the ICCPR.²⁹

The North Korean Constitution stipulates that the inviolability of the person of its citizens is guaranteed and that citizens shall not be detained or arrested without legal grounds (Article 79). The

26- UN HRC, General Comment No. 35 (2014), paragraph 11.

27- UN HRC, General Comment No. 35 (2014), paragraph 12.

28- UN HRC, General Comment No. 35 (2014), paragraph 14.

29- UN HRC, General Comment No. 35 (2014), paragraph 17.

North Korean Criminal Procedure Law distinguishes between investigation procedures to expose criminals and facts of a crime and the preliminary examination procedure to confirm criminals and the facts of a crime, and stipulates that compulsory measures including arrest and imprisonment, etc., shall be taken during the stage of preliminary examination in principle, and arrest of criminal suspects or criminals during the investigation stage is recognized as exceptions only in certain cases (Article 142). When an investigator detains an arrested criminal suspect or criminal, he or she shall gain approval from prosecutors through a written decision on the imprisonment within 48 hours from the time of arrest, investigate them within 10 days and bring them to preliminary examination or, in the event of a failure to receive approval or to confirm that they are criminals in 10 days from the time of arrest, investigators shall release them immediately (Article 143). The North Korean Criminal Procedure Law stipulates that, regarding arrest and detention during the stage of preliminary examination, the “preliminary examination officer can arrest or detain the person undergoing preliminary examination to prevent avoidance of the preliminary examination or trial or disturbance of the investigation” (Article 175) and stipulates that “citizens shall not be arrested or detained for reasons not prescribed in the laws or without following the procedures prescribed in laws, and prosecutors shall release persons who are unlawfully arrested or detained, when discovered” (Article 176). Moreover, it stipulates

the time of arrest and detention, reasons for arrest and detention, and period of arrest and detention, etc. (from Article 177 to 190). Meanwhile, the North Korean Criminal Law stipulates that law enforcement agents who unlawfully arrest, detain or apprehend people shall receive 1 year or less of labor training punishment (Article 241).

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

guaranteed in the ICCPR. Meanwhile, if the above provisions on arrest, detention and imprisonment in the North Korean Criminal Procedure Law are not properly complied with, this constitutes unlawful arrest and detention, requiring accurate investigation of the actual situation going forward.³⁰

B. Insufficient Procedural Guarantee of Liberty and Security of Person

Article 9, paragraph 2 of the ICCPR stipulates that the reason(s) for arrest should be informed upon arrest and any charges should be informed to criminal suspects. Paragraph 3 stipulates that anyone arrested or detained on a criminal charge shall be brought promptly before a judge, etc., while stipulating that detention before trial shall only be done in exceptional cases. Paragraph 4 stipulates claims for review of the legality of arrest or detention to the court, and paragraph 5 stipulates the right to compensation for unlawful arrest or detention.

While the North Korean Criminal Procedure Law stipulates that the arrested person shall be informed of the reason for arrest and detention in the preliminary examination stage (Article 182), it

³⁰ The *2014 White Paper on Human Rights in North Korea* published by the Korean Bar Association covers this part in relatively high detail and concludes that North Korea barely applies legal procedural provisions regarding physical detention of criminals in investigations and preliminary examinations based on its survey of North Korean defectors. Korean Bar Association, *2014 White Paper on Human Rights in North Korea* (Seoul: Korean Bar Association 2014), pp. 154~165.

does not stipulate such information in the investigation stage. Therefore, it is assessed that the arrested person's right to be informed of the reasons for their arrest, based on Article 9, Paragraph 2 of the ICCPR, is not properly protected. Meanwhile, despite the fact that the North Korean Criminal Procedure Law stipulates the period for investigation and the period for preliminary examination, and the period for extension of the preliminary examination (Article 143, 150 and 151), there were many testimonies in the 2015 survey that the investigation period and preliminary examination period were not complied with.³¹ There were also testimonies that it took as long as one year and six months for the investigation and preliminary examination to be concluded.³² Considering the reality of trials in North Korea, this seems due to the fact that crime and punishment are mostly confirmed during the stages of investigation and preliminary examination, and prosecution and trials are operated in a perfunctory manner only. While the length of a reasonable period is not clear, excessive prolongation of investigation and preliminary examination periods constitute violations of Article 9, paragraph 3 of the ICCPR. Meanwhile, the right to claim review of the legality of arrest or detention and the right to claim compensation for unlawful detention are identified to not be recognized in North Korea.

³¹_ NKHR2015000062 2015-03-24; NKHR2015000063 2015-03-24; NKHR2015000163 2015-12-01.

³²_ NKHR2015000151 2015-11-17.

C. Evaluation

It is identified that arbitrary or unlawful arrest and detention prohibited by Article 9, paragraph 1 of the ICCPR continues in North Korea. Detention of political criminals is a representative case of both arbitrary and unlawful arrest and detention. As we will examine specifically in the section on individual rights, there are frequent arrests and detention used in North Korea as punishment for legitimate exercise of the rights guaranteed in the ICCPR, and this clearly constitutes arbitrary arrest and detention. It is also identified that the overall procedural guarantee of liberty and security is insufficient. Legislative measures to realize what are stipulated in paragraphs 2 to 5 of Article 9 of the ICCPR are required.

5

Right to Humane Treatment in Detention

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

Table II -11 Article 10 of the ICCPR

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

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

A. Inhumane Treatment to Persons Deprived of Liberty

Article 10, paragraph 1 of the ICCPR stipulates that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” This provision applies to anyone deprived of liberty under the laws and authority of the State Party who is held in prisons, hospitals (particularly psychiatric hospitals), detention camps or correctional institutions or elsewhere.³³ Article 10, paragraph 1 of the ICCPR supplements the ban on torture or other cruel, inhumane or degrading treatment or punishment contained in Article 7 of the ICCPR, by imposing on State Parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty.³⁴ Thus, persons deprived of their liberty may not be subjected to treatment contrary to Article 7 of the ICCPR nor may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty. Respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Persons deprived of their liberty enjoy all the rights set forth in the ICCPR, subject to the restrictions that are unavoidable in a closed environment.³⁵

³³- UN HRC, General Comment No. 21 (1992), paragraph 2.

³⁴- UN HRC, General Comment No. 21 (1992), paragraph 3.

³⁵- UN HRC, General Comment No. 21 (1992), paragraph 3.

(1) Situation in Detention Facilities

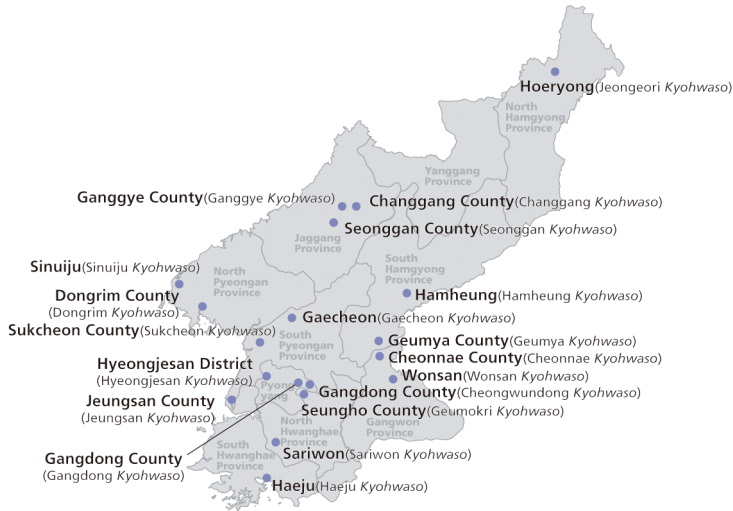
It has been found that there are prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*), detention centers, and political prison camps (*kwanliso*), etc., in North Korea.

(A) Prison Camps (*kyohwaso*)

Prison camps (*kyohwaso*) are correctional facilities of the MPS Correctional Education Bureau, which in turn is directly under the National Defense Commission (NDC), and facilities that detain those sentenced to correctional labor punishment by the court.³⁶ Based on testimonies of North Korean defectors and analysis of satellite images, it is identified that there are a total of 19 prison camps (*kyohwaso*) operated in North Korea as can be seen in <Figure II-1>.³⁷

³⁶ The North Korean Criminal Law stipulates that correctional labor punishment involves putting criminals in prison camps (*kyohwaso*) and having them engage in labor. It is divided into unlimited-term correctional labor punishment and limited-term correctional labor punishment (Article 30). The current North Korean Criminal Law stipulates imposing of unlimited-term correctional labor punishment for a total of 7 crimes (conspiracy to overturn the State, terrorism, treason against the fatherland, clandestine destruction, treason against the people, smuggling and trafficking of narcotics, premeditated murder) (Article 60, 61, 63, 65, 68, 208 and 266). Additionally, it is stipulated that most general crimes also carry the penalty of limited-term correctional labor punishment. The term of limited-term correctional labor punishment is from one year or more to 15 years or less. Even when crimes are merged or prison terms are combined, the total term cannot exceed 15 years, and one day of detention before rendition of judgment is calculated as one day of limited-term correctional labor punishment (Article 30). During the term of unlimited-term correctional labor punishment and limited-term correctional labor punishment, the rights as citizens are partially suspended (Article 30).

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



As North Koreans who were forcibly repatriated after defecting North Korea are detained mostly in Jeongeori *kyohwaso* and Gaecheon *kyohwaso* after being sentenced to correctional labor punishment for “charges of illegal border-crossing”³⁸ based on the North Korean Criminal Law, many of the testimonies collected are related to the two prison camps (*kyohwaso*).

³⁷- Dong-ho Han et al. 『Prison Camps in North Korea (*kyohwaso*)』 (Seoul: KINU, 2015), p. 17.

³⁸- Article 221 of the North Korean Criminal Law stipulates that people convicted of illegal entry of borders shall be imposed with 1 year or less of labor training punishment, while those convicted of serious charges shall be imposed with 5 years or less of correctional labor punishment.

- Jeongeori *kyohwaso*

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

Figure II-2 Satellite View of Jeongeori *kyohwaso*

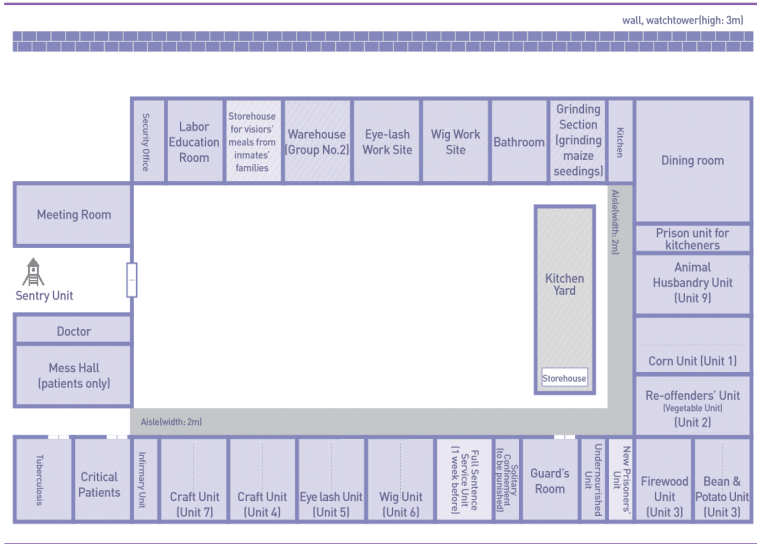


Jeongeori *kyohwaso* is identified as managing convicted prisoners by dividing them into sections numbered 1 to 5. Convicted male prisoners are placed in Sections No. 1, 2, 4, and 5, while their convicted female prisoners are assigned to Section No. 3.³⁹ Each Section is classified again into units. It is said that Section No. 1

³⁹- NKHR2012000185 2012-09-11; NKHR2013000040 2013-03-05; NKHR2013000046 2013-03-05 and many other testimonies.

has around 12 units, Section No. 2 and 3 around 10 units, Section No. 4 around 4 units and Section No. 5 around 3 units.⁴⁰ As many North Korean defectors with experience in detention at Jeongeori *kyohwaso* are female, based on their testimonies, it was possible to identify Section No. 3 in more detail, as it is the female detention facility. It was testified that prison staff for Section No. 3 comprise the head of section, secretary, doctor, and three female guards.⁴¹ The section is divided into a potato unit, a vegetable unit, a bean unit, a corn unit, a rock collection unit, a wig/eyelash unit, a firewood unit, an animal husbandry unit, a cooking unit,

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



40- NKHR2012000185 2012-09-11.

41- NKHR2014000048 2014-05-13.

and the undernourished unit.⁴² The inside of the physical structure of Section No. 3 at Jeongeori *kyohwaso* has been reconstructed based on testimonies, and can be seen in <Figure II-3>.⁴³

- Gaecheon *kyohwaso*

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

Figure II-4 Satellite View of Gaecheon *kyohwaso*



⁴² NKHR2011000248 2011-12-20; NKHR2014000048 2014-05-13.

⁴³ NKHR2014000031 2014-04-15; NKHR2014000040 2014-04-29; NKHR2015000036 2015-02-10.

Gaecheon *kyohwaso* is divided into male and female zones, with the latter being split again into unlimited term and limited term zones where convicted prisoners sentenced accordingly reside.⁴⁴ The female unlimited-term and limited-term zones are said to be in separate buildings.⁴⁵ Given that convicted female prisoners sentenced to unlimited-term correctional labor punishment are detained here, it seems that Gaecheon *kyohwaso* is a detention facility for criminals charged with serious crimes. According to testimonies, convicted female prisoners at Gaecheon *kyohwaso* are said to be divided into a farming unit, an animal husbandry unit, a knitting unit, a vegetable unit, a fruit unit, and a plowing unit.⁴⁶ North Korean defector ○○○ testified that the farming, animal husbandry and fruit units lived in single-story houses, while the knitting unit lived in a two-story building near the guards' buildings. The knitting unit was comprised of convicted prisoners sentenced to unlimited-term correctional labor punishment and those with flight risk, including those convicted of illegal border-crossing and human trafficking.⁴⁷ It is said that convicted male prisoners at Gaecheon *kyohwaso* worked in brick units and leather units (making shoes, belts, holsters, military boots and loafers, etc.) or mined coal at nearby mines.⁴⁸

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

45- Above testimonies.

46- NKHR2013000156 2013-08-20.

47- NKHR2013000121 2013-06-25.

(B) Labor Training Camps (*Rodongdanryundae*)

Labor training camps (*rodongdanryundae*) are where those sentenced to labor training punishment (from six months or more to 1 year or less) by the court or those imposed with labor training discipline by a prosecutor (up to 6 months) are detained. It is identified that those sentenced to labor training punishment are detained at labor training camps (*rodongdanryundae*) under the jurisdiction of the MPS and those sentenced to labor training discipline are detained at labor training camps (*rodongdanryundae*) at the city, county and district levels under the Labor Mobilization Division of the People's Committee. There are testimonies that labor training camps (*rodongdanryundae*) in Wonsan, Gangwon Province and Jeungsan County, South Pyeongan Province are under the jurisdiction of the MPS.⁴⁹ It is also said that the military also operates its own internal labor training camps (*rodongdanryundae*).⁵⁰

(C) Holding Centers (*Jipkyulso*)

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

⁴⁸- NKHR2013000115 2013-06-11; NKHR2013000195 2013-10-29.

⁴⁹- NKHR2014000065 2014-06-03; NKHR2015000121 2015-09-08.

⁵⁰- NKHR2015000119 2015-09-08.

deported defectors, etc., are investigated and detained. When holding centers (*jipkyulso*) send notifications to the MPS city/county branch in charge of the residence area of the prisoners, MPS officers in charge of the residence area come to the holding centers (*jipkyulso*) and transport the prisoners to their residence areas. It is identified that there are holding centers (*jipkyulso*) in Hyesan, Yanggang Province, Cheongjin, North Hamgyeong Province, Sinuiju, North Pyeongan Province and Manpo, Jagang Province, among others. Holding centers (*jipkyulso*) are under the MPS provincial bureau, with some holding centers (*jipkyulso*) operated by the SSD. According to North Korean defector testimonies, the holding center (*jipkyulso*) in Yanggang Province for those convicted of illegal crossing of borders is in Hyetan-dong, and the one for travellers is in Seonghu-dong.⁵¹

(D) Detention Centers

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

⁵¹- NKHR2015000093 2015-05-12.

examination of cases related to general crimes (Article 46 and 48), detention centers are divided into SSD detention centers and MPS detention centers. SSD organizations are divided into the central SSD, SSD provincial bureaus and SSD city/county branches, and each SSD institution is said to have separate detention centers. MPS organizations are divided into the central MPS, MPS provincial bureaus, MPS city/county branches, MPS town office at dong/li level (former *bunjuso*), and each MPS institution is said to also have separate detention centers.

(E) Political Prison Camps (*Kwanliso*)

Political prison camps (*kwanliso*) are where political criminals are detained. Although North Korea officially denies their existence, it has been confirmed that there are a total of 5 political prison camps (*kwanliso*). As political prison camps (*kwanliso*) are fundamentally different in nature from the detention facilities mentioned above, we will examine them separately later.

(2) Treatment in Detention Facilities

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

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

(A) Prison Camps (*kyohwaso*)⁵²

Cases of violence and mistreatment were collected also in the 2015 survey. North Korean defector ○○○ who was detained at Jeongeori *kyohwaso* from February 2013 to January 2015 testified that there were frequent cases of violence and mistreatment at the prison camp (*kyohwaso*).⁵³ According to the testifier, there was even a case where a starving woman in her 60s, who had picked up and eaten food that had fallen to the ground at a farm, was beaten to the extent that she was unable to use her back.⁵⁴

⁵²- See Dong-ho Han et al., 『Prison Camps in North Korea(*kyohwaso*)』, pp. 17~37 about the reality at Jeongeori *kyohwaso* and Gaecheon *kyohwaso* in North Korea.

⁵³- NKHR2015000123 2015-09-08.

⁵⁴- Above testimonies.

Table II-12 Violence and Mistreatment in Prison Camps (*kyohwaso*)

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In January 2011 at the Jeongeori <i>kyohwaso</i> , a convicted female prisoner was beaten to death. | NKHR2011000248 2011-12-20 |
| In May 2011, at the Jeongeori <i>kyohwaso</i> , a convicted female prisoner was beaten bloody by the guard in charge of dancing. | NKHR2015000036 2015-02-10 |
| In the spring of 2011, a convicted female prisoner in Unit 3 at the Jeongeori <i>kyohwaso</i> died from being beaten on the head with a rock because she stole a cabbage seedling. | NKHR2013000019 2013-02-05 |
| In the summer of 2011 at the Jeongeori <i>kyohwaso</i> , a fellow convicted prisoner ○○○ was weak and ill, but an officer said he or she was faking it and directed the leader to beat him (her). He/she later died. | NKHR2013000019 2013-02-05 |
| In 2012, while the testifier was detained at the Jeongeori <i>kyohwaso</i> , there were frequent incidents of violence against certain prisoners by the guard responsible for those prisoners or by a group of prisoners under the direction of the guard. Sometimes convicted prisoners carried rocks while they ran in the rain for 200 to 300 meters and when the testifier, who was physically weak, fell down, some stepped on him or her as they ran. | NKHR2014000132 2014-08-26 |
| In 2012, convicted prisoners who did not fill their daily quota of work were bitterly cursed and beaten at the Jeongeori <i>kyohwaso</i> . | NKHR2015000073 2015-04-07 |
| In March 2012, at Gaecheon <i>kyohwaso</i> , a fellow convicted prisoner in his or her 40s was beaten with a hand hoe by the SSD captain ○○○ in charge for saying, "Let's slow down," during composting work and had severe bleeding. He or She later died as he was also physically weak. | NKHR2013000156 2013-08-20 |
| In December 2012 at the Jeongeori <i>kyohwaso</i> , a woman in the farming unit was severely beaten after she was caught while escaping. She died in February or March of the next year after falling ill and not receiving proper treatment. | NKHR2014000095 2014-07-15 |

There were also testimonies collected on the poor nutrition, sanitation and healthcare situation in prison camps (*kyohwaso*). North Korean defector ○○○, who was detained at Jeongeori *kyohwaso* from February 2013 to January 2015, testified that he or

she ate grass from the ground in an attempt to satisfy his or her hunger as the prison camp (*kyohwaso*) gave soup made with rotten cabbage and cooked rice mixed with sand (described as “food worse than that for pigs”).⁵⁵ North Korean defector ○○○ testified that she visited Gaecheon *kyohwaso*, where her spouse was detained, and gave him food and goods once a month, and had to hand over 30 percent of the food and goods she brought to the prison camp (*kyohwaso*) as the nutrition situation of the convicted prisoners who were not visited by their families was so poor.⁵⁶ The spouse of this testifier sustained a serious head injury in an accident while working in the auto repair unit and died 4 days later due to the lack of proper treatment.⁵⁷

“It was said that he was left without even a dressing for his damaged head. It is said that blood kept coming out and they left him (her) like that, saying that it was better to let more blood come out. It was also said that he was also conscious. When I asked why they didn't operate quickly, they said that there was no doctor. When I asked when the doctors were coming, they said the doctors who went to Pyongyang are coming back late. They said he died the evening of the 8th... I think it is the same as if they had killed him. They say that guilty people are not humans. Even those who are not citizens, don't they have lives if they are human? Don't we sometimes save animals? It is not like if you are not a citizen you are an animal... Isn't this too harsh? Shouldn't someone who is dying but is still alive, even if he or she is guilty, be saved?”

⁵⁵- NKHR2015000123 2015-09-08.

⁵⁶- NKHR2015000151 2015-11-17.

⁵⁷- Above testimonies.

| Testimonies | Testifier ID |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2011, the testifier's two fellow convicted prisoners died from tuberculosis and weak physical condition at the Jeongeori <i>kyohwaso</i> . | NKHR2013000022 2013-02-05 |
| Visitors sometimes brought medicines including penicillin, painkillers and amoxicillin, etc. Those who did not receive any visitors took over someone else's work in exchange for medicines. | NKHR2014000031 2014-04-15 |
| From 2003 to 2012, the testifier was detained at the Jeongeori <i>kyohwaso</i> , and there were epidemics for two to three months every year due to the lack of sanitation. Each time, 30-50 people died. | NKHR2014000081 2014-07-01 |
| From 2010 to 2012, the testifier was detained at Jeongeori <i>kyohwaso</i> and green corn was provided like steamed rice. | NKHR2015000163 2015-12-01 |
| In 2011 and 2012, many convicted prisoners died from disease at Jeongeori <i>kyohwaso</i> . | NKHR2015000031 2015-02-10 |
| From 2008 to 2012, the testifier was detained at Gaecheon <i>kyohwaso</i> and an average of 2 to 3 people died each day due to tuberculosis and weak physical conditions. In 2010, the food crisis was particularly severe, and the number of deaths temporarily increased after people ate corn smelling like gasoline that the prison camp brought in. The testifier reported a death to the guards, but nothing was done and the body was left in the room until the next day. | NKHR2015000005 2015-01-13 |

(B) Labor Training Camps (*Rodongdanryundae*)

According to the 2015 survey, it seems that there is continuous violence and mistreatment in labor training camps (*rodongdanryundae*). North Korean defector ○○○, who resided near a labor training camp (*rodongdanryundae*) in Samjiyeon County, Yanggan Province in 2012, testified that he or she witnessed prisoners who failed to fill their daily work quota (2 cubic meters of logging) being cursed bitterly and beaten.⁵⁸ The testifier said that the guards

treated detainees like animals, kicking and whipping them.⁵⁹

Table II-14 Violence and Mistreatment in Labor Training Camps
(*Rodongdanryundae*)

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2011, at a labor training camp (<i>rodongdanryundae</i>) in Yonsa County, North Hamgyeong Province, a male prisoner was arrested as he ran away and was beaten to death. There was no punishment for the assailant and the victim was falsely reported as dying from illness in the camp. | NKHR2013000001 2013-01-08 |
| In June 2012, the testifier was beaten frequently when detained at the labor training camp (<i>rodongdanryundae</i>) in Hoeryeong, North Hamgyeong Province. There were people who had physical disabilities after beatings. | NKHR2015000085 2015-04-21 |
| In 2013 while the testifier was detained at a labor training camp (<i>rodongdanryundae</i>) in Daehongdan County, Yanggang Province, he or she was beaten with a one meter-long, three to four centimeter-thick club by a quota officer for failing to meet the labor quota. | NKHR2014000041 2014-04-29 |
| In February 2013, the testifier was beaten for speaking in Chinese when detained at the labor training camp (<i>rodongdanryundae</i>) in Geomdeok Mine, Dancheon, South Hamgyeong Province. | NKHR2015000079 2015-04-21 |

There were also testimonies of the poor nutrition, sanitation and healthcare situation at labor training camps (*rodongdanryundae*). North Korean defector ○○○ testified that he or she heard from an acquaintance who was detained at labor training camps (*rodongdanryundae*) in Hoeryeong, North Hamgyeong Province around July 2015 that the meals were very poor and included

58- NKHR2015000073 2015-04-07.

59- Above testimonies.

“what is like pigs’ corn soup.”⁶⁰

Table II -15 Poor Nutrition, Sanitation and Healthcare at Labor Training Camps (*Rodongdanryundae*)

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In June 2011, there were prisoners who were too weak to work at a labor training camp (<i>rodongdanryundae</i>) in Hyesan, Yanggang Province. They were not released on sick bail and instead remained neglected in the camp. Two of them died. | NKHR2013000186 2013-10-17 |
| On July 13, 2011, a fellow prisoner died from malnutrition while the testifier was detained at a labor training camp (<i>rodongdanryundae</i>) in Baekam County, Yanggang Province. | NKHR2011000232 2011-11-08 |
| In November 2011, three people died from malnutrition at the No. 88 Labor Training Camp (<i>rodongdanryundae</i>) in Wonsan, Gangwon Province. | NKHR2013000044 2013-03-05 |
| In August 2012, the testifier was detained at a labor training camp (<i>rodongdanryundae</i>) in Hoeryeong, North Hamgyeong Province, and as the meals were poor, it was difficult to survive without visitors. | NKHR2015000139 2015-10-06 |

(C) Holding Centers (*Jipkyulso*)

The 2015 survey continued to collect cases of violence and mistreatment at holding centers (*jipkyulso*). North Korean defector ○○○ testified that he or she was beaten when he or she straightened his or her back while weeding the fields, while female prisoners who had attempted to go to China were mistreated, including by frequently being burnt with cigarettes etc., when detained at the holding centers (*jipkyulso*) in Cheongjin, North Hamgyeong Province in September 2012.⁶¹

⁶⁰- NKHR2015000167 2015-12-01.

⁶¹- NKHR2015000123 2015-09-08.

Table II-16 Violence and Mistreatment at Holding Centers (*Jipkyulso*)

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2011, at a holding center in Hyesan, Yanggang Province, a fellow prisoner was caught as he or she attempted to escape and died from mistreatment by the guards. | NKHR2013000186 2013-10-17 |
| In 2011, at Kanli holding center (<i>jipkyulso</i>) in Pyongyang, the testifier was beaten with fists and the center did not permit him to relieve himself. Two prisoners died from mistreatment. | NKHR2013000134 2013-07-23 |
| On November 20, 2011, a guard at a holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province caused a pregnant prisoner to miscarry by kicking her in the belly with his boots on because she was pregnant with a half-Chinese baby. | NKHR2012000174 2012-09-04 |
| In December 2012, a guard sexually assaulted a 27 year-old female prisoner at the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province. | NKHR2015000079 2015-04-21 |

There were also testimonies of the poor nutrition, sanitation and healthcare at holding centers (*jipkyulso*). North Korean defector ○○○, who was detained at a holding center (*jipkyulso*) in Hyesan, Yanggang Province from October 2014 to March 2015, testified that corn kernels and cabbage soup were provided as meals and heating was possible only if the respective families of prisoners sent firewood.⁶² Also according to this testifier, as there is a resident doctor and medical facilities at SSD provincial holding centers (*jipkyulso*) but not at SSD city holding centers (*jipkyulso*), when there is a patient, the centers ask an external doctor to visit and give treatment.⁶³

62- NKHR2015000170 2015-12-01.

63- Above testimonies.

Table II-17 Poor Nutrition, Sanitation and Healthcare at Holding Centers (*Jipkyulso*)

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In January, 2011, a fellow prisoner died from malnutrition at a holding center (<i>jipkyulso</i>) in Sinuiju, North Pyeongan Province. | NKHR2011000253 2011-12-20 |
| In September 2011, a fellow prisoner died from malnutrition at a holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province. | NKHR2012000174 2012-09-04 |
| In September 2012, while the testifier was detained at a holding center (<i>jipkyulso</i>) in Cheongjin, North Hamgyeong Province, many were in weak physical condition due to poor nutrition. | NKHR2015000123 2015-09-08 |
| In 2013, while the testifier was detained at the holding center (<i>jipkyulso</i>) in Hyesan, Yanggang Province, 100 kernels of corn and salted water were provided as meals. | NKHR2015000153 2015-11-17 |

(D) Detention Centers

Also in the 2015 survey, there were many cases of violence and mistreatment at MPS city/county branch detention centers and SSD detention centers. In particular, there were concentrated testimonies of violence and mistreatment at SSD detention centers in border areas. North Korean defector ○○○ testified that he or she was detained for 16 days in the SSD county detention center in Musan, North Hamgyeong Province after forcible repatriation from China around July 2012, and that he or she was mistreated, including being forced to remain in a fixed position, being disturbed from sleep, and frequent beatings.⁶⁴ According to the testifier, a man who was caught after visiting China was beaten

64. NKHR2015000123 2015-09-08.

mercilessly for not stating his address and left for dead, ultimately dying from pressure sores.⁶⁵

Table II-18 Violence and Mistreatment at Detention Centers

| Testimonies | Testifier ID |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In August 2011, at the SSD detention center in Onsung County, North Hamgyeong Province, the testifier was beaten when he or she said “No” to questions of “Have you watched a South Korean film?”, “Have you ever met a South Korean?” etc. | NKHR2015000031 2015-02-10 |
| On October 14, 2011, a male prisoner (a driver, then 50 years old) was kicked to death by about four MPS officers at the MPS city branch detention center in Hyesan, Yanggang Province. | NKHR2012000210 2012-10-16 |
| In May 2012, one of the testifier’s neighbors, who was taken to SSD headquarters from the SSD detention center in Sinuiju, North Pyeongan Province, was tortured for 40 days and came back unconscious and with a broken collarbone. | NKHR2014000073 2014-06-17 |
| In October 2012, at the SSD detention center in Hyesan, Yanggang Province, the testifier was mistreated including being forced to remain in a fixed position and being beaten. | NKHR2015000079 2015-04-21 |
| In March 2013, the testifier was beaten for an hour to an hour and a half every day for 15 days in a solitary confinement room at the SSD detention center in Hyesan, Yanggang Province. | NKHR2015000159 2015-12-01 |
| In June 2013, the testifier was mistreated including being forced to remain in a fixed position and being beaten at the SSD detention center in Hyesan, Yanggang Province. | NKHR2015000153 2015-11-17 |
| In July 2013, the testifier was mistreated including being forced to remain in a fixed position at the SSD detention center in Hyesan, Yanggang Province. When the testifier did not maintain the fixed position, he or she was punished by being forced to remain in a position at a “95 degree angle.” | NKHR2015000136 2015-09-22 |
| From August to October 2013, the testifier was mistreated by being forced to remain in a fixed position, being suspended in the air and disturbed from sleep, and suffered beatings. There were frequent cases of people committing suicide because of mistreatment. | NKHR2014000121 2014-08-12 |

65- Above testimonies.

There were also testimonies that the nutrition situation at detention centers was poor.

Table II-19 Poor Nutrition, Sanitation and Healthcare at Detention Centers

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In October 2012, the defector received rotten corn as meals at the SSD detention center in Hyesan, Yanggang Province. | NHR2015000079 2015-04-21 |
| In July 2012, the defector received rice with corn and scorched-rice water for breakfast and supper and noodles for lunch at the SSD detention center in Musan County, North Hamgyeong Province. | NHR2015000123 2015-09-08 |
| In October 2013, very poor meals of rice with corn and radish pickled in salt were received at the SSD detention center in Cheongjin, North Hamgyeong Province. | NKHR2014000121 2014-08-12 |
| From January 9 to 21, 2014, the defector was at the SSD detention center in Hyesan, Yanggang Province and from January 21 to March 8, 2014, at the SSD detention center in Kimjongsuk County, Yanggang Province. The meals at the detention center in Hyesan were very poor as only 120 kernels of corn were provided. The meals at the detention center in Kimjongsuk County were relatively better. | NKHR2014000203 2014-12-02 |

B. Issues Related to Treatment of Unconvicted Prisoners

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

ICCPR.⁶⁶

The North Korean Constitution and Criminal Procedure Law do not stipulate that criminal defendants shall be presumed innocent until guilt is confirmed. There are neither separate provisions on separate confinement of unconvicted prisoners and convicted prisoners, or treatment of unconvicted prisoners.⁶⁷ As examined above, it seems that a basic separation of detention of unconvicted and convicted prisoners is taking place as the detention facilities for those sentenced to correctional labor punishment, labor training punishment and labor training discipline and for criminal suspects or criminal defendants are separated. However, in the 2015 survey, there was testimony from a defector that he or she was forcibly repatriated from China in June 2013, and stood by at a labor training camp (*rodongdanryundae*) for 50 days before being transported again to a holding center (*jipkyulso*) as there were too many people at the holding center (*jipkyulso*).⁶⁸ However, the ICCPR also recognizes exceptions to separate confinement and according to the above testifier, those who were to be transported to a holding center (*jipkyulso*) were separately detained from

⁶⁶- UN HRC, General Comment No. 21 (1992), paragraph 9.

⁶⁷- For example, in South Korea, the Administration and Treatment of Correctional Institution Inmates Act stipulates separate confinement of unconvicted prisoners and convicted prisoners and exceptions, and includes detailed provisions on the principles in treatment of unconvicted prisoners, prohibition against visits, wearing of plain clothes, haircuts, interviews with defence counsel and receiving of correspondence, special rules in investigation, work and edification, etc.

⁶⁸- NKHR2015000156 2015-11-17.

prisoners of the labor training camp (*rodongdanryundae*). While a more specific survey seems to be required to identify whether unconvicted prisoners are receiving appropriate treatment distinguished from those for convicted prisoners, the guarantee of treatment of unconvicted prisoners is insufficient given that some holding centers (*jipkyulso*) are forcing prisoners to work (See Chapter II, Section 3 “Right to Not be Forced into Labor”), that access to a defense counsel is not practically guaranteed (See Chapter II, Section 7 “Right to a Fair Trial”), etc.

C. Issues Related to Treatment of Convicted Prisoners

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

First of all, it is confirmed that there are no provisions on treatment of convicted prisoners in North Korean laws.⁶⁹ Provisions

⁶⁹ For example, in South Korea, the Administration and Treatment of Correctional Institution Inmates Act has specific provisions on the principles of treatment of convicted prisoners, examination of classification, education and edification programs, work and vocational training and leave etc.

related to punishment in the North Korean Criminal Law seem to officially pursue ideological education of convicted prisoners through labor at prison camps (*kyohwaso*) and labor training camps (*rodongdanryundae*), etc. However, the inhumane labor environment and imposition of excessive labor as has been testified by many North Korean defectors is difficult to be regarded as in accordance with the correction and rehabilitation of convicted prisoners. In the 2015 survey, there were also testimonies on the inhumane labor environment and imposing of excessive labor at prison camps (*kyohwaso*) and labor training camps (*rodongdanryundae*).⁷⁰

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

Article 10, paragraph 2 (b) of the ICCPR stipulates that accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. Moreover, the latter part of Article 10, paragraph 3 of the ICCPR stipulates that juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status. While Article 10 does not stipulate the age of juveniles, the UN Human Rights

⁷⁰-NHR2015000036 2015-02-10; NHR2015000123 2015-09-08; NKHR2015000139 2015-10-06.

Committee has suggested that all persons under the age of 18 should be treated as juveniles at least in matters relating to criminal justice, as stipulated in Article 6, paragraph 5 of the ICCPR in General Comments.⁷¹

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

E. Evaluation

According to the 2015 survey, the human rights violations at various detention facilities, i.e., at prison camps (*kyohwaso*), labor training camps (*rodongdanryundae*), holding centers (*jipkyulso*) and detention centers, are still serious. It is identified that violence and mistreatment are part of daily life, and nutrition, sanitation and healthcare is very poor, resulting in continuous loss of prisoner lives. This constitutes a violation of Article 10 of the ICCPR, which stipulates humane treatment of people deprived of their freedom. Violence and mistreatment at detention facilities may also constitute violations of Article 7 of the ICCPR, which prohibits torture and inhumane treatment, while the deaths at detention

⁷¹- UN HRC, General Comment No. 21 (1992), paragraph 13.

facilities may constitute violations of Article 6 of the ICCPR, which stipulates protection of the right to life. In terms of facilities, moreover, it seems that the guarantee of treatment of unconvicted prisoners is extremely insufficient other than that unconvicted and convicted prisoners are confined separately. Also, in terms of treatment of convicted prisoners, it is identified that measures are taken that do not accord with the original goal of the correctional system including imposition of excessive labor. It also seems that proper treatment of unconvicted and convicted juvenile prisoners, stipulated in Article 10, paragraph 2 and 3, is not provided. It is assessed that the fact that there is a general failure to comply with Article 10 of the ICCPR in North Korea is also related to the prevalent tendency to deny human dignity to criminals or deviant people. In the second UPR, many countries recommended that North Korea improve its treatment of detainees and cease its human rights violations at detention facilities, to which North Korea responded that it would continuously review the possibility of implementation going forward. North Korea, as a State Party to the ICCPR, should prepare specific provisions, to which it also complies, on the right and treatment of people detained in various detention and correctional facilities.

6

Right to Freedom of Movement and Residence

The right to freedom of movement and residence is a basic right that people should inherently have as free beings. It is no exaggeration to say that by securing the right to freedom of movement, including choice and movement of area of residence, the foundation for more firmly guaranteeing overall human rights as the basic rights of people can be laid. Under such a context, major international human rights standards mention the right to freedom of movement. Article 13 of the UDHR stipulates that “everyone has the right to freedom of movement and residence within the borders of each state”, while Article 12 of the ICCPR, to which North Korea is a State Party, stipulates the right to freedom of residence and movement, as detailed in the following table.

Table II-20 Article 12 of the ICCPR

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

We will now examine the recent status of implementation in North Korea with regard to the right to freedom of residence and movement in accordance with Article 12 of the ICCPR by major issue.

A. Restriction and Control of People’s Movement through the Travel Permit System

Article 12, paragraph 1 of the ICCPR stipulates that “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.” North Korea imposes limits on free movement by the general population within the country’s territory through its travel permit system. Those lawfully within the territory of a state that the ICCPR refers to may be citizens of the country or foreigners who temporarily reside in the country. The North Korean authorities

limit the right to freedom of movement and residence, through diverse legal institutions, not only of North Koreans but also of foreigners.

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

Article 30 of the People’s Security Enforcement Law, the representative law that regulates the daily lives of the North Korean people, stipulates “the People’s Security Agency shall exercise control over violations of travel regulations and disorderly wandering on the streets,” mentioning travel regulations of the general population as one of the targets for security control. According to Article 194 of the Administrative Penalty Law, people who violate travel regulations or unlawfully enter controlled districts are subject to punishment by the authorities through warnings, fines or unpaid labor, etc. Under-aged persons for whom a People’s registration card is not issued cannot receive travel permits separately and must be accompanied by an adult who has received a travel permit. The general population can travel only up to the residence area of direct relatives when there are funerals or weddings to attend, and personal travel to other areas is prohibited in principle. However, those travelling for

official business can obtain a business travel permit and travel in North Korea. Soldiers, government employees or workers of enterprises can travel for business trips or dispatching across the nation if carrying a business travel permit issued by the organization to which they belong. If a patient has a diagnostic document, he or she can obtain a travel permit to move to the capital city of the province of residence or to the residence area of direct family members who can take care of the patient.

While travel permits are free and are issued in around 5 to 7 days, most North Koreans pay 10,000 or 20,000 North Korean won per permit to obtain them immediately.⁷² Regarding the period for issuance and cost, it is assessed that there is a little deviation in the actual process at the regional level based on the level of the organization and region. Moreover, it is reported that the color of the lines in the permit differs by region, and the authorities change these colors frequently to prevent counterfeiting. Travelers who obtain a travel permit must report to the *inminban* chief of the region after arriving at the travel destination and register on the travel roster, and then obtain a travel pass stamped by the MPS. If a traveler is caught without a permit, the *inminban* chief is required to report it to the local MPS officer after which the traveler must register at the local MPS city/county branch. All of this makes it possible to control the movement of people.

⁷²- NKHR2015000113 2015-06-02 and many other testimonies.

Table II-21 Testimony Related to Travel Permits

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In November 2011, in Bocheon County, Yanggang Province, the testifier obtained a travel permit. The testifier filled the application at MPS city/county branch No. 2, paid 1,500 North Korean won and obtained the permit in 15 days. | NKHR2015000157 2015-11-17 |
| In the fall of 2012, the testifier obtained a travel permit to go for vending and peddling to Pyeongseong from Hyesan, Yanggang Province. As one of the acquaintances of his mother's friend was working for MPS city/county branch No. 2, the defector obtained the travel permit the next morning by handing over one pack of cigarettes. | NKHR2015000134 2015-9-22 |
| In 2015, travel permits were issued in Kimjongsuk County, Yanggang Province. Although travel permits for the border areas of Pyongyang/Naseon were restricted, one could obtain a permit immediately by giving 1~5 packs of cigarettes to MPS city/county branch No. 2. It was usually possible to secure 15~30 days of travel by giving them 2 packs of cigarettes. It was also possible to extend the travel time through bribes. | NKHR2015000142 2015-10-06 |
| People's registration cards were good for travel within North Hamgyeong Province. People from other cities or counties must have travel permits to travel within North Hamgyeong Province. | NKHR2013000202 2013-11-12 |
| Those living in border areas could move with a People's registration card only without the need for travel permits, except for when travelling to Najin. When people residing in other provinces, including Cheongjin, wished to enter border areas, including Hoeryeong, a travel permit was required. | NKHR2015000101 2015-05-19 |
| Travel permits for border areas had two blue lines and an SSD code number. | NKHR2014000056 2014-05-20 |
| Travel permits for Jagang Province have red lines, while those for Pyongyang and border areas have blue lines. Other areas had no lines. | NKHR2013000077 2013-04-16 |
| Army discharge cards have the same effect as travel permits. Travel was allowed with them to anywhere except Pyongyang. They are good for 6 months after discharge. | NKHR2013000154 2013-08-20 |

B. Restriction of Access to Certain Areas and Forced Deportation

Article 12, paragraph 3 of the ICCPR stipulates regarding restrictions of the right to freedom of movement and residence that “The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.” The UN Human Rights Committee gave interpretation in General Comments that domestic law has to establish the conditions under which the right to freedom of movement and residence may be limited, and that these conditions would not be met, for example, if an individual were prevented from leaving a country merely on the grounds that he or she is the holder of state secrets, or if an individual were prevented from travelling internally without a specific permit.⁷³ Article 12, paragraph 3 of the ICCPR means that the right to freedom of movement and residence can be restricted within the boundary of feasible and reasonable reasons in terms of national policies.

In North Korea, however, there is the problem of such provisions being interpreted arbitrarily and at the discretion of the

⁷³- UN HRC, General Comment No. 27 (1999), paragraph 12, 16.

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

North Korea implements a policy of prohibiting access to certain districts by the general population. For example, those without Pyongyang residence cards⁷⁴ and permits for temporary stays in Pyongyang⁷⁵ can enter the city only with travel permits with Pyongyang approval numbers. For the general population to travel to cities and counties in the administrative district of Tumen River, Amnok River and the Demilitarized Zone (DMZ) etc., they need

⁷⁴-People's registration cards for the general population and Pyongyang residence cards issued only for Pyongyang citizens are differentiated (Article 7, Citizen Registration Law).

⁷⁵-Permits for temporary stays in Pyongyang are provided to students from the provinces, those attending Pyongyang universities or the Pyongyang No. 1 Middle School, soldiers deployed in Pyongyang, and civil servants or business workers assigned to Pyongyang. The length of stay is allotted according to the period of study, work or service.

to carry travel permits issued by their province of residence and with an approval number of the Section 2 Office of the provincial People's Committee of North Pyeongan Province, Jagang Province, Yanggang Province and North Hamgyeong Province. As such, the North Korean authorities operate a system that restricts travel to special areas, as well as a general travel permit system. Those who wish to go to Pyongyang, military regions or border region must obtain an approval number from an SSD agent.⁷⁶ It is said that it is more difficult to obtain travel permits from inland areas to border regions than from border regions to inland areas.⁷⁷

While restriction of access to certain areas through regulations in the travel permit system and the demanding process constitute passive infringement of the right to freedom of movement and residence, forced deportations conducted by the North Korean authorities can be defined as active infringement. The UN Human Rights Committee interprets the right to freedom of residence in its General Comments as it includes protection from “all forms of forced internal displacement” and “precludes preventing the entry or stay of persons in a defined part of the territory.”⁷⁸ The forced deportation carried out by the North Korean authorities is a representative case of forced displacement by a state.

⁷⁶- NKHR2014000119 2014-08-12 and many other testimonies.

⁷⁷- NKHR2014000127 2014-08-26.

⁷⁸- UN HRC, General Comment No. 27 (1999), paragraph 7.

Table II -22 Cases Related to Forced Deportation

| Testimonies | Testifier ID |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In November 2011, there was a growing trend of forced deportation in Hoeryeong, North Hamgyeong Province. This was attributable to an increase in political crimes after the currency reforms, and deportation of families of increasing numbers of defectors and human trafficking. | NKHR2012000041 2012-03-20 |
| In the fall of 2011, a family named Kim was deported to a farming village at a mountain top in Poongseo County, Yanggang Province, as it was discovered that one of the family members went to South Korea. There were cases where remaining family members also defected from North Korea due to fear of forced deportation, once one of them had already defected. | NKHR2015000133 2015-09-22 |
| In 2011, in Hyesan, Yanggang Province, the testifier's neighbor engaged in smuggling and went to a prison camp (<i>kyohwaso</i>) and his wife and daughter were deported. They later returned and lived with difficulty in lodgings. | NKHR2015000024 2015-01-27 |
| In 2011, a family named Choi was deported from Hyesan, Yanggang Province. The remaining family was deported to Woonheung-li after a daughter defected to China, but the family was able to return to Hyesan through bribery. | NKHR2015000134 2015-09-22 |
| From late 2013 to early 2014, around 7 households related to Jang Sung-taek were deported and assigned to the Kowon mine. | NKHR2015000051 2015-03-10 |
| In April 2014, the nephew of Jang Sung-taek and his family were deported from Seoheung-dong, Cheongjin, North Hamgyeong Province to Hwadae County, North Hamgyeong Province. | NKHR2014000077 2014-07-01 |
| Most banished people return home, but lead a life as drifters or "kotjebi (homeless child beggars)." In February and March of 2013, many banished people could be seen. | NKHR2013000147 2013-08-06 |
| Thirty percent of the residents in Sinmyong-ri, Poongseo County, Yanggang Province are families of those detained due to misspeaking. Many others are those deported from Pyongyang and Hyesan. | NKHR2014000055 2014-05-20 |
| In Gyowon-ri, Chongam District, Cheongjin, North Hamgyeong Province, more than 40% of the residents are deported families. | NKHR2014000078 2014-07-01 |

The North Korean authorities have been utilizing forced deportation as a policy tool against political reactionaries and anti-government individuals and their families, and in particular, have expelled people with disreputable personal backgrounds (*songbun*) from Pyongyang to remote provinces. North Korean defectors give consistent testimonies of this forced deportation. As indicated in diverse cases, North Korea continues to carry out forced deportation as part of national policy.

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

Article 12, paragraph 2 of the ICCPR stipulates “everyone shall be free to leave any country, including his own.” Here, “own country” can be interpreted more broadly including one’s own country and “free to leave” means that procedural legitimacy and freedom to leave the country should be secured. The UN Human Rights Committee interprets Article 12, paragraph 2 of the ICCPR as including the duty of a country to properly provide required documentation, including a passport, for an individual who seeks to leave the country.⁷⁹

The North Korean authorities have provisions on entry to border areas by foreigners, including those residing in North Korea,

⁷⁹- UN HRC, General Comment No. 27 (1999), paragraph 9.

in its Immigration Law. The DPRK Immigration Law, revised and updated in 2013, stipulates that “As for application for passports and visas of citizens who seek to enter and exit the country for official business, the organization that dispatches him or her shall apply for them to the Ministry of Foreign Affairs. As for application for passports and visas of citizens who seek to enter and exit the country for private business, the citizen shall apply for them at the immigration office of the area of residence (Article 11),” allowing for immigration for both public and private business, in procedural terms. As for foreigners, Article 19 of the Immigration Law mentions that “foreigners shall enter or exit the country after obtaining a visa through our country’s Ministry of Foreign Affairs, an immigration institution or representative institution of our country’s Ministry of Foreign Affairs and consuls residing in other countries.” However, according to numerous testimonies by North Korean defectors, passports in North Korea are issued only for people with special privileges or are otherwise very difficult to obtain.⁸⁰ In other words, the North Korean authorities fail to properly fulfill the duties of issuing passports, which is the minimum requirement for leaving a country. Unlike as stated in various provisions in the Immigration Law, North Korean people

⁸⁰–According to North Korean defector testimonies, it is identified that there are rare cases of passports being issued for private business, contrary to the impression given in the provisions. Among the North Korean defectors who participated in the interviews, those who received passports were mostly for entering/exiting the country on official business. NKHR2015000001 2015-01-13; NKHR2015000070 2015-04-07; NKHR2015000158 2015-11-17.

cannot freely leave the country. This is why the act of defecting from North Korea, by going around social and border controls, continues. Moreover, such acts of defecting from North Korea demonstrates that there is a lack of procedural legitimacy and freedom to leave normally or return to a country.

Meanwhile, travelling overseas for North Koreans is divided into two categories: long-term travel for work or official business, and short-term stays for travel or to visit relatives. With the increase in overseas employment opportunities in industries such as logging, construction, sewing and restaurants, long-term stays overseas are identified to have also become frequent. However, this type of opportunity is granted very selectively and only to those whose ideological integrity has been proven, and in most cases, ordinary people who travel to China do so in order to visit their relatives or for vending and peddling. In order for North Korean people to travel overseas, they need permits for entry/exit of the country including passports and visas, etc. (Article 10 and 11). If they are found to be in violation of any of these provisions, a fine is imposed or exit is barred (Article 55). In addition, for unlawful border entry/exit, Article 221 of the North Korean Criminal Law (Charges of Illegal Border-Crossing) stipulates, “Those who engage in unlawful border entry/exit shall be subject to 1 year or less of labor training punishment. Those with serious charges of such behaviors shall be subject to 5 years or less of correctional labor punishment.”

North Koreans are only allowed to visit their relatives in China, and personal information of their relatives are recorded in the traveler's personal file (official file), including the relatives' names, address and other relevant information. Currently, anyone over the age of 45 who has a People's registration card and no criminal record can apply for a passport for the purpose of visiting his or her relatives in China. Those with relatives in China can visit them once every three years; only those aged 70 or under can make the trip.⁸¹ There are three types of passports in North Korea: diplomatic, official and travellers' passports. Diplomatic passports are carried by diplomats or special agency personnel. When operatives from the Party or spy agencies are sent abroad, they are given diplomatic passports.

One must obtain a letter of invitation from China in order to actually receive a passport. In addition, confirmation must be made by the manager of one's institution or enterprise as well as by the local MPS officer and the local SSD agent, and a final review is made by the Foreign Affairs agent at the SSD. Passports are issued by the Vice Minister of the SSD after his final approval, and it is said that a written oath promising that he/she will not defame the honor of North Korea and will return home at the appointed date is required. As economic hardships deepened and the shortage of foreign currency was exacerbated, most North

⁸¹ NKHR2014000023 2014-04-01.

Koreans tried to obtain passports with cash instead of going through the normal procedures. However, even paying cash sometimes did not prevent the process from taking a long time.

If a North Korean resident in a border region wants to visit China for a short trip, a “river-crossing pass” may be issued.⁸² For anyone engaged in cross-border trade, a 24-hour or 48-hour pass is issued. A letter of invitation from China is not required for these types of river-crossing permits, and these are said to be issued immediately upon application. Since 2005, those with relatives in China are required to register their names and it is identified that if the Chinese relatives are not registered on North Korea’s electronic list, they cannot meet their North Korean relatives, and likewise their North Korean relatives cannot travel to China. As the actual amount of money they need to pay for border-crossing documents has increased, North Koreans visiting China try to recover the money they spent. However if it was difficult to recover this money with help from relatives or by other means, he/she would often then decide to remain in China.

⁸² Private business is mostly limited to cases where there are relatives in China, and in this case, border crossing cards (river-crossing permits), instead of passports, are mostly obtained. One of the testifiers submitted an invitation letter to the Foreign Affairs division of the SSD and obtained a river-crossing permit after confirmation that he/she had a People’s registration document. NKHR2015000043 2015-02-24.

D. Evaluation

According to the 2015 survey, the right to freedom of residence and movement of the North Korean people is identified to be seriously infringed upon by the policies of the North Korean authorities. A case in point is the restrictions on the right to freedom of movement through maintenance of the travel permit system and crackdowns by zone. Forced deportation and restrictions on/prohibition against access to certain areas, regulated by the authorities, are also identified to be continuous infringement. Forced deportation as a policy used by the North Korean authorities to maintain the regime and social order seem to still be in place along with the increasing anti-socialist irregularities of the sex trade, narcotics trade and use, illegal use of mobile phones, and defection of family members, etc. North Korea under the Kim Jong-un regime regards the numerous attempts by its people to leave the country as unlawful and punishes them. Such infringement of the right to freedom of residence and movement is a clear violation of Article 12 of the ICCPR. In addition to the North Korean authorities, the international community should also make efforts to improve protection of the right to freedom of movement and residence in North Korea.

7

Right to a Fair Trial

Article 10 of the UDHR stipulates that “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.” Article 14 of the ICCPR also stipulates that State Parties shall guarantee the right to fair trial through each state’s judicial system. The right to a fair trial is a key element in protecting human rights and plays a role as a procedural tool to advocate the rule of law.⁸³ Article 14, paragraph 1 guarantees the right to equality in trials, the right to fair trial in all kinds of lawsuits, and the right to public trials, etc. Article 14, paragraphs 2 to 7 stipulate the minimum rights that should be granted to suspects and defendants in the procedure of criminal trials. According to Article 14 of the ICCPR, denial of independent trials, unfair trials, and operation of quasi-judicial systems amount to a failure to guarantee the right to appeal and perfunctory operation of an appeal system, and infringement on the right to defense.

⁸³- UN HRC, General Comment No. 32 (2007), paragraph 2.

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

| Table II -23 Article 14 of the ICCPR | |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Paragraph 1 | All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. (The rest is omitted) |
| Paragraph 2 | Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. |
| Paragraph 3 | In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: <ol style="list-style-type: none"> (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing (The rest is omitted); (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court; (g) Not to be compelled to testify against himself or to confess guilt |
| Paragraph 4 | In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. |
| Paragraph 5 | Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. |
| Paragraph 6 | When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law. (The rest is omitted) |
| Paragraph 7 | No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country. |

A. Denial of Independence of the Judiciary

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

North Korea establishes its courts based on its Constitution and Law on Constitution of Courts. The judicial system in North Korea consists of the Supreme Court, courts of the province and municipality directly under central authority, city/district and county people’s courts, and special courts (Article 159 of the Constitution). Among the special criminal courts are military courts, railroad courts and military logistics courts (Article 3 of the Law on Constitution of Court, Article 52 of the Criminal Procedure Law). Under North Korean regulations, judges are elected. In other words, the head of the Supreme Court is elected by the Supreme People’s Assembly (SPA) (Article 91, sub paragraph 12 of the Constitution), and other Supreme Court judges by the Presidium of the SPA, and judges for courts of the province and municipality directly under central authority and People’s court by the People’s Assembly of the province and municipality directly under the central authority concerned (Article 4 of the Law on Constitution of Court). Moreover, the Supreme Court is

also held accountable to the SPA, and the Presidium of the SPA when the SPA is in recess (Article 168 of the Constitution). However, in accordance with the principle that the Party holds the dominant position and the principle of centralism, the KWP controls all institutions and organizations in practicality, including the SPA which, nominally, is the highest sovereign organization. Thus, judicial agencies in North Korea have a limited function, and are supervised and regulated by their higher authorities, the SPA and the KWP.⁸⁴ In North Korea, while there are provisions that “in the process of trials, the courts are independent, and conduct trials in accordance with law” (Article 166 of the Constitution; Article 271 of the Criminal Procedure Law), they only declare the independence of individual courts as an organizational system, rather than guaranteeing the independence of individual judges. Therefore, it cannot be regarded as independence of the judiciary in its true sense.⁸⁵

Meanwhile, North Korea has adopted the People’s Jury System. Under the system, laymen, who are not legal experts, form an *en banc* together with a judge to conduct trials, with the opportunity to fully participate in a trial as decent members of the court, exercise equal rights to a judge, and decide a case through majority vote. North Korea introduced the People’s Jury System on November

⁸⁴- Kyu-chang Lee and Gwang-Jin Chung, The North Korean Criminal Trial System: Characteristics and Actual Practice, p. 49. (In Korean)

⁸⁵- Ibid., pp. 49~53.

23, 1945 with Decree No. 4, 「Case Regarding Court Organization」, issued by the Department of Justice, and has been using it ever since. People's jurors participate in the first instance trials (Article 9 of the Law on Constitution of Courts). Judgments and decisions are adopted by majority vote of the judge and the People's jurors (Article 17 thereof).

Like judges, People's jurors are also elected. People's jurors of the Supreme Court are elected by the Presidium of the SPA, while People's jurors at courts of the province and municipality directly under central authority and people's courts are elected by the relevant People's Assembly (Article 4 of the Law on Constitution of Courts). Practically, only those who are loyal to the KWP can be elected as People's jurors, and the elected People's jurors are naturally directed by the KWP. Under this reality in North Korea, the People's Jury System is a means for the KWP to systematically control the courts.⁸⁶ The fact that the People's Jury System is used as the KWP's *de facto* legal control system over the courts is also confirmed by the article by a North Korean scholar, who explained that the System was in place to guarantee and deliver the revolutionary characteristics of a trial and such functions and roles were seamlessly fulfilled by the system.

⁸⁶- Ibid., p. 54.

“The People’s Jury System is a legal framework that guarantees the revolutionary characteristics of the Republic’s trials. ... The Republic’s trials legally guarantee the realization of our people’s democracy dictatorship. The role and function of the Republic’s trials in realizing the people’s democracy dictatorship is seamlessly fulfilled by the People’s Jury System.”⁸⁷

B. Unfair Trials

Article 14, paragraph 1 of the ICCPR stipulates that all persons are equal before the courts and have the right to a fair trial. However, trials in North Korea are not fair. This is well demonstrated in the perfunctory nature of its trials. Moreover, corruption during the trial process also serves as one of the major factors that undermine the fairness of trials. We will examine corruption in Chapter V, Section 2, and will examine relevant provisions and reality regarding perfunctory trials only immediately below.

(1) Perfunctory Trials

In North Korea, there is a unique system of preliminary examination between investigation and prosecution. The aim of preliminary examination is to determine the defendant and reveal the criminal case completely and accurately (Article 147 of the Criminal Procedure Law). However, contrary to this legal provision,

⁸⁷-Dok-il Kim, “The Nature of the People’s Jury System,” Political and Legal Study, No. 2012-2 (Scientific Encyclopedia Publishing: 2012), p. 34. (In Korean)

there are testimonies that sentences are decided at preliminary examinations with exclusion of a judge and the people's jurors, before trials. North Korean defector ○○○, who fled in January 2010, testified that when he or she was tried, a prosecutor and two preliminary examination officers sentenced him or her to correctional labor punishment in the pre-trial phase.⁸⁸

The first instance trial proceeds in five phases of court trial, factual inquiry, prosecution and defense, the defendant's final testimony, and pronouncement of judgement (Article 300 of the Criminal Procedure Law). Among North Korean defector testimonies, there are cases demonstrating that the criminal trial procedures are based on the legal process of the Criminal Law, the Criminal Procedure Law, and the Law on Constitution of Court, etc. North Korean defector ○○○, who had been tried at the Musan County court in North Hamgyeong Province in May 2007, testified that a total of five authorities were present at the trial including a vice-chief justice, two people's jurors, a lawyer, and a prosecutor, and the trial proceeded with the argument of the prosecutor and the lawyer's defense, followed by judgment by the vice-chief justice and the people's jurors.⁸⁹ Nevertheless, criminal trials are proceeded with as formalities in general in North Korea. One is determined guilty even if he/she does not answer the

⁸⁸- NKHR2010000089 2010-06-08.

⁸⁹- NKHR2008000022 2008-11-05.

question, “○○○, do you admit to your crime of □□?” and the defendant is not allowed to speak or ask any questions.⁹⁰ It is also identified that there are cases where trials are proceeded with only on paper.

(2) Contradictory Punishment for the Same Crime

There were many noteworthy testimonies collected in the interviews of the 2014 survey. It was testified that on-site open trials were conducted with many people charged for the same things, and some were publicly executed while others were acquitted and released allegedly in accordance with Kim Jong-un’s generosity or policy. These cases were found to have taken place in many regions in the second half of 2013. North Korean defector ○○○ testified that such was the case during that time in all provinces to win the hearts of the people.⁹¹ Another North Korean defector ○○○ testified, “Kim Jong-un is killing only a few as examples as he cannot kill everyone. With the aim of solidifying his regime, he is orchestrating all this so [the pardoned] people will not commit any more crimes.”⁹² The fact that some criminals found guilty of the same charges were executed immediately while others were acquitted not by court decision but by the generosity or policy of

⁹⁰- NKHR2012000036 2012-03-13.

⁹¹- NKHR2014000050 2014-05-13.

⁹²- NKHR2014000112 2014-08-12.

Kim Jong-un, is a clear violation of Article 14 of the ICCPR, which stipulates the right to fair trial.

Table II-24 Cases of Release of Persons after On-site Open Trials in Accordance with Kim Jong-un’s Policy

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

C. Operation of Quasi-Judicial Systems

Article 14, paragraph 1 of the ICCPR stipulates that all persons have the right to be tried by “tribunal established by law.” However, North Korea is operating alternative trial systems which are not

official trial systems in courts. Comrade trials and SSD political criminal trials fall into this category, and many institutions other than trial institutions impose administrative penalties. The operation of alternative trial systems by North Korea constitutes a violation of the ICCPR.

(1) Comrade Trial System

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

Targets of a Comrade Trial are people who commit economic crimes, cause losses through negligence, or are involved in minor incidents hindering Kim Il-sung's Unitary Ideology, and other relevant offenders. At a Comrade Trial, these people may be

subject to unpaid labor of six months or less, while perpetrators of economic improprieties may be subject to administrative fines (where a fine equal to ten to twenty times the undue gain is deducted from their salaries), suspension of exercise of administrative rights, demotion, self-criticism, stern warnings, admonitions, and so forth. However, there seem to be no appellate procedures in place.⁹³

The Comrade Trial System is mainly carried out in the military. Comrade Trials of men in uniform are conducted from the battalion level and always in the presence of an immediate superior under any circumstances. The results are predetermined by a higher department and a Comrade Trial is enforced to set an example. The worst possible penalty is a dishonorable discharge.⁹⁴ In the event of a dishonorable discharge, the discharged person and his or her family members are relocated to mines or farming villages.⁹⁵ There is no on-site imposition of punishment at Comrade Trials. Preliminary examination procedures take place after Comrade Trials, and then, punishment based on the Criminal Law is imposed.⁹⁶

⁹³ Court Administration Agency, 『An Overview of North Korea's Juridical System』 (Seoul: Court Administration Agency, 1996), pp. 630-637. (In Korean)

⁹⁴ NKHR2013000154 2013-08-20.

⁹⁵ NKHR2015000069 2015-04-07.

⁹⁶ NKHR2015000119 2015-09-08; NKHR2015000131 2015-09-22; NKHR2015000172 2015-12-01.

Table II-25 Testimonies on Comrade Trials

| Testimonies | Testifier ID |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2010, when the testifier was serving in the military in Daehongdan County, Yanggang Province, Assistant Squad Leader Staff Sergeant ○○ Ro underwent a Comrade Trial as he or she was caught smuggling. | NKHR2015000152 2015-11-17 |
| In May 2012, several soldiers who crossed the Military Demarcation Line and took pictures underwent a comrade trial at the Corps Headquarters for violating the Korean Armistice Agreement. | NKHR2012000247 2012-11-20 |
| In September 2014, ○○ Han (27 years old), who was working for a neighboring unit in the same corp, underwent a Comrade Trial for violence against the people. | NKHR2015000119 2015-09-08 |

(2) SSD Political Criminal Trials

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

However, there are testimonies that even trials are conducted by the SSD contrary to the applicable provisions of the Criminal Procedure Law. According to North Korean defector ○○○, a

former SSD agent, if a criminal fact is assessed to be accurate based on a preliminary examination including interrogation of suspects by an SSD provincial bureau, it is reported to the SSD prosecutor's office. If the prosecutor's office determines that the suspect has committed the criminal act, he or she is tried in the place where the preliminary examination organization is located. In the capacity of a judge, a prosecutor at the SSD prosecutor's office renders a decision in the name of the Central Court (currently the Supreme Court), the trial is held behind closed doors and a sentence decided pursuant to the Criminal Law. The SSD also determines whether it would be appropriate to detain all members of the family, and whether the criminal will be imprisoned for life, and there reportedly exists no literature which provides a basis for such determination. Relevant officers hold a meeting of the Case Council to decide how to handle a case and then determine the scope and duration of imprisonment.⁹⁷ Similarly, North Korean defector ○○○, who performed related work for the SSD, said that at the end of a preliminary examination, a prosecutor from the SSD prosecutor's office renders a final decision. He or she also testified that in Nampo, South Pyeongan Province, a prosecutor from the SSD prosecutor's office came to the SSD city branch in Nampo to adjudicate. Other cities and counties also transfer the control of these affairs to the SSD, with a prosecutor from the

⁹⁷- North Korean defector ○○○, interviewed in Seoul, April 19, 2005.

SSD prosecutor's office making a decision at the SSD provincial bureau. In sum, political prisoners allegedly do not undergo formal legal proceedings.⁹⁸

Trials of political prisoners in North Korea violate human rights for the following reasons. First, trials are held by a non-court entity. The ICCPR stipulates that everyone shall be entitled to a fair and public hearing by a tribunal established by law in the determination of any criminal charge against him (Article 14, paragraph 1). Second, North Korean political prisoners are deprived of an opportunity for appeal. The ICCPR stipulates that everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law (Article 14, paragraph 5). Third, the North Korean authorities arbitrarily stretch the definition of political prisoner. North Korea often labels ordinary criminals as political prisoners even though they can hardly be regarded as such.⁹⁹

(3) Imposition of Administrative Penalties by Diverse Institutions

In North Korea, administrative penalties are imposed for violations of law that are not serious enough to apply punishment based on the Criminal Law (Article 13 of the Administrative

⁹⁸- North Korean defector ○○○, October 10, 2005, interviewed in Seoul

⁹⁹- Keum-Soon Lee et al., *Political Prison Camps in North Korea*, pp. 1~2. (In Korean)

Penalty Law). Diverse administrative penalties include admonitions, stern warnings, unpaid labor, reeducational labor, demotion, removal from jobs, loss of jobs, fines, suspension, demand for compensation, confiscation, suspension of qualifications, degradation, or deprivation of qualifications, etc. (Article 14 of Administrative Penalty Law). Of these, reeducational labor was added when the Administrative Penalty Law was revised on October 16, 2011. This means that administrative penalties have been reinforced in North Korea. However, it is stipulated that besides trial institutions, the Socialist Law-Abiding Life Guidance Committee, the Cabinet, institutions of the prosecutor's office, arbitration institutions, institutions of the MPS, censorship supervision institutions, and qualification-granting institutions, etc., can impose administrative penalties. Other institutions, enterprises and organizations can also impose administrative penalties (Article 229 of the Administrative Penalty Law). Administrative penalties are also stipulated in the People's Security Enforcement Law and the Prosecution and Surveillance Law. MPS institutions and the Responsible Workers' Association can impose reeducational labor, suspension of qualifications, degradation, deprivation of qualifications, suspensions, and confiscations for violation of legal orders (Article 57 of the People's Security Enforcement Law). Prosecutors can impose labor training (Article 40, paragraph 3 of the Prosecution and Surveillance Law).

In North Korea, a variety of administrative penalties based on the Administrative Penalty Law, the People's Security Enforcement

Law, and the Prosecution and Surveillance Law are utilized as a strong means of social control over the North Korean people. Among these administrative penalties, unpaid labor and reeducational labor and labor training, in particular, are difficult to be regarded simply as administrative discipline and should be understood as having the characteristics of punishment.

D. Infringement on the Right to Defense

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

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

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

North Korean defectors mostly testified that defense counsels were present in trials. Some North Korean defectors said that defense counsels made statements in their favor.¹⁰⁰ However, even when defense counsels attend the trial process, in general, they neither aided nor defended the accused substantively.¹⁰¹ This has to do with the duties of defense counsel in North Korea, which

¹⁰⁰ NKHR2012000032 2012-03-13; NKHR2013000186 2013-10-17.

¹⁰¹ NKHR2011000148 2011-06-28.

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

(2) Perfunctory Access to a Defense Counsel

To receive assistance from a defense counsel, the right of access to a defense counsel must be guaranteed. The North Korean Criminal Procedure Law stipulates, “a selected defense counsel may contact and converse with a person undergoing preliminary examination or a person accused of a crime. A preliminary examination officer, judge and court shall allow the defense

counsel and the person undergoing preliminary examination or the person accused of a crime to meet each other if either request” (Article 69). In addition, the North Korean Lawyer’s Law provides that a defense counsel is entitled to converse or correspond with a person undergoing preliminary examination or accused person of a crime (Article 9, paragraph 1). As such, some access to a defense counsel is carried out, but only perfunctorily.

Table II-26 Cases Where Access to Defense Counsel was Given before a Trial

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

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

Article 14, paragraph 5 of the ICCPR stipulates that everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. In

North Korea, it is possible to appeal criminal judgments. The North Korean Criminal Procedure Law stipulates that any accused person, lawyer, or claimant for compensation who has objection to a judgment or decision by a court of first instance may file an appeal with a higher tribunal (Article 356). However, it is not permitted to appeal or challenge a sentence or decision adopted by the Supreme Court as the court of first instance (Article 358). This is in clear violation of the ICCPR, and relevant laws should be improved.

Even when appeal is possible, it is only perfunctory.¹⁰² Although there are cases where appeals are accepted, such cases are exceptional. In North Korea, the appeal system places tremendous disadvantages on the appellant. As a result, it is identified that appeals are uncommon, because North Koreans perceive that appeals are meaningless.¹⁰³ Recently, however, it seems that appeals have occasionally been filed.¹⁰⁴

¹⁰²- NKHR2015000165 2015-12-01.

¹⁰³- NKHR2015000031 2015-02-10.

¹⁰⁴- NKHR2013000166 2013-09-17.

Table II-27 Testimony that Appeals are Usually Waived

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In practical terms, objections are not raised because an appeal results in a heavier penalty. | NKHR2011000021 2010-06-07 |
| An appellant will be sentenced to ten more years in prison if he or she loses the appeal while his prison term will be halved if he or she wins. There is only a remote possibility for North Korean people to win an appeal due to their lack of knowledge of law. | NKHR2014000089 2014-07-15 |
| One may file an appeal only when he or she has money or connections. Otherwise, an appellant will face one or two more years in prison. | NKHR2014000161 2014-10-07 |

It is identified that generally no appeals are lodged regarding defection from North Korea. However, it is unclear whether this is because an appeal itself is impossible or because an appeal produces no practical benefit. Some testify that those who illegally cross the border are not allowed to file appeals,¹⁰⁵ while other testifiers say that unlawful border crossers do not enter an appeal in order to serve their prison term as quickly as possible because there are no ambiguous or disputable matters regarding their admission of charges.¹⁰⁶ There were testimonies that it is impossible to appeal a decision made during an on-site open trial as well. North Korean defector ○○○ testified that a judge said in an open trial of a felony that “the criminal was sentenced to execution by firing squad according to certain legal provisions and that no appeal might be

105_ NKHR2012000184 2012-09-11.

106_ NKHR2014000151 2014-09-23.

filed against the decision.”¹⁰⁷ Another North Korean defector also testified that it is impossible to lodge an appeal of an on-site open trial decision because implementation of such a trial itself indicates that there exists substantial evidence.¹⁰⁸

F. Infringement on Foreigners’ Right to a Trial

As of the end of 2015, 9 foreigners involved in 7 cases who have been put on criminal trials in North Korea have been US citizens including Euna Lee, Laura Ling, Aijalon Mali Gomes, Kenneth Bae (Korean name: Jun-ho Bae), and Matthew T. Miller. South Korean citizens involved include Jeong-uk Kim, Guk-gi Kim and Chun-gil Choi who are missionaries, and a Canadian citizen, Pastor Hyun-soo Lim. Four people - Jeong-uk Kim, Guk-gi Kim, Chun-gil Choi and Hyun-soo Lim - are currently in prison.

¹⁰⁷- NKHR2011000131 2011-06-07.

¹⁰⁸- North Korean defector Hyon-wuk Song’s consultation with the director of human rights investigation at the Committee for the Democratization of North Korea (November 8, 2011)

Table II-28 Trials and Enforcement of Sentences on Foreigners in North Korea

(As of December 31, 2015)

| | Nationality | Time of Arrest | Time of Trial | Tribunal | Charges | Punishment | Enforcement |
|------------------------------|--------------|------------------|--------------------|---------------|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------|
| Euna Lee/ Laura Ling | American | March 17, 2009 | June 4, 2009 | Central Court | Hostile acts against the North Korean people, Illegal border-crossing | 12 years of correctional labor punishment | Special pardon |
| Aijalon Mahli Gomes | American | January 25, 2010 | April 6, 2010 | Central Court | Hostile acts against the North Korean people, Illegal border-crossing | 8 years of correctional labor punishment and fine of 70 million won | Special pardon |
| Kenneth Bae | American | November 3, 2012 | April 30, 2013 | Supreme Court | Conspiracy to overturn the State | 15 years of correctional labor punishment | Under correctional program |
| Jeong-uk Kim | South Korean | November 7, 2013 | May 30, 2014 | Supreme Court | Conspiracy to overturn the State, Crime of espionage, Instigation of anti-state propaganda, Illegal border-crossing | Unlimited-term correctional labor punishment | Under correctional program |
| Matthew Miller | American | April 2014 | September 14, 2014 | Supreme Court | Hostile act against North Korea | 6 years of correctional labor punishment | Under correctional program |
| Guk-gi Kim, Chun-gil Choi | South Korean | March 2015 | June 23, 2015 | Supreme Court | Conspiracy to overturn the State, Crime of espionage, Crime of clandestine destruction, Illegal border-crossing | Unlimited-term correctional labor punishment | Under correctional program |
| Hyun-soo Lim | Canadian | February 2, 2015 | December 16, 2015 | Supreme Court | Conspiracy to overturn the State | Unlimited-term correctional labor punishment | Under correctional program |

Source: Adapted from Kyu-chang Lee, "Criminal Trials against Foreigners in North Korea and Right to Consultation with a Consul," 『Human Rights and Justice』, Vol. 450 (2015), pp. 41-42. (In Korean)

Trials of foreigners in North Korea have the following characteristics. First, as a formality, the defendants are advised of their right to receive legal assistance from an attorney. However, most foreigners do not seek such legal assistance because they suspect that North Korean attorneys will not provide any substantive aid. In the case of Euna Lee, North Korean officials had advised her of her right to legal assistance, but she declined the offer because she was convinced that no North Korean attorney would defend her properly. Instead, she said she prayed to God for defense.¹⁰⁹ Kenneth Bae had also declined legal assistance.¹¹⁰ As to what occurred for the others, it is impossible to determine with certainty as the related information has not been announced.

Second, with regard to the right to consultation with a consul, North Korea treats South Koreans differently from other foreigners, due to the relationship between North Korea and South Korea. The Vienna Convention on Consular Relations¹¹¹ (hereinafter the Consular Convention) stipulates protection of nationals as one of the consular functions (Article 5).

¹⁰⁹- Euna Lee, *The World is Bigger Now* (New York: Broadway Books, 2010), p. 187.

¹¹⁰- 『KCNA』, May 9, 2013

¹¹¹- Vienna Convention on Consular Relations. Adopted on April 24, 1963, took effect on March 19, 1967

Table II-29 The Right to Consultation with a Consul in the Consular Convention

| | |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Article 5</p> | <p>Consular functions consist in, (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law (...omitted...) (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State (The rest is omitted)</p> |
| <p>Article 36, paragraph 1</p> | <p>With a view to facilitating the exercise of consular functions relating to nationals of the sending State: (a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State; (b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;</p> |

The right to consultation with a consul by a person in the process of being investigated and tried is important in terms of individual human rights. This right is the right of individuals and also of a state, recognized by customary international law.¹¹² The International Court of Justice (ICJ) has ruled that the Consular Convention is a convention that codifies existing customary international laws on consular relations.¹¹³ North Korea is also a

¹¹²- Kyu-chang Lee, "Criminal Trials against Foreigners in North Korea and Right to Consultation with a Consul," p. 49. (In Korean)

State Party to the Consular Convention,¹¹⁴ and has the duty, based on international law, to comply with it.

With regard to criminal trials, North Korea recognizes the right of foreigners (besides South Koreans) to receive assistance from a consul. Although there are no consular relations between North Korea and the United States, the U.S. government sought the assistance of Sweden in pursuing the right to consultation with a consul for its nationals and asked to represent their interests in North Korea. The North Korean government granted meetings between the Swedish ambassador and the two female American reporters on March 30th, May 15th, June 1st, and June 23rd, 2009. The Swedish embassy staff was also present at the trial for Aijalon Mahli Gomes.¹¹⁵ Also, in the case of Kenneth Bae, the Swedish embassy staff, representing the interests of the U.S., interviewed him on behalf of the United States.¹¹⁶ Pastor Hyun-soo Lim, a Canadian citizen, also had a consular meeting with a Canadian diplomat on November 18, 2015.¹¹⁷ In contrast, North Korea did not grant the right to consultation with a consul to the citizens of South Korea, which has unique relations with North Korea. North Korea's failure to guarantee the right to consultation

¹¹³- Case Concerning United States Diplomatic and Consular Staff in Tehran (USA v. Iran), Judgment of 24 May 1980, ICJ Reports 1980, p. 24 (paragraph 45).

¹¹⁴- Accessed on August 8, 1984.

¹¹⁵- *KCNA*, April 7, 2010.

¹¹⁶- *Voice of America*, June 2, 2013.

¹¹⁷- *Voice of America*, December 22, 2015.

with a consul to South Koreans constitutes a violation of the Consular Convention and infringement on the right of individuals to consultation with a consul. Moreover, there is a possibility that it may violate Article 14, paragraph 1 of the ICCPR, which stipulates the right to a fair trial.

Third, trials of foreigners are finished with the first trial at the Supreme Court in North Korea. It seems that there is a political intention to quickly finalize the process considering the impact of such cases on the North Korean people. However, finishing a case with the first trial violates the right to trial for foreigners because the right to appeal is recognized for all individuals (Article 14, paragraph 5 of the ICCPR).

G. Evaluation

While North Korea stipulates the independence of trials in its provisions, it denies the independence of trials in practicality. This is in violation of Article 14, paragraph 1 of the ICCPR, which stipulates the right to be tried at an “independent” tribunal. Moreover, operation of quasi-judicial systems i.e., the Comrade Trial system, the SSD political criminal system and the Socialist Law-Abiding Life Guidance Committee, etc., collides with Article 14, paragraph 1 of the ICCPR, which stipulates the right to be tried at a “tribunal.” Moreover the lack of choice in defense counsel for North Koreans violates Article 14, paragraph 3 of the

ICCPR, which stipulates the right to choose one's own defense counsel. The prohibition against appeal of judgments or decisions adopted at the first trial of the Supreme Court conflicts with Article 14, paragraph 5 of the ICCPR, which guarantees the right to appeal. North Korea's Criminal Trial System is assessed to be in violation of the human rights of North Koreans as it is basically controlled by the KWP. In practicality, the denial of independence of trials, unfair trials, operation of quasi-judicial systems, perfunctory operation of the appeal system and perfunctory operation of the right to defense is continuing. Meanwhile, Guk-gi Kim and Chun-gil Choi, who are South Koreans, and Hyun-soo Lim, a Canadian citizen, underwent criminal trials in 2015. North Korea's stance of refusing to recognize for South Koreans the right to consultation with a consul while guaranteeing this right to other foreigners was maintained in the trials of foreigners in 2015. This constitutes a violation of the Consular Convention and the individual's right to consultation with a consul. Moreover, it may also violate the right to a fair trial (Article 14, paragraph 1 of the ICCPR).

8

Right to Privacy

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

Table II-30 Article 17 of the ICCPR

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

As such, international standards on human rights state the right to prevent other people from intruding on one’s own space, the right to not be forced to disclose facts that one does not want to disclose and the right to prevent one’s information from being

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

In the following pages, we will examine the status of implementation in North Korea by major issue with regard to the right to enjoy privacy free from surveillance and control, inviolability of personal residential space, and freedom of communication and correspondence, etc.

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

With regard to the right to privacy, the ICCPR stipulates that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence (Article 17). The most important factor in guaranteeing the overall right to privacy is whether a system of surveillance of people through a state organization exists or not. Infringement on privacy through a state organization and system can be regarded as a more serious infringement on human rights than physical violence by a state. Organizational and institutional surveillance by a state on privacy, which is the most basic part of human life, constitutes a serious

threat to independence, autonomy, and the natural personality of individuals and imposes the psychological violence of self-censorship to those aware of the surveillance.

North Korea guarantees prevention of infringement on privacy by law in Article 79 of its Constitution, where it stipulates that “the inviolability of person and house, and secrecy of correspondence of citizens shall be guaranteed. Without being based on law, one cannot imprison or arrest citizens, nor search residential houses.” However, contrary to what is stipulated in such provisions, there has been extensive surveillance and control over the daily lives of people in an organizational and systematic manner by the State in reality. In practical terms, the guarantee of secrecy and protection of privacy are seriously infringed upon.

The first and most representative surveillance system on people’s privacy is the “five-household-surveillance system (*5hodamdangje*).” The five-household-surveillance system (*5hodamdangje*) is a system where five households are grouped into one unit and a loyal member of the Party, who is also the head of a household, is designated as the propagandist in charge of the five households so that he or she can intervene in and control the overall family lives of the rest of the households, including even issues of affection between couples and issues between parents and their children, etc. The five-household-surveillance system (*5hodamdangje*) system originated from July 1958 when Kim Il-sung said “Things will go well if one paid official takes charge of only five households and

issues overall instructions including on educational programs and economic tasks and a local Party committee assigns them tasks and manages the performance,” during his visit to the Democratic Propaganda Office in Yaksu-li, Changseong County, North Pyeongan Province. This system was implemented throughout North Korea under the name of “Red Family Creation Campaign” in the 1960s. From early 1974, it has been implemented as the “*inminban* sub-work group system” which expanded the number of households under joint responsibility in one unit from five to 10. The five-household- surveillance system (*5hodamdangje*) serves as a path for interference by the State in private affairs as well as for exploitation of labor.

Second is the *inminban* system, which first started as a nationwide social cooperation unit of People’s Committees in the early stages of land reform in 1946. In North Korea, everyone with residential registrations automatically belong to *inminban* without exception. *Inminban* issues guidance for daily life, identifies ideological trends, and engages in surveillance of external visitors by grouping people into 20–40 households under the control of each region’s People’s Committee. Each *inminban* has an *inminban* chief, a chief of heads of households, a chief of sanitation, instigation agents, a confidential informant and a security agent, etc.¹¹⁸

¹¹⁸- The *inminban* chief is nominated by city/county (district) People’s Committees upon recommendation of the people through appropriate procedures. In most cases, housewives who are loyal to the Party and do not work serve in this position.

Inminban serves to handle diverse issues, including childcare, labor mobilization, cleaning, maintenance of public order and spreading news on events and accidents in the residential area, and delivering instructions through daily-life re-education (*saeng-hwal-chong-hwa*), etc.¹¹⁹

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

The *inminban* chief is responsible for the surveillance of movement of all residents of the *inminban*. Chiefs of heads of households are appointed directly by the Party and take responsibility for managing households separately. They sometimes hold meetings and lectures for households and mobilize them, as well as being in charge of managing the *inminban* and watching the households’ movements after work. The sanitation chief is in charge of the *inminban* environment, while instigation agents are responsible for ideology education and are also the responsible persons of the Party sub-work group composed of Party members of *inminban*. The separately-assigned secret informants (safety agents) are surveillance agents dispatched by the SSD or the MPS.

¹¹⁹ NKHR2014000014 2015-01-27.

in families, as well as imposing tasks such as road cleaning, mobilization of labor in farming villages, and military support, etc. *Inminban* is a representative system of surveillance and control of the private affairs of the people.

Third is the system of daily-life re-education (*saeng-hwal-chong-hwa*). “daily-life re-education (*saeng-hwal-chong-hwa*)” refers to meetings where North Korean people reflect on their jobs and public and private lives and criticize each other weekly, monthly, quarterly and annually in the organizations they belong to such as the Party or labor organizations, etc.¹²⁰ The system of “new Party daily-life re-education (*saeng-hwal-chong-hwa*)” re-established by Kim Jong-il in 1968, was devised to be a means of dominating and controlling the private lives of the people. In the “Ten Principles for the Establishment of the One Ideology System”, declared in 1974, North Korea strengthened its control over the people by stipulating that they should participate actively in daily-life re-education (*saeng-hwal-chong-hwa*). North Korean people in second grade of primary school or older were to unconditionally participate in daily-life re-education (*saeng-hwal-chong-hwa*) regardless of age and gender.¹²¹ daily-life re-education (*saeng-hwal-chong-hwa*) are carried out in a way to criticize and

¹²⁰ 『Dictionary of Knowledge on North Korea』, Institute for Unification Education, Ministry of Unification, (Seoul: Institute for Unification Education 2013), p. 385. (In Korean)

¹²¹ Ibid., p. 387.

reflect on one's own mistakes through self-criticism and criticism of others. daily-life re-education (*saeng-hwal-chong-hwa*) form a system where people self-inspect and self-criticize their organizational lives or *inminban* lives over the past week and point out other's mistakes. It is a system that forces people to open and criticize their own lives. Right after these daily-life re-education (*saeng-hwal-chong-hwa*), the people have to write what was criticized on that day in reflection of the "message of Kim Il-sung and Kim Jong-il" in a "daily-life re-education (*saeng-hwal-chong-hwa*) notebook."¹²² If someone is absent, sometimes he or she has to have a one-on-one "individual session (*Gaebulchonghwa*)" with the Party cell secretary.¹²³ Although daily-life re-education (*saeng-hwal-chong-hwa*) have become somewhat of a formality after the food crisis in the 1990s, they still work as a strong mechanism of control over people's lives. The right to privacy of the North Korean people is seriously infringed upon in that they have to self-inspect, open up and receive criticism of their private lives, for life, through daily-life re-education (*saenghwalchonghwa*).

Lastly is infringement on privacy through the means of "safety agents." In North Korea, these "safety agents" operate in secret in all organizations and conduct surveillance on colleagues and people of the organization to which they belong. People mostly call them

¹²²_ NKHR2015000102 2015-05-19.

¹²³_ NKHR2015000053 2015-03-10.

“spies” or “informers.”¹²⁴ Safety agents are secretly selected from among people belonging to state institutions, factories and enterprises, farms and *inminban*, etc. In every organization, one of every 20~30 people is a safety agent. People who are secretly selected as safety agents make written or verbal oaths that they will report each and every irregularity in the organization to which they belong. Approximately every 15 days, they submit policy and trend reports as short as a half page of A4 paper to their superiors through secret contact. For example, they secretly report all the trends found in the speech and behaviors of people, such as who said what during the labor mobilization period in farming villages, who gained excessive profits through business, embezzlement of a subsidy by the head of section or committee chairman, etc. It is estimated that approximately 500,000~600,000 people of the 24 million North Koreans are safety agents engaging in such activities.¹²⁵ These safety agents serve as a powerful, potent means of maintaining the regime. Through them, surveillance and control over every move and the overall private lives of the people are carried out.

¹²⁴ Safety agents (spies) are said to be divided into informers who make written oaths and those who make verbal oaths. NKHR2015000040 2015-02-24.

¹²⁵ This estimation is based on interviews of North Korean defectors that, on average there is one safety agent for every 20 people. Based on this, if those aged 19 or younger and 60 or older, i.e., children, juveniles, and seniors, and around 1.2 million (based on the Defense White Paper) soldiers are excluded from the 24 million population, based on North Korea's census in 2008, there is estimated to be around 500,000~600,000 safety agents. Regarding this, refer to Min Hong, “Social Composition of Crime and Survival Ethics of the People,” Jeong-ah Cho et al., 『Awareness and Identity of North Korean People: Independence of Self, Shadow of the State, Rising Desire』 (Seoul: KINU 2012), pp. 207~208. (In Korean)

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

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

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

Testimonies by various North Korean defectors reveal that unlawful house searches are commonplace. In North Korea, house searches are supposed to be possible only when a search warrant is issued by the Director of Prosecutors of the prosecutor’s office and approved by the Safety Committee of the region.

However, most of the testimonies showed that unlawful house searches are carried out without such procedures, simply by the agents making statements like “Just open the door, let’s take a look at your house,” or “Open your dressing room.”¹²⁶ In particular, in the border region known as the *Yeonseon* area, it is said that personnel from police boxes (*bunjuso*) and MPS city branches conduct random house searches on the pretext of cracking down on smuggling.¹²⁷ Moreover, one North Korean defector testified that in Kimhyongjik County, Yanggang Province, there are frequent house searches without warrants by MPS Li offices in the fall to find people who have stolen and are hiding seeds.¹²⁸ There are also cases of actual punishment though house searches including one where a defector was imprisoned for 1 month at a labor training camp (*rodongdanryundae*) because a Chinese phone he or she received from the mother of a friend was found during a random house search without warrant.¹²⁹

C. Evaluation

According to the 2015 survey, while North Korea stipulates what is stated as the right to privacy in the ICCPR in its Constitution, it

¹²⁶_ NKHR2014000004 2015-01-13.

¹²⁷_ NKHR2015000018 2015-01-27; NKHR2015000082 2015-04-21.

¹²⁸_ NKHR2015000074 2015-04-07.

¹²⁹_ NKHR2015000085 2015-04-21.

is identified that people's privacy is not properly protected. In particular, the extensive and organized surveillance and control by the State is serious, having been in place for a long time. The privacy surveillance systems at the institutional level, i.e., the "five-household-surveillance system (*Shodamdanghe*)", the "*inminban* system", and the system of "daily-life re-education (*saeng-hwal-chong-hwa*)" that have been operating for decades are confirmed to still play important roles in the regime's control over North Korean society. Moreover, as there were numerous testimonies regarding unlawful house searches of residential space, it is identified that the inviolability of residential space is seriously infringed upon in the actual daily lives of the people. Especially noteworthy is that the pretexts for this surveillance of people's private lives and unlawful house searches are preventing communication and contact with families who have defected from North Korea, smuggling and theft. Unexpected and unlawful surveillance and searches technically presume people are all potential criminals.

9

Right to Freedom of Ideology, Conscience and Religion

The right to freedom of ideology, conscience and religion is one of the fundamental rights that humans need to have as beings pursuing meaning. The basic rights of citizens in a democracy of free expression of belief and freedom to make decisions based on one's conscience, etc., are closely related to the right to freedom of ideology, conscience and religion. Major international human rights standards mention the right to freedom of ideology, conscience and religion. Article 18 of the UDHR stipulates that “everyone has the right to freedom of thought, conscience and religion” while Article 18 of the ICCPR, to which North Korea is a State Party, mentions the right to freedom of ideology, conscience and religion.

Table II-31 Article 18 of the ICCPR

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

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

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

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

accept the official ideology.¹³⁰ This guarantees the individuals' inherent right to freedom of ideology, in the relationship between a state and an individual, meaning that while the official belief is recognized, the presence of such official belief itself cannot become the grounds for infringement on the freedom of ideology and conscience of individuals. North Korea, although it is a State Party to the ICCPR, does not allow any ideology other than its official *Juche* ideology. Besides, in this area, it also infringes upon individuals' freedom of ideology and conscience by not accepting any exception to the major belief of the State since it established the Ten Principles of the Unitary Ideology in 1974.

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

¹³⁰- UN HRC, General Comment No. 22 (1993), paragraph 10.

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

The reinforcement and idolization of the Unitary *Suryong* Ruling System is embodied through the Ten Principles for the Establishment of the Unitary Ideology System (hereinafter, the Ten Principles of Unitary Ideology). Spelled out in this document are the principles that mandate that everyone owes unconditional loyalty to Kim Il-sung and shall follow Kim Il-sung’s instructions as absolutes. Since 1974, when they were announced, the Ten Principles for Unitary Ideology have sought to deify “the Great Leader” Kim Il-sung, and have, for all practical purposes, commanded the daily behaviors of every North Korean more than any law or standard. In June 2013, North Korea revised the Ten Principles - the first revision in the 39 years since the principles were enacted on April 14, 1974. The name was changed to “the Ten Principles to Firmly Establish the Party’s Unitary Leadership System” (hereinafter, the Ten Principles). In North Korea, the Ten Principles function at a higher level than the Constitution or the statutes of the KWP, and governs the standards that systematically safeguard Kim Jong-un’s unitary dictatorship, while absolutely deifying and idolizing the authority of Kim Il-sung’s birthplace, removing and eliminating possible sources of political opposition or public complaint through comprehensive surveillance and oppression, and justifying the hereditary succession of power

within Kim Il-sung's family.¹³¹

The revised Ten Principles focus on reinforcement of Kim Jong-un's unitary leadership system and demand that the entire Party strengthen its "unified ideological resolve and revolutionary unity around the leader" (Principle No. 6) in order to safeguard the unitary leadership system. For this purpose, the Ten Principles update the methods used to sustain Kim Jong-un's political power base. A new section was added, stating that "unprincipled behaviors must be absolutely discarded, including illusions toward any individual's superiors, fawning and idolizing toward them, and blindly obeying them for their power" (Principle No. 6-4). Everyone must "firmly struggle against factionalism, parochialism, paternalism, and other anti-Party elements, as well as having different goals and hidden agendas while pretending to be obedient" (Principle No. 6-5), as well as eliminate all influence-peddling (Principle No. 7-7).¹³² Kim Jong-un personally made a speech about safeguarding the leadership system at a gathering of high-ranking officials of the Party, Military, and the Cabinet on June 19, 2013 and the KWP has published a collection of his speeches in a booklet entitled 『On Absolutely Safeguarding the Unitary Leadership System Befitting the Needs for Revolutionary Development』.¹³³

¹³¹- Gyeong-Seob Oh, "Major Contents of the Revised Ten Principles and Their Political Significance," 『Current Issues and Policies』 Issue of September, 2013 (Sejong Institute, 2013), p. 12. (In Korean)

¹³²- Ibid., p. 13.

¹³³- In this booklet, Kim Jong-un emphasizes that the new "Ten Principles in Establishing

Table II-32 The Ten Principles

| | |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Principle No. 1 | All must struggle whole-heartedly to remake the entire society into “Kim Il-sung/Kim Jong-il-ism.” |
| Principle No. 2 | All must greatly revere Great Leader Kim Il-sung and Dear Leader Kim Jong-il as eternal <i>Suryong</i> (leaders) of our Party and people, and as the suns of <i>Juche</i> . |
| Principle No. 3 | All must safeguard with their lives and accept as absolute the authority of Great Leader Kim Il-sung and Dear Leader Kim Jong-il, and the authority of the Party. |
| Principle No. 4 | All must absolutely arm themselves with revolutionary ideology of Great Leader Kim Il-sung and Dear Leader Kim Jong-il, and the Party’s lines and policies, which are the specifics of that ideology. |
| Principle No. 5 | All must absolutely observe the principles unconditionally in pursuing the teachings of Great Leader Kim Il-sung and Dear Leader Kim Jong-il and the Party’s lines and policies. |
| Principle No. 6 | All must strengthen in every possible way the Party’s ideological unity and revolutionary cohesion around the Leader. |
| Principle No. 7 | All must learn after Great Leader Kim Il-sung and Dear Leader Kim Jong-il and maintain refined mental and moral postures and revolutionary working methods, and people’s working styles. |
| Principle No. 8 | All must cherish the political life handed down by the Party and <i>Suryong</i> , and must repay the Party’s trust and consideration with enhanced political self-respect and productive output. |
| Principle No. 9 | All must build strong organizational rules so that the entire Party, the nation, and the military can move together as one under the unitary leadership of the Party. |
| Principle No. 10 | To the end, all must succeed in and complete the great task of the <i>Juche</i> revolution and the great task of Military-first revolution that Great Leader Kim Il-sung launched and Dear Leader Kim Jong-il implemented. |

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

The revised Ten Principles are particularly noteworthy because they seek to tighten ideological control over the population. These principles are summarized below.

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

However, in spite of this emphasis on the Ten Principles by the North Korean authorities, it seems rare that ordinary people who are not Party members are taught the Ten Principles in North Korean society, according to a majority of North Korean defectors who testified. It is said that only Party members are taught the Ten Principles and it seems that to most North Korean defectors who were not Party members, the Ten Principles do not hold much significance.¹³⁴ Even those defectors who had learned about the

¹³⁴- NKHR2014000136 2014-09-02 and many other testimonies.

Ten Principles as Party members testified that the dedication of individual members to political study sessions (*saeng-hwal-chong-hwa*) and the Ten Principles was gradually weakening as their lives became more difficult in the face of economic hardship. However, it seems that portraits are still viewed seriously among some North Koreans.¹³⁵

Table II-33 Testimony Related to the Ten Principles

| Testimonies | Testifier ID |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In the winter of 2013, the testifier was required to recite the Ten Principles of the Unitary Leadership System at a Democratic Women's Union meeting, which was monitored by the cell secretary. | NKHR2015000047 2015-02-24 |
| From 2014, education on the Ten Principles was reinforced. When caught in a crackdown, the testifier had to write a document of criticism during a <i>kyuchaldae</i> of the Democratic Women's Union. | NKHR2015000129 2015-09-22 |
| At a labor training camp (<i>rodongdanryundae</i>), the testifier was required to recite the Ten Principles repeatedly in Hyesan, Yanggang Province. If someone was unable to recite the Principles, the authorities did not allow the person to sleep. | NKHR2012000039 2012-03-20 |
| While detained at a labor training camp (<i>rodongdanryundae</i>) in Bocheon County, Yanggang Province, the testifier had to learn the Ten Principles. | NKHR2013000172 2013-09-17 |
| The testifier joined the Children's Union when he or she was in 3rd grade, where the testifier learned the Ten Principles. When he or she joined the Youth League in 4th grade of middle school, he or she learned about the <i>Juche</i> Ideology. | NKHR2013000175 2013-10-01 |

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

B. Practical Restriction of Freedom of Religion

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

“The North Korean authorities call religion, as a whole, superstition. And all superstitious behaviors are prohibited.”¹³⁶ “North Korea oppresses religion, particularly Christianity, because of the sense that the one-person dictatorship can be undermined by religious faith.”¹³⁷ As demonstrated by such testimonies, while North Korean authorities have taken positive legal/institutional measures including allowing freedom of religion, establishment of religious facilities and religious ceremonies, operation of

¹³⁶- NKHR2015000018 2015-01-27.

¹³⁷- NKHR2015000034 2015-02-10.

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

First, no religious facilities, including Protestant or Catholic churches, exist in North Korea except in Pyongyang. This reflects the reality of North Korea where freedom of religion is restricted in practical terms. As for the family churches that North Korea has said exist, it is questionable how freely they are allowed to operate in the provincial towns. Not a single one of all the North Korean defectors who were interviewed was aware of a family church. While there were testimonies, albeit few, that they were taught about religion through their grandparents or parents,¹³⁸ those cases are irrelevant in denoting whether there has been a change in policies of the North Korean authorities, and difficult to be regarded as a general phenomenon.

Such restrictions on religious activities in North Korea are due to the fact that since its establishment, North Korea has constantly persecuted religion in the name of Kim Il-sung's teaching that "religion is the opiate of the people".¹³⁹ The North Korean government views religion as an "imperialistic tool" for the ruling class to exploit the masses. The North Korean Dictionary on

¹³⁸_ NKHR2015000034 2015-02-10.

¹³⁹_ Korean Workers' Party Publishers, "Religion is a reactionary and unscientific worldview. Religion is like opium." See Selections from Kim Il-sung's Writings (Pyongyang: Korean Workers' Party Publishers, 1972), p. 154. (In Korean)

Philosophy states, “Religion was historically seized by the ruling class to deceive the masses and was used as a means to exploit and oppress, and it has recently been used by the imperialists as an ideological tool to invade underdeveloped countries.”¹⁴⁰

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

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

¹⁴⁰- The Academy of Social Science Philosophy Institute, *The Dictionary of Philosophy* (Pyongyang: The Academy of Social Science Press Philosophy Institute, 1985), p. 490. (In Korean)

spots for foreigners” according to testimonies. In the case of the Bongsu Protestant Church in Pyongyang, built in September 1988, it is said that only the family of the building guard and his or her family lives there, but when foreign guests come to visit, several hundred carefully selected 40 to 50 year-old citizens are gathered to engage in fake church services.

Third, all defectors consistently testified that practicing religion on a personal level is harshly persecuted. The fundamental reason for North Korea’s difficulty in guaranteeing the freedom of religion stems from the belief that religion is a means of foreign encroachment and inflicts harm on North Korea’s social disciplines as mentioned in its Constitution. In particular, when an increasing number of the population was roaming around in search of food during the famine in the 1990s, North Korea suppressed the promotion or propagation of Christianity in the belief that the religion was detrimental to maintenance of the North Korean regime. It is said that North Korean people receive education sessions from SSD agents twice a year or more, since 1997, that are designed to prevent the spread of Christianity. The sessions are mostly about ways to identify individuals engaged in spreading Christianity and the necessity of detecting them.

Meanwhile, it is also found in punishments of people involved in religion and defectors who are forcibly repatriated that freedom of religion is practically restricted in North Korea except for at officially approved facilities and activities. As the number of

Table II -34 Cases of Infringement on Freedom of Religion

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In Hyesan, Yanggang Province, in 2011, a neighbor who was the mother of ○○○ underwent preliminary examination for a year for contacting a religious person in China. She was released due to illness, but then sent to a prison camp (<i>kyohwaso</i>). | NKHR2012000240 2012-11-06 |
| In 2015, computer files of the Bible were circulated in Kimhyongjik County, Yanggang Province, and the testifier understood religion as “an organization that follows God.” | NKHR2015000091 2015-05-12 |
| Religion is inconceivable in North Korea. The testifier, while detained at a local SSD detention center in Hoeryeong, saw a woman receive an unlimited term of correctional labor punishment for possessing a Bible. | NKHR2012000036 2012-03-13 |
| The testifier received an education session with a 『Lecture Series』 print-out in Musan County, North Hamgyeong Province. It said “Let us totally root out religion and superstition.” | NKHR2012000051 2012-03-27 |
| The general population of North Korea lacks a basic awareness of religion. The testifier had heard of Bongsu Protestant Church and Jangchoong Catholic Church but did not understand the difference and also did not know how pastors and Catholic priests are different. | NKHR2015000001 2015-01-13 |
| Among the smuggled items, there were also Bibles. If this is detected, most are subject to correctional labor punishment. | NKHR2015000067 2015-04-07 |
| The testifier first learned about religion through the SSD interrogation process. When repatriated to North Korea and undergoing SSD interrogation, there were many cases of arrest related to “Christianity.” | NKHR2015000122 2015-09-08 |

defectors rapidly increased due to the exacerbated food crisis, the North Korean authorities began to relax punishment of those defecting to China for economic reasons, while continuing with harsh punishment for defectors who contacted religious South Koreans, particularly Christians, in China.¹⁴¹ The North Korean authorities are actively seeking to curb the spread of religion by

defectors because most of them return to North Korea with some knowledge of religious beliefs even if they do not actually practice any religion.¹⁴²

C. Evaluation

It is identified that the right to freedom of ideology, conscience and religion of the North Korean people is seriously infringed upon. More than anything else, the *Juche* ideology that North Korea advocates and the Ten Principles of the Unitary Leadership System centered around *Suryong* have fundamental limitations in that it is impossible to guarantee the freedom of ideology, conscience and religion. Furthermore, as can be seen from the legal reality of North Korea, where there is no reference to freedom of ideology and conscience in its Constitution, the awareness of freedom of ideology and conscience is completely lacking among the North Korean people. Although freedom of religion is stipulated as a legal right in Article 68 of the Constitution, where it says “Citizens shall have freedom of religion,” there is widespread lack of awareness and restrictions on freedom of religion with most of the people having never heard the word “religion”.

¹⁴¹- North Korean defector ○○○, April 15, 2010, interviewed in Seoul.

¹⁴²- NKHR2009000011 2009-03-03.

10

Right to Freedom of Expression

Freedom of expression is an essential right to full development of a democratic and free society and the person, and one of the most basic rights.¹⁴³ Article 19 of the UDHR stipulates that everyone has the right to freedom of opinion and expression and this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Article 19 of the ICCPR also stipulates that freedom of opinion and expression can be realized in diverse manners.

¹⁴³- UN HRC, General Comment No. 34 (2011), paragraph 2.

Table II-35 Article 19 of the ICCPR

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

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

A. Serious Restrictions on Forming and Expressing Political Opinions

Article 19, paragraph 1 of the ICCPR stipulates the right to have opinions without interference. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature, and any form of effort to coerce the holding or not holding of any opinion is prohibited.¹⁴⁴ Usually, when a person is put under influence in forming opinions against his or her will or at least without implied consent, and if such

144- UN HRC, General Comment No. 34 (2011), paragraph 9~10.

influence is through coercion, threat or other similar means, it can be said that the right to hold an opinion is infringed upon.¹⁴⁵

North Korea stipulates freedom of expression in Article 67 of its Constitution and the DPRK Association for Human Rights Studies Report strongly emphasizes that as freedom of the press and of publication is an indispensable element of democracy and one of the important issues in terms of political rights, all citizens are exercising the right to freely express their opinions and intentions in various manners through diverse media.¹⁴⁶ However, as the North Korean Constitution emphasizes “the whole”, “unification of people in political ideology,” “revolutionary alert,” and “security of the State” in Article 10¹⁴⁷ and Article 63,¹⁴⁸ 81,¹⁴⁹ 85¹⁵⁰ where the basic rights and duties of citizens are stipulated, there is possibility for institutional infringement of the rights in Article 19, paragraph 1 of the ICCPR. The system of mutual

145_ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (2nd revised ed.) (Engel, 2005), p. 442.

146_ DPRK Association for Human Rights Studies, “DPRK Association for Human Rights Studies Report” (2014.9.13.), Materials by the Center for North Korean Human Rights Studies, KINU (2014), p. 49. (In Korean)

147_ “The Democratic People’s Republic of Korea is based on the political and ideological unification of all people based on the Worker–Peasant Alliance led by the labor class. The State revolutionizes all members and turns them into the labor class, and makes the whole of society a single group that is integrated as comrades.”

148_ “In the Democratic People’s Republic of Korea, the rights and duties of the citizens are based on the collectivism of (one for all, all for one).”

149_ “Citizens shall devotedly advocate the political and ideological unification and solidarity of the people.”

150_ “Citizens shall at all times raise the revolutionary alertness and fight with personal devotion for the security of the State.”

surveillance and informing among people¹⁵¹ is also deeply rooted in daily life, making it difficult, and even fearful, to express political opinions even to family members.¹⁵²

In reality, expression of political opinions that differ from those of the North Korean authorities, negative reference to the family of Kim Il-sung, Kim Jong-il, and Kim Jong-un, and positive reference to South Korea are all prohibited. Such references constitute “misspeaking” and those reported for misspeaking are accused of political crimes and dragged to political prison camps (*kwanliso*) or “somewhere one cannot return alive from,” according to testimonies of North Korea defectors.¹⁵³ Also in the 2015 survey, when asked the reason for detention at political prison camps (*kwanliso*) in North Korea, most defectors responded it was mostly for critical comments and misspeaking.¹⁵⁴ Given the power of control that political prison camps (*kwanliso*) have in North Korean society, it is identified that the freedom of North Korean people to express political opinions is seriously restricted. In contrast, some testimonies indicated that the control over

¹⁵¹ NKHR2014000011 2014-03-04.

¹⁵² NKHR2015000123 2015-09-08.

¹⁵³ NKHR2014000047 2014-05-13; NKHR2015000007 2015-01-13 and many other testimonies.

¹⁵⁴ Of the 74 people who were aware of political prison camps (*kwanliso*), 35 replied that they were imprisoned at political prison camps (*kwanliso*) for critical comments and misspeaking, 16 for attempts to escape to South Korea, 8 for spy activities and anti-state traitor activities and 5 for other reasons (purges for religious and political reasons and homicides), and 10 did not reply.

expression of political opinions had relaxed. There were testimonies that criticism against Party policy has increased since the currency reforms¹⁵⁵ and the testifier realized that North Korean society was changing as he or she heard a friend criticizing and cursing Ri Sol-ju right before defecting from North Korea.¹⁵⁶ Moreover, there are testimonies that since Kim Jong-un came to power, the reasons for detention at political prison camps (*kwanliso*) are shifting from critical comments and misspeaking to attempts to defect from North Korea and enter South Korea, and having connections with South Korea.¹⁵⁷

B. Arbitrary Censorship and Control of the Press and Publications

According to Article 19, paragraph 2 of the ICCPR, press publications and other media that are means of expression should not be subject to interference and disturbance.¹⁵⁸ However, the press in North Korea is utilized to strengthen the *Juche* ideology and to instigate the people to idolize Kim Il-sung, Kim Jong-il and Kim Jong-un.

All newspapers in North Korea are the organs and official media

¹⁵⁵_ NKHR2014000062 2014-05-23.

¹⁵⁶_ NKHR2015000123 2015-09-08.

¹⁵⁷_ NKHR2014000216 2014-12-30.

¹⁵⁸_ UN HRC, General Comment No. 34 (2011), paragraph 13.

published by the Party and Cabinet, and by various organizations and propaganda organizations of culture and art. They are written and published under administrative guidance of the Newspaper Department of the Publication Division of the Cabinet while receiving surveillance supervision by the Newspaper Department of the Propaganda and Agitation Division of the KWP at the same time.¹⁵⁹ Articles on Kim Il-sung , Kim Jong-il and Kim Jong-un are published on the front page and the names of Kim Il-sung , Kim Jong-il and Kim Jong-un are printed with separate bold type. The contents of all articles aim to remind people of the superiority of the North Korean regime, and criticism of the KWP or discussion on basic issues are non-existent. Of course, any information that increases the ability to know or enhance critical thought of the people is strictly prohibited.

Broadcasting in North Korea is also operated under the direction of the Korea Central Television Commission which is under the Cabinet, and is used for propaganda and reporting of Party policies and domestic and international situations just like newspapers are. The Korea Central Television Commission is in charge of both broadcasting and regulating as the institution that plans and manages all broadcasting tasks, with the broadcasting content controlled by the Propaganda and Agitation Division of the KWP

¹⁵⁹. 『2016 Understanding North Korea』, Institute for Unification Education, Ministry of Unification (Seoul: Institute for Unification Education, 2015), p. 276. (In Korean)

and the United Front Department.¹⁶⁰

North Korea enacted its Publication Law in 1975 and revised it in 1995 and 1999. This law stipulates that “citizens shall have the right to freely engage in writing and creative activities” (Article 6). However, it limits the purpose of such activities to “Safeguarding and promoting great Socialist projects based on a revolutionary tradition of publication” (Article 2). In order to operate a publishing business, the publisher must register with the Cabinet or the Publication Guidance Agency (Article 12), and all unregistered printing facilities shall be shut down (Article 49). The Publication Law stipulates that “the Publishing Guidance Agency and related agencies must ensure state secrets are not leaked, that any reactionary ideas, culture and lifestyles are not circulated, and that all publishing facilities should be registered and their use supervised”, thereby restricting publication (Article 47). Moreover, by stipulating that “all printed matter that can disclose state secrets or spread reactionary ideas, culture and lifestyles shall be confiscated and its production, publication, supply and transportation shall be suspended” (Article 48), it allows arbitrary censorship and control of publications by the North Korean authorities.

Private citizens or responsible workers at agencies, enterprises, organizations, whose actions have caused serious consequences by violating the Publication Law shall be held responsible in

¹⁶⁰ Ibid., p. 281.

administrative or criminal terms (Article 50). The Administrative Penalty Law mandates the imposition of administrative penalties on those who violate the orders on publishing, printing, and circulation (Article 143). The North Korean Criminal Law also stipulates that up to one year of correctional labor punishment may be imposed on those who violate publication laws (Article 214). Consequently, all writings are ultimately subject to the censorship of the KWP's Propaganda and Agitation Division. If a North Korean citizen were to publish something in violation of censorship standards, the authorities can charge him or her with anti-state propaganda and the crime of agitation based on Article 62 of the Criminal Law and impose up to five years of correctional labor punishment or five to ten years of correctional labor punishment in serious cases. In the end, it is impossible to publish any criticism of Kim Il-sung, Kim Jong-il or the KWP through press or publications in reality.

Only those with good family backgrounds can engage in any creative activity, which is under the control of the KWP anyway, and it is mostly the children of high-ranking officials that fit the bill.¹⁶¹ They also need to have qualifications such as graduating from a literature college or holding status as heroes.¹⁶² As such, the opportunities to engage in publishing are applied in a

¹⁶¹_ NKHR2012000007 2012-01-10.

¹⁶²_ NKHR2015000018 2015-01-27; NKHR2015000052 2015-03-10.

discriminatory manner, and are restricted and under the control of the Party. However, there are also testimonies that even those who are qualified are reluctant to write due to the severe censorship.¹⁶³

Publications accessible by people have certification stamps as books approved by the State, and all other publications are subject to confiscation and punishment of all involved in crackdowns.¹⁶⁴ Many people, however, borrow and secretly read foreign books from the U.S., China and Russia from book rental shops run by individuals,¹⁶⁵ and some testifiers said that with the growing use of mobile phones within North Korea, they saved and read Korean books on their mobile phones in the form of e-book files.¹⁶⁶ Numerous testimonies indicated that North Koreans have been deprived of freedom of the press as well as the opportunity to freely choose and read books they want to, due to the strict controls of the political authorities, but it is also confirmed that many of them gain access to books from foreign nations, including South Korea, in a wide variety of ways.

¹⁶³- Above testimonies.

¹⁶⁴- NKHR2015000141 2015-10-06.

¹⁶⁵- NKHR2014000219 2014-12-30 and many other testimonies.

¹⁶⁶- NKHR2014000098 2014-07-15; NKHR2014000148 2014-09-23.

Table II-36 Testimonies of Crackdowns on South Korean/Foreign Publications

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| <p>In 2012, a 21 year-old man was interrogated for reading South Korean and foreign books in Hyesan, Yanggang Province. A computer teacher of a military school gave him a book and he stored it on a USB stick but was later caught by Group 109. He was excused from punishment after paying 4,000 Chinese yuan as a bribe.</p> | <p>NKHR2013000119 2013-06-25</p> |
| <p>In 2013, the testifier rented Japanese detective stories and U.S. fiction from local book stores in Hyesan, Yanggang Province. They were bundles of print-outs of the books translated in South Korea and accessed from the Internet or those translated by individuals in North Korea.</p> | <p>NKHR2015000009 2015-01-13</p> |
| <p>In 2014, the testifier illegally acquired a Korean-English dictionary produced in South Korea through Sambong Customs in Cheongjin, North Hamgyeong Province. The dictionary was confiscated as it was discovered by the Book Inspection Agency (도서검열국). The dictionary was returned with an inspection stamp, but the front page was torn off, where the publisher information had been.</p> | <p>NKHR2014000078 2014-07-01</p> |
| <p>When the testifier was living in Hyesan, Yanggang Province, he or she was caught with some pages of Yanbian magazine that a brother had brought but was excused from punishment by insisting that he or she did not know how those pages got there.</p> | <p>NKHR2014000069 2014-06-17</p> |
| <p>When the testifier was living in Hyesan, Yanggang Province, he or she rented foreign books from libraries opened by individuals. The books included U.S. books such as <i>Gone with the Wind</i>, Japanese detective stories, and Chinese and Russian publications. The control was not very strict.</p> | <p>NKHR2014000219 2014-12-30</p> |
| <p>Many foreign books were read in electronic form on a USB stick in Wonsan, Gangwon Province. The <i>Godfather</i> and the autobiography of Ju-yung Chung were popular.</p> | <p>NKHR2015000137 2015-09-22</p> |

C. Blocking of Access to External Information and Control over the Right to Know

Freedom of expression includes the freedom to seek, receive and impart information and ideas through diverse media, regardless of frontiers. However, to maintain the regime, North Korea ignores the right of the North Korean people to access and know by strictly blocking and controlling the inflow of external information. There is only very limited access for North Koreans to external information. The channel and frequency of TVs and radios are fixed to Korea Central Television, which is the public TV and radio broadcaster, and there are regular inspections of the seals on the dials to ensure they have not been broken.¹⁶⁷ As the information that North Korean people can gain through broadcasting and radio are mostly programs that idolize Kim Il-sung, Kim Jong-il and Kim Jong-un, field guidance, documentary films, and negative propaganda on South Korea only, it is difficult to obtain outside information. According to the 2015 survey, North Korean people communicate with the external world in a limited way through the recordings and mobile phones they acquire illegally.

¹⁶⁷- NKHR2015000123 2015-09-08; NKHR2015000133 2015-09-22; NKHR2015000137 2015-09-22; NKHR2015000145 2015-10-06.

(1) Crackdowns and Punishments Related to Recordings

North Korea strictly bans the distribution of information through images such as illegal recordings, etc. The North Korean Criminal Law punishes those who bring from foreign countries or produce, circulate or possess music, dances, paintings, photographs, books, recordings or electronic media that contain corrupt, sensual or inappropriate content without a permit (Article 183), and those who listen to or collect, keep, or circulate “the enemy’s” broadcasting or leaflets without anti-state purpose (Article 185). The behavior of introducing, using and circulating corrupt culture is also punished under the Administrative Penalty Law (Article 152). Offenders are mostly subject to labor training punishment or correctional labor punishment.

Table II -37 The Reality of Punishments Related to Watching Videos

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| A joint team consisting of an SSD agent, an MPS officer, Group 109, and a Youth League guide engaged in inspections in Onsung, North Hamgyeong Province in 2013. Persons caught watching South Korean telecasts or American movies were punished with six months' labor training or correctional labor punishment without exception. | NKHR2013000100 2013-05-28 |
| In April 2013, Kim Jong-un's instructions were issued that those selling or watching videos would be sent off to labor training camps (<i>rodongdanryundae</i>) or correctional labor punishment in Hyesan, Yanggang Province. | NKHR2013000145 2013-08-06 |

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| When the testifier was imprisoned at Gaecheon <i>kyohwaso</i> in 2013, there were two convicted prisoners who were sentenced to correctional labor punishment of 9 years (for watching) and 15 years (for selling) in relation to South Korean dramas, South Korean songs and South Korean films, etc. | NKHR2014000175 2014-10-21 |
| A proclamation was announced in Samjiyeon County, Yanggang Province in September 2013, that those caught watching South Korean movies or listening to South Korean music would be sentenced to death. A shooting execution was conducted as an example. | NKHR2014000081 2014-07-01 |
| When the testifier was caught watching Korean dramas in Hyesan, Yanggang Province in 2013, he or she was excused from punishment after paying a bribe, and only the CDs were confiscated. People were not punished for watching Chinese or Russian CDs, and controls were not very strict. | NKHR2015000154 2015-11-17 |
| In the spring of 2014, the testifier watched open trials on recordings and the accused persons were sentenced to correctional labor training punishment. Those who were punished were mostly children with politically weak family backgrounds. Those who distributed the recordings were sentenced to correctional labor training punishment, while those who first introduced the recordings were sentenced to imprisonment at political prison camps (<i>kwanliso</i>). | NKHR2015000031 2015-02-10 |
| In the spring of 2014, a friend who lived in Hoeryeong, North Hamgyeong Province, was caught watching Korean movies, but avoided punishment by paying 3,000 Chinese yuan to Group 109. | NKHR2015000167 2015-12-02 |
| The number of people caught watching impure recordings (South Korean dramas) increased in 2015. As those who are caught are unconditionally subject to correctional labor punishment, the testifier prepared ways to respond (with bribery) in case he or she was caught. | NKHR2015000122 2015-09-08 |
| In the crackdown on impure recordings in 2015, the punishment was being sent to labor training camps (<i>rodongdanyundae</i>) or correctional labor punishment for cases related to South Korean recordings. | NKHR2015000164 2015-12-01 |

North Korean authorities operate a separate organization to crack down on illegal recordings. At first, there were joint inspections by 5 Group composed of the MPS, the SSD, the prosecutor's office, the KWP and each affiliated administrative organization, but as the illegal watching of recordings increased, a separate organization, "Group 109" was formed and conducted inspections while in the area.¹⁶⁸ The basic goal of this organization was to recover circulating CDs and to punish those who watched them.¹⁶⁹ Moreover, there were also testimonies that, besides this Group 109, there existed a Group 1018 and a Group 1019 that cracked down on several irregularities,¹⁷⁰ and there were also some testimonies that Group 109 was renamed to Group 627 in 2013.¹⁷¹

Many defectors consistently testified that discreet viewing of South Korean CDs and videos is becoming widespread. North Koreans purchase inexpensive Chinese video recorders and secretly sell and share recordings with their neighbors. The most common response of the North Korean people who watched South Korean recordings was longing for South Korea and a more negative perception towards North Korea,¹⁷² and the envy of the economic

¹⁶⁸_ NKHR2012000126 2012-06-29.

¹⁶⁹_ NKHR2012000111 2012-06-11.

¹⁷⁰_ NKHR2013000057 2013-03-19.

¹⁷¹_ NKHR2014000124 2014-08-26; NKHR2014000193 2014-11-18.

¹⁷²_ NKHR2015000009 2015-01-13 and many other testimonies.

affluence and freedom in the daily lives of South Koreans sometimes leads to defection from North Korea.¹⁷³ Despite the crackdown and control by the authorities, the watching of South Korean and Chinese recordings by North Koreans continues, and they are finding even more ways to watch such recordings. They used to be able to avoid penalties through bribery if caught watching Chinese or Russian videos, but punishment for watching Chinese videos is being strengthened.¹⁷⁴

Many North Korean defectors testified that those who watch or circulate South Korean recordings are subject to labor training punishment or correctional labor punishment.¹⁷⁵ The duration of punishment, according to the testimonies, varies from three years to 15 years of correctional labor punishment.¹⁷⁶ Viewers were generally known to be deported or detained at labor training camps (*rodongdanryundae*), but following Kim Jong-un's instructions on "impure" video recordings in December 2013, the punishment for those watching South Korean videos, regarded similarly to attempting to defect to South Korea, has more often been correctional labor punishment.¹⁷⁷ Moreover, in the 2015 survey,

¹⁷³- NKHR2015000090 2015-05-12.

¹⁷⁴- NKHR2015000141 2015-10-06.

¹⁷⁵- NKHR2015000134 2015-09-22, NKHR2015000153 2015-11-17 and many other testimonies.

¹⁷⁶- NKHR2014000009 2014-03-04; NKHR2014000132 2014-08-26; NKHR2014000158 2014-09-23; NKHR2014000175 2014-10-21.

¹⁷⁷- NKHR2014000019 2014-03-18; NKHR2014000043 2014-04-29.

there were many testimonies that, following the instruction being announced that those caught watching South Korean movies or listening to South Korean music would be sentenced to death in September 2013,¹⁷⁸ many proclamations were also posted stating the same thing.¹⁷⁹ However, separately from the reinforced control by the authorities, it is identified that there is still widespread avoidance of punishment through bribery.¹⁸⁰

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

Mobile phones are important tools among North Korean people in introducing and delivering external information. After the “Yongchon Railway Station Explosion”¹⁸¹ in April 2004, the North Korean authorities suspended mobile communication services. However, through a joint investment by Orascom, an Egyptian communication firm, and North Korea’s Ministry of Post and Telecommunications, Korea Link was established and 3G mobile communication service resumed. The number of service subscribers was 1,694 right after the service started, and is estimated to have been around 3.8 million by the end of 2015.¹⁸²

¹⁷⁸_ NKHR2014000081 2014-07-01.

¹⁷⁹_ NKHR2015000099 2015-05-19.

¹⁸⁰_ NKHR20154000134 2015-09-22 and many other testimonies.

¹⁸¹_ The 2004 Yongchon Railway Station Explosion is known as part of an attempt to assassinate Kim Jong-il, and mobile phones were used for major plans such as identifying the exact time of Kim’s arrival.

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

Since the beginning of the Kim Jong-un regime, the North Korean authorities have been reinforcing the prohibition against illegal use of mobile phones by the North Korean people by introducing a jamming wall and jamming machines in the border areas of North Korea and China, and introduced advanced radio detection equipment from Germany, further preventing illegal use of mobile phones by North Koreans. In addition to “Group 1118” or “Group 109” that crack down on illegal mobile phones using Chinese base stations, the authorities established a new, dedicated organization under the SSD for this crackdown.¹⁸³ Moreover, the functions of storing and transmitting video, photos, books and music were blocked by changing the mobile phone operating systems.¹⁸⁴

From the end of 2013, the roles and authorities of the SSD have been expanded and reinforced, and its control over mobile phones has been tightened under the pretext that they “dismantle socialism.”¹⁸⁵ When the authorities inspect illegal mobile phones, they first check to see if South Korean phone numbers are on

¹⁸²_ 『The Chosun Ilbo』, January 4, 2016.

¹⁸³_ 『Radio Free Asia』, February 17, 2015.

¹⁸⁴_ NKHR2015-00009 2015-01-13; NKHR2015-000010 2015-01-13.

¹⁸⁵_ NKHR2014000154 2014-09-23.

record. Even for mobile phones authorized for use inside North Korea, inspectors check the internal data and change the mobile phone operating systems.¹⁸⁶

In contrast, there are many testimonies that when records of international calls and videos, books and songs from foreign countries were found in internal data, one can avoid punishment through bribery and only lose the mobile phone. There are even testimonies that the goal of crackdown is not “punishment,” but “money,” because when someone is caught with an illegal mobile phone or doing something illegal with a mobile phone, one needs to pay as much as is required, without exception.¹⁸⁷ As for calls to China, punishment is avoided with bribes of 2,000~5,000 Chinese yuan, while for calls to South Korea, although the person will be interrogated intensively by the SSD, punishment can be relaxed or avoided with a bribe of 10,000~15,000 Chinese yuan.¹⁸⁸ While the control over mobile phones has been reinforced, it is identified that actual punishment is rare. In the 2015 survey, the testifiers said that punishment is avoided through bribery in most cases, and only those without money are punished.¹⁸⁹

Regarding use of an illegal mobile phone in the border areas, most of these phones are smuggled in to make calls to China, and

¹⁸⁶_ NKHR2015000052 2015-03-10 and many other testimonies.

¹⁸⁷_ NKHR2015000143 2015-10-06; NKHR2014000160 2014-10-07.

¹⁸⁸_ NKHR2012000164 2015-12-01 and many other testimonies.

¹⁸⁹_ NKHR2014000221 2014-12-30.

there are many people who make a living as brokers with such mobile phones.¹⁹⁰ While the North Korean authorities are strongly cracking down on the inflow of external information through mobile phones, their use by North Koreans is expected to expand further to maintain livelihoods and to fulfill curiosity about the outside world and the right to know.

Table II-38 The Reality of Mobile Phone Use and Related Punishments

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2013, because of jamming, it was impossible to use Chinese mobile phones in Sinuiju, North Pyeongan Province. | NKHR2013000052 2013-03-19 |
| In January~February 2014, a proclamation prohibiting use of mobile phones was released in Hyesan, Yanggang Province. | NKHR2014000138 2014-09-02 |
| In April 2014, there was an announcement that those with illegal mobile phones can avoid punishment if they turn themselves in, and many people did so in Hyesan, Yanggang Province. | NKHR2014000166 2014-10-07 |
| In 2014, a crackdown on illegal mobile phones was reinforced, making it possible to detect calls within 1~2 minutes in Cheongjin, North Hamgyeong Province. | NKHR2014000198 2014-12-02 |
| In 2014, many friends were caught using illegal mobile phones. For calls to China, they were released after paying 5,000 Chinese yuan. | NKHR2014000063 2014-06-03 |
| In 2014, in Bocheon County, Yanggang Province, a colleague was caught using a Chinese mobile phone for smuggling. By paying a bribe, the colleague was not punished and only his mobile phones were confiscated. | NKHR2014000119 2014-08-12 |
| In 2014, a friend from middle school was caught calling his or her mother in Seoul in Hyesan, Yanggang Province and dragged to the SSD, but returned in a month after paying a bribe. | NKHR2014000131 2014-08-26 |

¹⁹⁰- NKHR2014000071 2014-06-17.

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| From June 2014, there were instructions to change the mobile phone systems in Hyesan, Yanggang Province. Only videos or music approved by the State could be played. | NKHR2015000009 2015-01-13 |
| In August 2014, there was a crackdown on illegal use of mobile phones through import of a radio wave detector made in Germany based on the direction of Kim Jong-un. 150 SSD agents came from Pyongyang to Hyesan, Yanggang Province. | NKHR2015000027 2015-02-10 |
| In 2014, in Musan County, North Hamgyeong Province, the father of the testifier was caught with a record of a phone call to the defector's brother in South Korea, and was dragged to the SSD center and returned after 25 days. The testifier paid 3 million South Korean won and 10,00 Chinese yuan as a bribe. | NKHR2015000046 2015-02-24 |
| In the fall of 2014, a broker who lived in Osandeok-dong, Hoeryeong, North Hamgyeong Province, was intensively investigated (20 days) by the SSD for charges of connecting phone calls to people in South Korea, but was released after paying a bribe (15,000 Chinese yuan). | NKHR2015000167 2015-12-01 |
| In 2015, in Hoeryeong, North Hamgyeong Province, the testifier's brother-in-law was arrested for having contact with South Korea and sentenced to 3 years of correctional labor training in the first trial but this was reduced to 1 year and 6 months after paying a bribe. | NKHR2015-164 2015-12-01 |

D. Evaluation

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

It was also identified in the 2015 survey that the North Korean people strongly suppress their political opinions on the North Korean regime and Party policies and are afraid to make negative comments about the supreme leader and his family. This is analyzed to be due to the constant undercurrent of the controlling mechanism of the political prison camps (*kwanliso*). The press and publications, which are supposed to be the means of expressing diverse opinions, mostly serve to establish the *Juche* ideology under the directions and control of the KWP and instigate the people to idolize Kim Il-sung , Kim Jong-il and Kim Jong-un, while the arbitrary censorship and control by the authorities on publications continues. Meanwhile, crackdowns on and punishment for illegal recordings and mobile phones, which play an important role in introducing and circulating external information, constitute a serious infringement of the North Korean people’s right to know. Yet these crackdowns and punishments have been strengthened. It is assessed that the degree that the crackdowns on and punishments for illegal recordings and mobile phones have been tightened is in proportion to the effect these recordings and mobile phones have on the North Korean people. Although there were some testimonies that showed a relaxation of this control of freedom of expression, they are insufficient to reference a change in North Korean society.

11

Right to Freedom of Assembly and Association

The right to freedom of assembly and association means that individuals are entitled to the freedom to assemble and express their opinions. The right to freedom of assembly and association should by all means be guaranteed for the exercise of sovereignty by citizens in a democracy. Major international human rights standards also mention the right to freedom of assembly and association. Article 20 of the UDHR stipulates that “everyone has the right to freedom of peaceful assembly and association, and no one may be compelled to belong to an association,” and Article 21 and 22 of the ICCPR, to which North Korea is a State Party, refers to freedom of assembly and association in the following.

Table II -39 Article 21 and 22 of the ICCPR

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

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

A. Forestalling the Right to Peaceful Assembly

Article 21, paragraph 1 of the ICCPR stipulates that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.” North Korea, by policy, prioritizes national security and patriotism, and therefore, does not recognize any right to peaceful assembly.

Article 209 of the North Korean Criminal Law stipulates that “any person who refuses to comply with instructions of a state agency or agencies and causes collective disturbance” shall be subject to criminal penalties even if an anti-state act was not intended, providing the legal foundation to block the possibility for demonstrations in North Korea. The Administrative Penalty Law also stipulates that in the event someone does not comply with legitimate instructions of a state agency, he or she shall be subject to three months or less of reeducational labor or three months or more of reeducational labor in more serious cases (Article 175). Such provisions represented by “in the event someone does not comply with the (legitimate) instructions of a state agency” emphasize the jurisdiction of the State over individuals. In other words, based on such provisions, it can be interpreted that

no right to legitimate assembly or demonstration by individuals against the State is allowed in North Korea.

As such, North Korean defectors consistently testify that no assembly is allowed by the North Korean authorities other than government-led meetings, and crowd mobilization is not allowed, and even unthinkable.¹⁹¹ This is because the recognition itself of the freedom of assembly can be regarded as denying the regime in North Korea which puts its stock in the Unitary *Suryong* Ruling System. Under these circumstances, it seems that the perception of the right to peaceful assembly and freedom of assembly is not established among the North Korean people. Although it is known that North Koreans sometimes express complaints or criticism against the authorities to people with whom they are close, this cannot be regarded as a general phenomenon considering the situation in society overall, but rather, it can be said the right to assembly and to demonstrate is not at all recognized.

B. Forceful Imposition of Organizational Life

Article 22, paragraph 1 of the ICCPR stipulates regarding the freedom of association, that “everyone shall have the right to freedom of association with others, including the right to form and

¹⁹¹- NKHR2015000072 2015-04-07; NKHR2015000112 2015-06-02; NKHR2015000119 2015-09-08.

join trade unions for the protection of his interests.” While Article 67 of the North Korean Constitution stipulates that “citizens (···) shall have the freedom of assembly/demonstration and association. The State shall guarantee conditions for free activities of democratic parties and social organizations,” in reality only assemblies and associations needed by the KWP are allowed and assemblies or demonstrations set up by the free will of the general population are not. Moreover, North Korean people are forced to join only organizations that are allowed or imposed on them by the authorities and can neither form nor participate in any voluntary associations or interest groups that can protect their interests.

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

of and controlled by the Party as “safety belts connecting the Party and the people” as stipulated in Chapter 9, Article 56 of the KWP Statutes. All North Korean people are required to join organizations that include those in kindergarten, the Children’s Union, those in various educational institutions, the Youth League, the General Federation of Trade Unions, the Agricultural Workers’ Union, the Democratic Women’s Union, and the KWP, etc., from the age of six until retirement.

With regard to such organizational life, some raise the possibility that North Korean people can enjoy some level of freedom of association through socialization and communication between the members in the process of becoming citizens as they belong to organizations from a young age. However, the majority of North Korean defectors consistently testify that the activities and duties in these extra-Party organizations restricted and controlled by the North Korean authorities are far from the autonomy one can experience in associations voluntarily organized by individuals with common interest.¹⁹² Given this background, the organizational life that North Korean authorities forcibly impose on the people cannot be interpreted as the freedom of association guaranteed under a free democratic political structure.

¹⁹²_ NKHR2015000133 2015-09-22 and many other testimonies.

Table II-40 Cases of Infringement on the Freedom of Assembly and Association

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

As one example, the Democratic Women’s Union, an organization that women aged 31 to 60 must join if they are not members of other organizations, is not a voluntary organization for empowerment and protection of women’s interests, and they cannot exercise critical/political influence as a social organization. The Democratic Women’s Union is no more than an extra-Party organization responsible for mobilization of women to accomplish policy and establish the Socialist economy, and its major task is ideological

education of women. The Democratic Women's Union is very disciplined and its functions and activities of ideological education and cracking down on anti-socialist behaviors of women, etc., are known to have strengthened after the economic crisis had begun.

Meanwhile, it is also a reality that control over people through daily-life re-education (*saeng-hwal-chong-hwa*) and political education is weakening as the economic crisis deepens and the institutional foundation of the North Korean regime crumbles in many sectors. Diverse changes are captured in the dynamics of the organizational life imposed by the authorities. As the perception that money can solve any problem becomes widespread among the people, the compulsory nature of the government-led meetings and daily-life re-education (*saeng-hwal-chong-hwa*) etc., is also reportedly gradually weakening. There are even people who avoid attending mobilized assemblies by paying others who can attend on their behalf. These individuals who attend meetings on behalf of someone else are known as "*hubangjo*," and their livelihood is based on payment for their substitute role.¹⁹³ It was also testified that those failing to attend such gatherings and events must pay a certain amount of money, and that even for inspections, the amount of money offered influenced the severity of punishment.¹⁹⁴ Although it is clear that the forceful nature of the authorities is

¹⁹³- NKHR2012000167 2012-08-21.

¹⁹⁴- NKHR2014000037 2014-04-15.

weakening due to institutional relaxation caused by the changes in North Korean society, at the same time, it is identified that even the thought of establishing a voluntary association is farfetched for the general North Korean population as the authorities have deprived them of the freedom of assembly and association for so long.

C. Evaluation

According to the 2015 survey, the right to freedom of assembly and association for the North Korean people is still not guaranteed. Based on Article 21 and 22 of the ICCPR, North Korean people have the right to peaceful assembly and the right to form and join voluntary associations for improvement of their interests. However, the reality in North Korea is that there exists little such freedom, and people are also forced to participate in assemblies and organizations that are allowed or institutionalized by the authorities. Social control by the Party is reinforced at the State level, while social disintegration is occurring among the people in diverse ways. According to many North Korean defectors, due to the liberalization caused by marketization and inflows of external information, North Korean society is more relaxed than before, and the gap between the State, which seeks to increase control, and society, which is relaxing, has also widened. While such social liberalization leads to an easing of the attitude toward

organizational life involving government-led meetings or daily-life re-education (*saeng-hwal-chong-hwa*) forced upon people by the authorities, the chance that the people's freedom of assembly and association will expand in the short-term is slim as the North Korean authorities have as their top priority the establishment of the Unitary Leadership System of Kim Jong-un, which is based on the Unitary *Suryong* Ruling System. It is expected that such rights will improve in the mid- to long-term when fundamental improvement is sought at the policy level by the North Korean authorities in response to the interest in and concerns regarding the restrictions on freedom for the North Korean people.

12

Right to Political Participation

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

Table II-41 Article 25 of the ICCPR

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

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

North Korea also recognizes the right of its people to political participation in its laws. Article 4 of the North Korean Constitution stipulates that “the working people exercise power through their

representative organs, the SPA and the local People's Assembly," while Article 6 stipulates that "organs of state power at all levels, from the military People's Assemblies to the SPA, are elected on the principle of universal, equal and direct suffrage by secret ballot." North Korea's Delegates Election Law for All Levels of People's Assembly reaffirms that all elections in principle should be conducted in general, equal, direct and secret vote (Article 2~5). The election of deputies for the SPA is held every five years, while the election of deputies for the People's Assembly of the province (municipalities directly under central authority) / city (district) / county is held every four years (Article 8 of the Delegates Election Law for All Levels of People's Assembly). North Korea also officially accepts the representative system and elects deputies of the SPA and People's Assembly of province/city/county which serve as legislative institutions. However, elections in North Korea, where division of power is refused and a one-party dictatorship regime has been established, elections are fundamentally different from those in free democratic countries.

Article 5 of the North Korean Constitution stipulates that "national organs in North Korea are formed and function on the principle of democratic centralism"¹⁹⁵, while Article 11 stipulates

¹⁹⁵- The principle of democratic centralism is a unique concept present in North Korean politics. In other words, it has the form of democracy in terms of political system and political process, but in its nature, it seeks to maintain the framework of centralized control or centralism based on the Unitary *Suryong* Ruling System. The principle of democratic centralism stipulated in the North Korean Constitution ulti-

that “all activities are conducted under the leadership of the Korean Workers’ Party”, meaning that the SPA and local People’s Assemblies are under practical control of the KWP. The recent status of implementation of the right to political participation in North Korea will be examined by major issue below.

A. Distortion of the Nature of Elections as a Democratic Procedure and Limitation of Information on Candidates

Article 25 (a) of the ICCPR stipulates that all citizens should be guaranteed the ability “to take part in the conduct of public affairs, directly or through freely chosen representatives.” This Article, which constitutes the fundamental nature of elections as a democratic procedure, assumes that voters have a basic knowledge about the representatives they elect. However, most North Korean people vote without knowledge of the representatives they are electing.¹⁹⁶ This is difficult to be regarded as a realization of the right to political participation in its true sense, which is attributable to the significant gap between the perception of elections and voting by

mately refers to the rule by law that means a one-party dictatorship by the KWP instead of the rule of law meaning governance by law. Under these circumstances, diverse forms of guidance and directions, such as the KWP Statute, the teachings of Kim Il-sung, and the messages of Kim Jong-il, etc., serve extrajudicial functions in North Korean politics, and are above the Constitution.

¹⁹⁶ NKHR2015000092 2015-05-12 and many other testimonies.

North Koreans and those citizens living in normal democratic systems.

In North Korea, elections are a form of political mobilization to reinforce in the people a sense of political participation and provide a perfunctory and post facto approval of the power structure and the method of recruiting the elite chosen by the KWP, instead of a political process where different political powers freely compete in terms of ideology and policies. In North Korea, elections for deputies of the SPA are seen as the people's expression of absolute loyalty and single-minded devotion to the continuation of the Baekdu bloodline through Kim Jong-un, and the North Korean regime led by the Korean Workers' Party. North Korean authorities have actively propagandized these aspects, highlighting that 100 percent of the voters say "Yes." The Central Elections Guidance Committee has announced that "Yes" votes were given by 100 percent of the people in the No. 111 Baekdu Mountain Electoral District, adding, "This represents the absolute support for and endless trust in our Dear Comrade Kim Jong-un from all members of the People's Army and our people, who are committed to cherishing him as the sole core of solidarity and leadership and serving him faithfully with single-minded devotion."¹⁹⁷ This perception of elections is also vividly illustrated in the following headlines from the *Rodong Shinmun*: "Absolute support for and

¹⁹⁷- 『Korea Central News Agency』 March 10, 2014

trust in the people's regime expressed with 'Yea'; and "Voters rush to vote Yes." As such, elections for deputies of the SPA serve as a forum of determination and support, under the leadership of Kim Jong-un, for the defense of revolutionary sovereignty as the legacy of Kim Il-sung and Kim Jong-il. They represent absolute loyalty for the Great Leader, which is why North Korean authorities seek to create an "atmosphere of joyful and jubilant celebration."¹⁹⁸

Such an election culture in North Korea is very different from the nature of elections as a democratic procedure in its original sense. Rather than guaranteeing the rights of the voters through free and transparent procedures, the election system is utilized as a tool of propaganda and instigation to reinforce the rule of the authorities. In this context of the reality in North Korea, participation in elections by the people is seen as a duty of citizens instead of being understood as a realization of the people's right to political participation. And naturally, the need to provide information on candidates to fulfill the basic assumption behind the people's right to political participation is overlooked or ignored.

B. Violation of the Principle of Secret Ballot and Deprivation of the Right to Object

Article 25 (b) of the ICCPR stipulates that the fundamental

¹⁹⁸ 『Rodong Shinmun』 March 10, 2014

nature of the right to political participation is the ability “to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.”

Article 64 of North Korea’s Delegates Election Law for All Levels of People’s Assembly stipulates that “The people are to vote by secret ballot. To vote for a candidate, one simply leaves the ballot unmarked, but to vote against someone, one draws a horizontal line on the candidate’s name on the ballot.” The Law also provides, “When a voter marks his/her ballot ”Yes“ or ”No“, no one else shall enter or look into the booth” (Article 65 of the Delegates Election Law for All Levels of People’s Assembly). There are partitions installed in the polling stations, but there is someone standing right behind the ballot box watching the whole process. As such, voting is so closely supervised that casting a negative vote is unimaginable.¹⁹⁹ There were even testimonies that a ballot box or hole to submit negative votes was not available.²⁰⁰ The stark reality of the right to political participation in North Korea is that voters themselves cannot even imagine casting a negative vote. In fact, the Delegates Election Law for All Levels of People’s Assembly specifies the freedom of “election campaigns,” but it is expressly prohibited to “instigate no votes,

¹⁹⁹- NKHR2013000120 2013-06-25.

²⁰⁰- NKHR2012000066 2012-04-20.

abstentions, or sabotage elections” (Article 53 of the Delegates Election Law for All Levels of People’s Assembly).

In North Korea, the election system is maintained at a perfunctory level, and it is identified that the majority of the people participate in regular elections. However, to the question of whether secret ballots are guaranteed, most North Korean defectors replied that this is not the case. The reality of the right to political participation, where the formalities of elections are established but opposing candidates is practically impossible is confirmed in the majority of testimonies.²⁰¹ It is said that most elections are finalized by people casting unconditional votes in favor of the candidate pre-decided by the authorities.²⁰² To the question of whether there is opportunity for or the right to oppose candidates in the election process, the majority of North Korean defectors said that there is no opportunity to do so on the ballot paper, or even if there is empty space, opposing is unthinkable because of the surveillance.

For the North Korean people, elections are carried out under strict supervision and control of the SSD and MPS, and regarded as something in which they must participate, as they would be politically suspected and suffer negative consequences if they do not or refuse to vote. Before the election, the *inminban* chief holds an *inminban* meeting to explain the election rules to the people,

²⁰¹_ NKHR2013000194 2013-10-29 and many other testimonies.

²⁰²_ NKHR2015000014 2015-01-27 and many other testimonies.

and people perceive them as writing down a name at the polling place, receiving a ballot paper and putting it in the ballot box.²⁰³ Given such a situation, it cannot be said that the principles of secret ballot and the right to object in their true sense are guaranteed in the political process in North Korea.

C. Limited Application of the Eligibility to Run for Election

Article 25 (c) of the ICCPR includes the right “to have access, on general terms of equality, to public service in his country” as a major part of the right to political participation. While all citizens have the right to access public service in a democratic regime, under the North Korean regime, such right is limited to a certain class or certain people with the assumption of the jurisdiction of the Party. The general population does not perceive being eligible to run for office, and reference to such procedures could not be found in the testimonies of the North Korean defectors. According to most of those testimonies, the election system in North Korea is laden with a political process and culture where people cannot even imagine being eligible to run for office without the approval of the authorities.

²⁰³_ NKHR2014000117 2014-08-12.

Table II-42 Cases of Infringement on the Right to Political Participation

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The testifier could not cast a negative vote in North Korea. It is allowed in theory, but as officials are watching, the testifier only put an affirmative vote in the ballot box. | NKHR2012000052 2012-03-28 |
| The testifier had never thought about casting a negative vote. There was no pencil and no one told the defector how to cast a negative vote. | NKHR2012000033 2012-03-13 |
| While casting a ballot in Seoncheon County, North Pyeongan Province, there were curtains around the polling booth. There was only one box to put the ballot in. The testifier just put the ballot (affirmative vote) in the box and left. | NKHR2012000278 2012-12-18 |
| In Daehongdan County, Yanggang Province, <i>inminban</i> chiefs are involved in surveillance from everywhere on election day. Even inhabitants of remote villages are made to dress up and are brought to the polls to vote. | NKHR2013000033 2013-02-19 |
| In Cheongjin, North Hamgyeong Province, they have placed a small box for negative ballots on one side of the large polling room. However, most voters believe that if they cast a negative vote, they will be sent to a political prison camp (<i>kwanliso</i>). | NKHR2013000055 2013-03-19 |
| Sometimes there are voters' meetings and pro and con discussions on the candidates, but these are nothing but formalities. | NKHR2013000194 2013-10-29 |
| Sometimes there were voters' meetings but only as formalities. There was no discussion on opposing the candidates and only in favor of them. | NKHR2015000014 2015-01-27 |
| The general population is indifferent to the photos and names of candidates, and it was also impossible to know them. People take it as something not related to them, and the only thing that mattered was to finish the formal procedure of voting. | NKHR2015000092 2015-05-12 |

D. Evaluation

In the real politics of North Korea, the people regularly participate in elections under the control of the KWP, but it does not seem that the principles of direct, universal, equal and secret ballots, mentioned in the Constitution and the Delegates Election Law, etc., are abided by. Rather, the majority of North Korean defectors were not even aware of the existence of such principles. Moreover, the people do not know who the candidates are in reality in many cases, and most of the testifiers said that the reality is that they cannot even imagine secret ballots or having the right to object. Given these circumstances, there seems to be a long way to go to realizing the right to political participation in its true sense in North Korea.

13

Right to Equality

The UDHR stipulates that “All are equal before the law and are entitled without any discrimination to equal protection of the law” (Article 7). The ICESCR and the ICCPR also prohibit “all kinds of discrimination”. The right to equality is closely related to the prohibition against discrimination. Non-discrimination, together with equality before the law and equal protection of the law without discrimination, constitute basic and general principles relating to the protection of human rights.²⁰⁴

²⁰⁴- UN HRC, General Comment No. 18 (1989), paragraph 1.

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

Meanwhile, the right to equality can be approached from many aspects, including discrimination in terms of gender, discrimination between persons with disabilities and those without, etc. In this section, we will cover only the issues based on discrimination in classification and the right to be equal before the law. The issues of discrimination against women and persons with disabilities will be explored in Chapter 4, Section 1 (“Women”) and Section 3 (“Persons with Disabilities”).

A. Discrimination by *Songbun* and Class

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

As Article 65 of the North Korean Constitution stipulates “Citizens enjoy equal rights in all spheres of State and public activity,” it can be said that the nation’s Constitution itself guarantees equal rights without discrimination on par with international standards on human rights. In reality, however, there are internal regulations on *songbun* and class, and people are classified by state institutions - i.e., Party organizations, the SSD and the MPS - and discriminated against, which significantly affects people’s social lives. With a series of citizen registration programs carried out following Korea’s liberation from Japanese colonial rule, North Korea has divided its people into three classes and 56

categories and then separately into 25 types of *songbun*.²⁰⁵ Regulations on *songbun* and class aim at “isolating hostile elements and serving the majority of the people.” North Korea says that it defines one’s *songbun* “accurately on the basis of extensive research on the economic conditions at the time of his/her birth, the class background of his/her family and its influence, his/her own social and political activities, the particularities of our nation’s historical development and class relations, and class policies that the Party has implemented at each phase of the Revolution.”²⁰⁶ *Songbun* is divided into two types of background – personal and social – and one’s *songbun* serves as basic data for determining his or her class.²⁰⁷ There are three classes: the basic

²⁰⁵– It has been previously known that North Korea had three classes: the core class (core masses), the wavering class (basic masses), and the hostile class (complex masses). The Reference Book for Citizen Registration Projects (Strictly Confidential), published in 1993 by the Press of the Ministry of Social Security (currently called the Ministry of People’s Security(MPS)) shows that it uses the three classes of the basic masses, the complex masses, and remnants of the hostile class, which are then subdivided into 56 categories, and separately, 25 *songbun* are also used for classification purposes (Sang-son Kim & Sang-hui Ri, Book for Citizen Registration Projects (Strictly Confidential) (Pyongyang: Ministry of Social Security Press, 1993). This White Paper referred to In-ae Hyun’s thesis in discussing issues regarding *songbun* and class, as we have been unable to have direct access to Kim & Ri’s book.

²⁰⁶– In-ae Hyun, “A Study of North Korea’s Resident Registration System,” p. 25. (In Korean)

²⁰⁷– One’s personal background is determined by the profession that his/her parents had for the longest period of time from his/her time of birth to the point of time when he/she entered a social occupation. If the parents had several jobs for similar periods of time, the child’s personal background is defined by what had the most significant impact on the child’s development of values. Social background, on the other hand, is determined by the profession that one has had for the longest period of time. Likewise, if he/she had several jobs for similar periods of time, the one that had the most significant impact on his/her values will become the basis of the person’s social background.

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

Table II-44 Classification of North Korea’s Residents by *Songbun* and Class

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

| Classes and <i>Songbun</i> | Categories (56 in total) |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Songbun</i> (25 in total) | 1. Revolutionaries; 2. Professional revolutionaries; 3. Laborers; 4. Soldiers; 5. Farmhands; 6. Poor farmers; 7. Farmers; 8. Farm managers; 9. Mid-sized farmers; 10. Better-off mid-sized farmers; 11. Agricultural foremen; 12. Rich farmers; 13. Landowners; 14. Office workers; 15. Students; 16. Craftsmen; 17. Foremen; 18. Small- and mid-sized entrepreneurs; 19. Converted businessmen; 20. Entrepreneurs; 21. Petit-bourgeois; 22. Small- and mid-sized merchants; 23. Merchants; 24. Religious personnel; 25. Those who served in Japanese organizations before liberation |

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

The North Korean authorities use this class and *songbun* classification system to strictly control their people; any movement between classes is also controlled in a very closed manner. One who makes a brilliant achievement, for example, may see his class upgraded from "remnants of the hostile class" to "the complex masses," but it is virtually impossible to climb all the way up from "remnants of the hostile class" or "the complex masses" to "the basic masses." Those in these "remnants of the hostile class" and "the complex masses" face discriminatory treatment across the entire spectrum of social life from employment, education, residence, and medical benefits. North Korean authorities define the value of individuals based on their personal backgrounds.²⁰⁸ Based on one's background, the entire population is categorized into classes and treated differently, which is a clear violation of

²⁰⁸ 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.

the provisions on the right to equality in both the ICCPR and ICESCR.

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

Guilt-by-association refers to the punishment of family members of individuals accused of political or ideological crimes. This can lead to the punishment of immediate family members and to discrimination against descendents. The North Korean government strictly manages/maintains these family records and utilizes them as a tool to control the people.²⁰⁹ Under the pretext of “citizen research (*jumin yohae*),” the government carries out extensive investigations and requires documentation on the families and relatives of all citizens. In principle, this citizen research is conducted on all citizens without exception.

The scope of citizen research by person is as follows: (a) Immediate family – grandfather, father, mother, son, daughter (son-in-law), grandson, elder brother, younger brother/sister, nephew, niece, elder sister, brother-in-law, uncle, aunt, cousin, and cousin’s child or great-uncle’s child; (b) In-laws – wife’s father and mother and brother; and (c) aunt, and aunt’s husband.

²⁰⁹ 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.

Those classified as “remnants of the hostile class are subject to more rigorous research. In this case, regardless of relational distance, all family members and relatives are subject to investigation. From this perspective, North Korea stipulates that “research should be conducted even on all family members and relatives that fall under the investigative scope but are effectively nonexistent, including those who are dead, those who have fled to another country, those whose whereabouts are unknown, and those who have been executed.”²¹⁰

In North Korea, social discrimination is mostly directed towards those with experience as South Korean civil police agents, families of Korean War POWs, families of returnees from Japan, and those with records of family members escaping to South Korea, etc. First of all, the separated families, a huge population accounting for 25~30% of the entire North Korean population are treated as part of the complex masses, categorized into “traitors who fled to South Korea” or “families of traitors.” They are still denied their basic rights or face various disadvantages, due to the “wrongdoings” of their relatives and ancestors from long ago, under Japanese colonial rule or during the Korean War. If one has a family member who served as a South Korean civil police agent during the Korean War²¹¹ or was a Korean War POW, he/she may

²¹⁰- In-ae Hyun, “ A Study of North Korea’s Resident Registration System,” p. 25. (In Korean)

²¹¹- NKHR2015000053 2015-03-10.

be exiled to a remote area, or to a coal mine or lumber mill, where he or she will be forced into hard physical labor. One of the testifiers said that his or her family was deported from Gangwon Province where they used to live to North Hamgyeong Province for the reason that his or her grandfather had been a landlord before liberation.²¹² Another testifier graduated from the medical school of Hyesan University and was nominated to be a doctor of Department No. 5 of the Central Party, but was not assigned to the post as it was found that his or her grandfather on his or her mother's side had served as a South Korean civil police agent and had been executed by firing squad in the identification process. South Korean POWs, in particular, reportedly suffer severe discrimination in terms of *songbun*. Not only the POWs themselves, but also their relatives and children are subject to surveillance and face numerous disadvantages in social life. Besides this surveillance, they also suffer great disadvantage in job assignments and social life, practically resulting in the passing down of discrimination based on *songbun* and class.²¹³ Moreover, families of returnees from Japan can join the military but cannot become special soldiers or officers. In addition, families of returnees from Japan are constantly under surveillance and discriminated against, including being mobilized for national events where they can only participate

²¹²_ NKHR2014000015 2015-01-27.

²¹³_ NKHR2015000095 2015-05-12.

in the preparations but not in the event itself.

C. Discrimination in Social Life by *Songbun* and Class

The most representative cases of discrimination in social life based on *songbun* and class include those related to employment as a senior official, becoming a Party member, college entrance, and job assignments.

First is discrimination in employment as a senior official. One's *songbun* and class play a significant role in being able to join political authorities like Party organizations, the SSD, or MPS and becoming a member of the senior staff. One North Korean defector testified that those with issues in family background still cannot join political institutions including Party organizations, law enforcement and judiciary institutions, although with the recent "reform" of citizen registration documents in 2012, the definition of family background is narrower than before.²¹⁴ Most North Korean defectors testified that although it is possible to become a Party member through bribery up to a certain level, family background is still used as an important criterion when

²¹⁴ According to testimonies, there was a citizen registration document "reform (reorganization)" project in March 2012. Through this reform, while family background included families up to great-grandfathers and their siblings for both men and women before March 2012, only families up to cousins were included in the family background of men and up to male siblings in the family background of women after the document reform. NKHR2015000074 2015-04-07.

hiring senior political officials such as senior officials for the Party.²¹⁵ However, family background plays a relatively small role when hiring junior officials and administrative workers.

Relevant examples include a North Korean defector who was deported from Gangwon Province where he or she used to live to Onsung, North Hamgyeong Province, because his or her grandfather had been a landlord before liberation. He or she could not enter professional school due to the bad family background and was assigned instead as a farm worker. Another testifier said although his or her father was a soldier in the Korean Volunteer Army, six elder brothers were able to become Party members after serving in the military. However, although they worked hard after becoming members, they remained as administrative and not political workers.²¹⁶

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

²¹⁵_ NKHR2014000015 2015-01-27.

²¹⁶_ NKHR2015000023 2015-01-27.

workers than for political workers.

Second, discrimination in joining the Party. North Korean defectors testified that from the mid-2000s, people could join the Party by discreetly providing bribes, even if they had unfavorable *songbun* and class. Similar testimonies continued in the 2015 survey. The testifiers said that as it is possible to join the Party through bribery with the spread and intensification of marketization and prevalent corruption, “money” comes before family background.²¹⁷ Nevertheless, it is said that there is a barrier that cannot be broken with bribery in being hired as a senior staff member after becoming a Party member. In addition, as life as a Party member causes inconveniences in economic life where market activities are at the center, and as there are many requirements from the Party, there is also a reluctance to becoming Party members.

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

²¹⁷- NKHR2015000045 2015-02-24.

teachers, take family background very seriously.²¹⁸ Therefore, structurally, it is unthinkable to enter colleges or get promoted for those with bad family backgrounds.²¹⁹ The level of discrimination by *songbun* and class in college entrance is found to differ between central colleges like Kim Il-sung University, the People's University of Economy, and Pyongyang Foreign Language University, etc., and general local colleges at the provincial and city level. While it is possible to enter general colleges based on one's ability to a certain extent, it is impossible to enter central colleges if one is not qualified according to *songbun* and class, regardless of one's abilities.²²⁰ Based on this, it seems that the barriers to entry based on *songbun* and class are high for central colleges, whose graduates are likely to be employed mostly by Party organizations and key political organizations, while such barriers are low for entry to general colleges, whose graduates are likely to be hired at local administrative institutions or for more junior positions. While discrimination by *songbun* and class in job assignments still exists, with advancement of marketization and the prevalence of bribery and advantages of personal connections, these latter two are used as a means to circumvent this discrimination.

²¹⁸_ NKHR2015000043 2015-02-24.

²¹⁹_ NKHR2015000030 2015-02-10.

²²⁰_ NKHR2014000015 2015-01-27.

D. Discriminatory Assignment of Residence Area by *Songbun* and Class

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

The North Korean authorities discriminate against people according to *songbun* and class more strictly in relation to residence in Pyongyang. The authorities have divided the city into central Pyongyang and surrounding districts, and divide the surrounding districts into protective zones, satellite cities and farming areas (Article 7 of the Law for the Management of the Capital City of Pyongyang). In order for a North Korean to live in Pyongyang, he or she must file for resident registration in accordance with the procedures and methods set by the Cabinet (Article 30). The authorities are strict in their examination of the *songbun* and class of each individual before granting the permit to live in Pyongyang.

Even those living in the city are divided into three categories by *songbun* and class and face discriminatory treatment. Group 1 and 2 constitute about 80~90 percent of Pyongyang residents who have no problems in terms of background, while Group 3 includes Koreans repatriated from Japan, former South Korean residents, and those who have missing family members, accounting for 10~20% of the city's population. Because of the grouping based on *songbun* and class, citizens falling in Group 3 cannot participate in various political events held in Pyongyang. For example, when foreign dignitaries visit the capital, only citizens belonging to Groups 1 and 2 are mobilized as welcoming crowds. Group 3 citizens are constantly marginalized, and are allowed to join only in ordinary mass rallies. Even when attending these mass rallies, they are discriminated against, as Group 1 and 2 citizens are lined up in the front rows while those in Group 3 are made to stand at the back and are under the surveillance of SSD agents.

Because of such severe discrimination, Group 3 citizens cannot really enjoy the benefits of being Pyongyang residents and constantly feel insecure and excluded. Many try very hard to join the military or become a KWP member as a way of mitigating the discrimination, but to little avail. Anyone who wants to move from the surrounding district to the central district must obtain approval from the authorities (Article 31 of the Law for the Management of the Capital City of Pyongyang).

The discrimination between residents of Pyongyang and of

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

One of the noteworthy testimonies collected in the 2015 survey is that the movement of people from cities and rural areas has been more strictly controlled since Kim Jong-un came to power. It used to be possible for someone from a rural area to move to a city for a job as a teacher at a university or when joining the military, and a woman from a rural area could move to a city if she married a man from a city. Now, however, it is said that when a man from a city marries a woman from a rural area, he needs to move to the rural area.²²¹

²²¹- NKHR2015000052 2015-03-10.

E. Evaluation

According to the 2015 survey, it is identified that the right to equality for the North Korean people is not properly protected. Discrimination by *songbun* and class was found to continue as the key system that creates inequality in diverse aspects of people's lives. It was confirmed that discrimination by *songbun* and class continues with regard to advancement in society, job assignments, employment as and promotion to a senior staff position, college entrance, and assignment of residence area, etc. Such discrimination is an important mechanism in maintaining the North Korean regime and has been in place in a structured way for a long time. Of particular note in the 2015 survey is that there was a citizen registration document "reform (reorganization)" project in March 2012 after Kim Jong-un came to power. This reform involved narrowing the scope of family background from up to great grandfathers and their siblings for both men and women to up to only cousins for men and male siblings for women. This can be seen as some relaxation of the discrimination system that has been carried out through the framework of "family background." However, it remains to be seen how much relaxation in terms of discrimination this change will bring about in reality. Moreover, as there are testimonies that movement of people between cities and rural areas is more strictly controlled now that Kim Jong-un has come to power, it is difficult to conclude that there has been

any real mitigation of the existing discrimination and inequality.

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White Paper on Human Rights
in North Korea 2016



Chapter III

The Reality of Economic, Social and Cultural Rights

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

1

Right to Food

Adequate access to food is recognized as one of the most important rights by international standards on human rights. The UDHR states that “everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing, medical care and necessary social services” (Article 25, paragraph 1). While the UDHR includes the right to food along with other rights, ICESCR provides a more specific provision regarding the right to food.

Table III -1 Article 11 of the ICESCR

| | |
|-------------|----------------------------------------------------------------------------------------------------------------|
| Paragraph 2 | The States Parties to the present Covenant recognize the fundamental right of everyone to be free from hunger. |
|-------------|----------------------------------------------------------------------------------------------------------------|

We will now examine the status of implementation of the right to food by North Korea.

A. Availability and the Discriminatory Distribution Policy of the North Korean Authorities

(1) Duty to Implement and Measures Taken by the North Korean Authorities

Article 11, paragraph 2 (a) of the ICESCR stipulates that there is a need “to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge.....by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.” The North Korean authorities have also taken legal and policy measures to expand food production.

First, North Korea has refined its relevant laws including the Agriculture Law, the Farm Law, the Livestock Law, the Fishery Law and the Fish Farming Law, etc., to increase the availability of food.

Table III-2 Availability of Food: Related Laws and Relevant Content

| Relevant Law | Relevant Provision |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Agriculture Law | The State shall improve the agricultural structure while solidifying the achievements made in agricultural development, and shall take deep interest in advancing agricultural production (Article 3). |
| Farm Law | The State shall correctly implement the sub-work group management system, the preferential distribution system for workers, and the self-supporting system in accordance with Socialist principles, and raise their superiority (Article 5). |
| Livestock Law | A generous supply of livestock products including meat, eggs and milk, is the consistent policy of the DPRK. The State shall make the livestock industry modern, scientific and informatized by systematically improving investment in that livestock industry (Article 2). |
| Fishery Law | The State shall establish the system and orders in creating and protecting fishery resources and production and processing of fishery products, developing the fishery industry and raising the living standards of people (Article 1). |
| Fish Farming Law | The State shall normalize the production of fish at a high level to meet the demand from people (Article 4). |

Second, although on a limited basis, it is identified that North Korea has been pursuing reform in agricultural production since Kim Jong-un came to power. Since 2012, North Korea has been, based on its sub-work group management system, implementing a “paddy unit responsibility” system with one unit composed of an average 4~5 people. This paddy unit responsibility system was introduced nationwide in 2013 after pilot implementation at cooperative farms in Migok, North Hwanghae Province, the Samjigang River area, South Hwanghae Province, and Shinam and Unheung, North Pyeongan Province in 2012. Under this system, farm workers are assigned to a paddy unit and distribution

is made based on the dynamics of the interests of farm workers.²²²

Through the 『Rodong Shinmun』 and 『Chosun Shinbo』, the North Korean authorities engage in active propaganda that food production has increased through this paddy unit responsibility system.²²³ According to the testimonies of North Korean defectors, it is identified that the paddy unit responsibility system is in place in actuality.²²⁴ However, how it is implemented is described differently in each relevant testimony.²²⁵ Further specific identification is also needed as to whether distribution is as intended under this system.

(2) Reduced Availability in 2015

As food production in North Korea is showing a recovery trend in the 2010s, it is found that the gross availability of food has improved. The Rural Development Administration (RDA, South Korea) estimated that the total grain output in North Korea in 2015 was 4.5 million tons, which is around 300,000 tons, or 6%, less than the 4.8 million tons in 2014. This is assessed to be because the drought that took place that year in the rice-planting

222_ 『Chosun Shinbo』, June 7, 2013; May 7, 2014; February 18, 2015.

223_ 『Rodong Shinmun』, “The effective paddy unit responsibility system”, February 6, 2015; 『Chosun Shinbo』, May 7, 2014.

224_ NKHR2014000002 2014-02-18; NKHR2015000178 2015-12-05; NKHR2015000175 2015-12-05.

225_ NKHR2015000027 2015-02-10; NKHR2015000052 2015-03-10; NKHR2015000111 2015-06-02; NKHR2015000113 2015-06-02.

season and early stages of growth had a huge impact on the output in some regions, and also because there were heavy rains in other regions, although on a limited basis. In August 2015, the North Korean government also announced that food production would be at least 20 percent less than in 2014.²²⁶

Table III -3 Output of Food Crops in North Korea²²⁷

| Year | 2012 | 2013 | 2014 | 2015 |
|--------|-------|-------|-------|-------|
| Output | 4,676 | 4,806 | 4,802 | 4,500 |

Unit: 1,000 tons.

It is identified that food imports have also decreased along with food production, meaning the food situation for the North Korean people has deteriorated in 2015 from the previous year.²²⁸ The reduction of food output caused by the drought in 2015 led to an actual reduction of rations. According to the UN Food and Agriculture Organization (FAO), the amount of food distributed in 2015 was 410g per person from January to June, 310g in early July, 250g in mid July, 250g from August to September and 380g in October (compared to 390g in October of 2013 and 2014). The

²²⁶ Press release from the Rural Development Administration, “Crop production in North Korea dropped slightly from the previous year”, December 23, 2015; UNICEF, Humanitarian Action for Children 2016–Democratic People’s Republic of Korea, January 26, 2016; “Voice of America”, June 19, 2015; July 4, 2015; January 27, 2016.

²²⁷ Statistics Korea, “2015 Major Statistics of North Korea”, 2015, p. 64. The source of Statistics Korea is data from the Rural Development Administration. The figures for 2015 are supplemented by the data from press releases by the Rural Development Administration (December 23, 2015).

²²⁸ “Voice of America”, December 2, 2015.

amount given from August to September 2015 is 21% less than the 317g given in the same period in 2014.²²⁹ The FAO included North Korea in its list of 37 countries with food shortages and in need of external support in its report “Crop Prospects and Food Situation” published on March 5, 2015.²³⁰

(3) Discriminatory Distribution Policy and Unequal Access

With regard to the right to food of the North Korean people, even if the overall amount of food has decreased, most people should have the benefits of a food ration if the ration policy is implemented properly. However, according to North Korean defector testimonies, there are many people who do not receive rations, and even when received, they are given irregularly and in greatly insufficient amounts.²³¹ It is assessed that the substantial gap between overall food availability in North Korea and the rations actually received by the North Korean people is attributable to the discriminatory distribution policy and corruption, among other things.

²²⁹ 『Voice of America』, October 21, 2015.

²³⁰ 『Voice of America』, March 5, 2015.

²³¹ To the investigation team from the World Food Program and the Food and Agriculture Association, the North Korean authorities reported that they gave rations of 200-400g per day per person (an annual average of 100 kg or more per person) in 2008-2013 to populations targeted for rations (entire population excluding farmers = around 70 percent of the total population). FAO/WFP, Crop and Food Security Assessment Mission to the DPRK (Nov. 2013), p. 30.

Table III-4 Testimonies on Recent Receipt of Grain Rations

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2013, food rationing resumed in the border areas. | NKHR2014000214 2014-12-30 |
| Rations of potatoes were given in Daehongdan County, Yanggang Province in 2013. In addition, the defector received pork, one bag of yam noodles, 1 bottle of liquor, and one bag of taffy. At that time, although the authorities propagated that they gave 800 kg of potatoes, it was actually around 550 kg as there was also dirt on the potatoes. | NKHR2015000125 2015-09-08 |
| Rations for 5 days were given in Buryeong County, North Hamgyeong Province. | NKHR2015000099 2015-05-19 |
| In 2013, rations were provided for about six months a year in Hoeryeong, North Hamgyeong Province. | NKHR2014000127 2014-08-26 |
| The defector heard that in March and April 2013, white rice was rationed in proportion to the number of family members. | NKHR2014000120 2014-08-12 |
| Rations were given all across Hoeryeong, North Hamgyeong Province for six months from July 2013. | NKHR2014000065 2014-06-03 |
| During his onsite instructions in early February 2014, Kim Jong-un reportedly gave 20 kg of frozen seafood such as octopus, anchovies, and saifin sandfish to each family in Samjiyeon County, Yanggang Province. | NKHR2014000138 2014-09-02 |
| The defector received rations for 5~6 months until the spring of 2014 in Hyesan, Yanggang Province, but not after that. | NKHR2014000200 2014-12-02 |
| The defector received rations every October until 2013 in Daehongdan County, Yanggang Province. Based on a family of 6 people, potatoes for 6 months or 3 tons, beans, and 55 kg of flour (for one month) were given. | NKHR2015000045 2015-02-24 |

It is identified that food rationing resumed functioning sporadically in 2012. The in-depth interviews in 2013, 2014 and 2015 identify that the food ration situation had temporarily improved in 2012, 2013 and 2014. It is identified that the rationing temporarily resumed functioning in: Yonsa County, Hoeryeong, Musan County,

Onsung, and Gilju County, North Hamgyeong Province; Hyesan, Samjiyeon County, Daehongdan County, and Bocheon County, Yanggang Province; and Pihyeon County, North Pyeongan Province, among other areas. There were relatively many testimonies that the amount given in rations was more in Daehongdan County, Yanggang Province than in other regions.

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

Table III-5 Testimonies of Military Reserve Grain Releases

| Testimonies | Testifier ID |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2013, the No. 2 Warehouse gave 450 g per person per day as rations. | NKHR2014000019 2014-04-15 |
| In 2013, it was informed that Kim Jong-un had given directions to provide food to people by releasing rice from No.2 Warehouse. | NKHR2014000038 2014-04-15 |
| Military reserve grains from No. 2 Warehouse (2호 창고) were released from March 2013, and the food rations started. Corn rations were given, but this stopped in July. | NKHR2014000003 2014-02-18 |
| Kim Jong-un gave directions that from March to July 2013, the people were to receive 15 days of rations per month in corn and non-glutinous rice in a 7:3 ratio. | NKHR2014000013 2014-03-04 |
| | NKHR2014000055 2014-05-20 |
| Since Kim Jong-un came to power, the authorities released rations from No. 2 Warehouse, and the people's perception of Kim Jong-un improved slightly. | NKHR2014000076 2014-06-17 |
| | NKHR2014000085 2014-07-01 |

B. Continuous Disparities in Accessibility

North Korea states in its Constitution that “the State shall provide all working people with the opportunity to obtain food, clothing, and housing” (Article 25). The distribution of food is alluded to in the statement, “citizens shall work according to their abilities and shall be paid in accordance with the quantity and quality of their work” (Article 70).

In spite of such provisions, the government’s ration policy for grain distribution based on *songbun* (family background) serves to intensify the polarization of accessibility to grains by the North Korean people. The core class still have relatively high access to food guaranteed by the State through the Public Distribution System (PDS).²³² However, it is said that a sufficient amount of food is not provided to low-ranking officials.²³³ In the case of the general population, the ration situation varies significantly based on the circumstances at individual enterprises, etc.

Therefore, the ration system operates in a distorted way with cases varying from it being possible to live on rations, to rations being insufficient and one needing to supplement them through market activities or paddy cultivation, to one needing to survive completely on his or her own. There is also a variance among

²³²_ NKHR2010000005 2010-03-16; NKHR2010000031 2010-11-09; NKHR2010000071 2010-11-09.

²³³_ NKHR2012000033 2012-03-13.

those who receive rations, including cases where only one person receives rations to cases where the families also receive rations, etc. In addition, there is a variance in terms of the frequency, for example regularly and occasionally, and amount by time, region, class and enterprise. It is not easy to identify the overall situation regarding inequal access that is actually in place as the North Korean authorities do not disclose accurate statistics.

According to the survey by KINU in 2015 on 186 North Korean defectors (92 respondents, multiple answers allowed), 60.86% were found to have secured food through the market place, and 26.10% through cultivation of paddies, etc.

Table III-6 Methods of Securing Grain

| Methods of Securing Grain | Number of respondents | Percent |
|-------------------------------|-----------------------|---------|
| From markets | 56 | 60.86 |
| Ration centers | 2 | 2.17 |
| State-run stores | 1 | 1.09 |
| Old-age security pension | 0 | 0 |
| Relatives & friends | 2 | 2.18 |
| Farming (cultivating paddies) | 24 | 26.10 |
| Other | 7 | 7.60 |
| Total | 92 | 100 |

(1) Disparities in Access to Food amongst Enterprises

As the conventional public distribution system does not work properly, the phenomenon where major institutions such as enterprises need to secure food on their own for rationing has become widespread. Based on the varying capabilities of these enterprises, the gap in the amount that city workers can receive, in other words, their access to food, is widening. Therefore, workers of enterprises with factories that are well-run or with favorable conditions receive relatively more in rations.

According to the testimonies of North Korean defectors, rations at coal and mineral mines are relatively good. This is because North Korea has continuously stressed the need to expand coal production to overcome the energy crisis. Therefore, workers at coal mines have more favorable access to food than at other job types. However, as the situation has deteriorated, there are also cases where rations are given only to the workers and not to their families.²³⁴

²³⁴ NKHR2012000090 2012-05-22.

Table III-7 Rations at Coal Mines

| Testimonies | Testifier ID |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The testifier worked in Gungsim Mine in Hoeryeong, North Hamgyeong Province for almost 10 years, and rations were given to heavy industry areas. As a monthly ration, 25 kg of corn kernels were given every quarter. The testifier and the testifier's daughter received 25 kg per month combined. | NKHR2015000023 2015-01-27 |
| The testifier received rations from Yuseon Mine in Hoeryeong, North Hamgyeong Province in 2013, While the ration was supposed to be 15 kg per month, he or she received only the amount for 15 days (7.5 kg). | NKHR2015000122 2015-09-08 |
| The testifier received rations from Youth Mine in Hyesan, Yanggang Province until April 2015. | NKHR2015000133 2015-09-22 |
| The copper mine in Hyesan, Yanggang Province produced copper jointly with China due to the lack of facilities. Since the joint business was established with China in 2010, the testifier received 7 kg and his wife received 4 kg as ration once every 15 days or month. His daughter received 7 kg. On average, 15 kg of rice was given as ration and as it was a joint business with China, Chinese rice was given, but much was deducted. | NKHR2015000130 2015-09-22 |
| | NKHR2014000023 2014-04-01 |
| The Musan Coal Mine in North Hamgyeong Province offers food rations on its own through the sale of mineral powders. The amount of food distributed, however, differs significantly between senior staff and laborers. | NKHR2014000071 2014-06-17 |
| | NKHR2014000126 2014-08-26 |
| | NKHR2014000144 2014-09-02 |
| | NKHR2014000043 2014-04-29 |

The situation of enterprises that operate factories and export products is identified to be better. It is said that special factories that produce supply items for the KPA are also in a better situation. The situation of laborers at military camps is also identified to be

better. North Korean defector ○○○ testified that not only himself but also his family also received rations that included soybean paste and oil.²³⁵ There are also cases where provision of rations depend on the ability of senior officials of the factories even when the factories are not normally operated.²³⁶

Table III -8 Testimonies on Enterprises and Special Factories

| Testimonies | Testifier ID |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The testifier worked at a clothing export factory from May 2004 to February 2010 at Pihyeon County, North Pyeongan Province. They exported manufactured clothing to China, and with the money they earned, they issued regular rations (14 kg of rice and 1 kg of cooking oil per month, and 1 kg of sugar every 3 months). | NKHR2012000018 2012-02-07 |
| At the export business the defector worked for in April 2011, regular rations were given once a month. The amount was 15 kg for him or her and 20 kg for his or her family. | NKHR2011000210 2011-09-20 |
| A cigarette factory is a special facility for the People’s Army, so all workers received 100 percent rations, though not their families. | NKHR2011000120 2011-05-24 |
| Workers at military facilities received 700 kg, and their wives received 400 kg, and their children also received rations. The workers received soybean paste and oil, and the families of military officers received soybean paste, oil and meat, etc. | NKHR2015000001 2015-01-13 |

Even if rations are given, the amounts were generally meager and at irregular times, making them insufficient for life. Even those who receive better rations than others still did not have enough access to food. As a result, it is generally the case that

235_ NKHR2015000001 2015-01-13.

236_ NKHR2008000015 2008-08-27; NKHR2014000103 2014-07-29.

people try to supplement the shortage by purchasing from the markets as much as he or she could afford. It is also generally the case that people rely on cultivation of paddies to resolve the food situation, in addition to operating vending or peddling businesses.²³⁷ Some people pay taxes on their paddies, while others do not.²³⁸

Table III-9 Testimonies on Cultivation of Paddies

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| As the rations from coal mines were minimal, the defector had to cultivate paddies. | NKHR2015000023 2015-01-27 |
| A brother of the testifier was working for a small-/mid-sized power plant which allocated him around 992 square meters (300 pyong) of paddies for 6 months and let him use the produce from those paddies as food for the 6 months. In return, he had to pay for the price of paddies and the cost of cultivating the paddies. | NKHR2015000031 2015-02-10 |
| The defector survived by growing vegetables in the front yard of his or her house, and cultivating barley and potatoes in privately-owned paddies in addition to the ration given from the publication distribution agency in Baekam County, Yanggang Province. | NKHR2015000071 2015-04-07 |

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

237_ NKHR2013000099 2013-05-28.

238_ NKHR2015000019 2015-01-27.

Table III-10 Testimonies on Patches of Land Being Cultivated in Lieu of Rations

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

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

Farmers at collective farms receive a ration once a year based on an annual settlement of accounts. Even though the food situation in farm areas is better than other places, it is identified that farmers do not receive sufficient grain rations either.

First, the food situation of the agricultural population is deteriorating due to the excessive increase in skimming by officials. There are cases found where even the yield from farmland assigned to individuals is collected when the target public distribution amount is not filled. It is said that they cannot openly resist such mobilization as a grand cause for official skimming is provided, through Kim Jong-il's teachings and Party policies.²³⁹ While official skimming is led in practical terms at the State level, the

.....
239_ NKHR2014000003 2014-02-18.

North Korean authorities issues propaganda that official skimming is a voluntary act. By analyzing the propaganda of government media, one can understand that official skimming in North Korea is quite serious.

Table III-11 Grain Shortages Due to Official Skimming

| Testimonies | Testifier ID |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In December 2012 in South Hwanghae Province, the amount of grain paid to soldiers as military grains was changed from 100 kg of corn per household to 50 kg per person. | NKHR2013000157 2013-09-03 |
| They distributed 826 square meters (250 pyong) of land per farmer. If the harvest did not meet the planned target of military grain demand, grain from individual patches of land was taken to meet the shortage. | NKHR2012000194 2012-09-25 |
| While the crops were good, due to substantial official skimming for military reserve grains, etc., not much was distributed. As a result only 30~40 percent of the standard amount was distributed from the farms. | NKHR2014000164 2014-10-07 |
| Each farmer should receive a ration of 1.4 tons of potatoes. However, when 1,000 discharged soldiers were brought in for plowing jobs, they received priority distribution, and farmers got the left-overs. In 2012, each farmer received only 150 kg per person, and the situation was dire. | NKHR2013000099 2013-05-28 |
| In the fall harvest season, the entire harvest was taken by military trucks. | NKHR2014000003 2014-02-18 |
| In South Hwanghae Province, there was a substantial amount of official skimming for military reserve grains. | NKHR2015000017 2015-01-27 |
| There was official skimming for military reserve grains from the farm and the defector did not receive rations in Daehongdan County, Yangggang Province. Only the heads of sub-work groups and heads of working groups received rations, and the average farmer lived by stealing. | NKHR2015000050 2015-03-10 |

“There was a “Patriotic Rice” campaign triggered by an act of a young man at Samjigang cooperative farms. Everyone made a resolution, thinking of “the responsibilities of farmers”. The Management Committee or higher levels did not “request” or “appeal” to them. Last year, 300 tons of “patriotic” rice was collected at farm level. This increased to 350 tons this year.”²⁴⁰

Second, the food shortage for farm workers is also attributable to the imposition of excessive production quotas and the manipulation of books where the amount of food distributed to these workers is exaggerated.²⁴¹ Once a projected output has been proposed, the real output should be adjusted to match the projected figure, but this is not always the case in reality.²⁴² Moreover, there are cases where water content is falsified in order to distribute a smaller amount of corn to the workers.²⁴³

As most farmers do not have time to run a vending or peddling business, there are cases where they borrow grain from others and sometimes repay a few times the borrowed amount. As such, farmers use high-interest loans to temporarily resolve food shortages, which only end up causing more suffering.²⁴⁴

In recent years, the grain situation in Hwanghae Province is

²⁴⁰_ 『Chosun Shinbo』, “Patriotic Rice Dedicated Voluntarily” January 27, 2014.

²⁴¹_ NKHR2014000003 2014-02-18.

²⁴²_ NKHR2014000055 2014-05-20.

²⁴³_ NKHR2014000150 2014-09-23.

²⁴⁴_ NKHR2014000099 2014-07-29.

identified to be deteriorating. It is said that there were poor harvests for several years in a row, and the food situation was deteriorating because harvested grains were taken away to support military industries or for use as military grains.²⁴⁵ North Korean defector ○○○ testified that the regional economic situation had deteriorated as the farmers did not receive sufficient grain rations.²⁴⁶

(3) Disparities in Accessibility by Region

Under the circumstances where freedom of residence and movement is restricted, preference given to certain regions leads to discrimination by region. There is also an interesting case where rations have temporarily resumed along the border regions in an attempt to eradicate the increasing tide of defections.²⁴⁷ Moreover, there are several testimonies collected that rations in Hoeryeong, North Hamgyeong Province were relatively good because the city was the birthplace of Kim Jong-suk, mother of Kim Jong-il.²⁴⁸ As is well known, the food ration situation in Pyongyang is identified to be better than in other regions.²⁴⁹ The food situation along the border region including Hyesan,

²⁴⁵_ NKHR2012000235 2012-11-06; NKHR2012000273 2012-12-11.

²⁴⁶_ NKHR2013000125 2013-07-09.

²⁴⁷_ NKHR2012000020 2012-02-07.

²⁴⁸_ NKHR2014000029 2014-04-01; NKHR2015000016 2015-01-27; NKHR2015000069 2015-04-07; NKHR2015000089 2015-04-21; NKHR2015000172 2015-12-01; NKHR2015000164 2015-12-01.

²⁴⁹_ NKHR2014000202 2014-12-02.

Yanggang Province, where business is active, including with China, is identified to be better than other regions. It is said that the situation is worse in Hwanghae Province, which is a granary area, while the situation in border areas where trade between North Korea and China is possible is better.

Families of North Korean defectors residing in North Korea are identified to have a better economic access to food than others. It is said that this is possible through remittances from family in South Korea.²⁵⁰

(4) *Seongun* (Military–First) Policy and the Reality of Rations for Soldiers

North Korea has granted a priority to the military in receiving rations as it uses the military to maintain the regime, and advocates the *Seongun* ideology. As a result, the food situation of the military is known to be better than that of the population at large. However, it seems that the fact that the military has priority in receiving rations does not mean that all soldiers receive generous rations: even within the military, it seems that a soldier's access to food also varies. Such gaps in the right to food seems to be due to the fact that rations are allocated in amounts that vary by region in which they serve.²⁵¹

²⁵⁰_ NKHR2012000031 2012-02-21.

²⁵¹_ NKHR2011000188 2011-08-16.

It is also found that there is discrimination in access to food among soldiers, according to their rank. The food supplied to military camps is given as rations first to officers. But even among military officers, there are cases found that rations are not properly given to their families.²⁵² The amount of food rationed to enlisted soldiers is known to be relatively limited. As a result, there are increasing cases where enlisted soldiers in the military suffer from malnutrition.²⁵³ There are also differences in the right to food by military camp.²⁵⁴ There are cases where some soldiers who are not given sufficient food harm civilians²⁵⁵, and where some soldiers receive money from their families because the food supply in military camps is insufficient.²⁵⁶ It is assessed that one of the reasons the soldiers are not provided with proper food rations even under the Military-First policy, is the corruption.²⁵⁷

C. Evaluation

Since the first decade of the 2000s, food production in North Korea has continued to improve. The North Korean authorities

²⁵²- NKHR2014000003 2014-02-18.

²⁵³- NKHR2012000235 2012-11-06; NKHR2015000018 2015-01-27.

²⁵⁴- NKHR2008000014 2008-08-26; NKHR2014000121 2014-08-12.

²⁵⁵- Soo-Am Kim et al., 『The Correlation between Corruption and Human Rights in North Korea』, pp. 152~154; NKHR2014000003 2014-02-18. (In Korean)

²⁵⁶- NKHR2013000091 2013-05-14.

²⁵⁷- NKHR2013000091 2013-05-14; NKHR2014000003 2014-02-18.

are also taking reformative measures, although in a limited manner, including with the paddy unit responsibility system, to increase food production. However, the overall availability of food is assessed to have decreased due to the drop in food production caused by various factors, including the drought in 2015, and the reduced imports of food. Even if the availability of food is insufficient, North Korean people would be able to receive a substantial part of the designated amount of rations if the rationing system simply operated normally. The disparity in access to food is identified to be continuing as many people are excluded from food rations because of the inefficient and discriminatory rationing system. To supplement the available food, people continue to engage in vending and cultivate paddies. Of particular note is that, in spite of the introduction of the paddy unit responsibility system, the right to food for the agricultural population continues to be infringed upon due to excessive official skimming.

2

Right to Health

The UDHR stipulates, “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care, and necessary social services” (Article 25, paragraph 1). As such, the Declaration articulates the right to health rather comprehensively, along with other rights. The ICESCR stipulates the right to health more specifically.

| | |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Paragraph 1 | The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. |
| Paragraph 2 | The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness. |

The Preamble of the WHO Charter also contains a comprehensive stipulation, stating “enjoyment of the highest attainable standard of health is the fundamental right of everyone regardless of race, religion, political beliefs or economic and social conditions.” In addition, General Comment 14 of the Committee on Economic, Social and Cultural Rights presented the elements of the right to health as availability, accessibility, acceptability and quality. Accessibility, in particular, is interpreted to include nondiscrimination, physical, economic and information accessibility.

As stipulated in its Constitution and the Public Health Law, etc., North Korea maintains a free medical care system and emphasizes preventive medicine. In addition, North Korea has enacted and implemented health-related laws that include the Law on Public Sanitation (1998), the Law on Border Sanitation Inspection (1996, 1998, 2007), the Law on Food Hygiene (1998, 2005), the Law on Medical Care (1997, 1998, 2000), the Medicine Control Law (1997, 1998), the Public Health Law (1980, 1999, 2001), the Law on Prevention of Epidemics (1997, 1998, 2005), the Law on the Protection of Persons with Disabilities (2003), the Red Cross Act (2007), and the Law on Culture and Sport (1997, 1998), etc.

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

(1) Collapse of the Healthcare Delivery System: Unbalanced Accessibility by Class

North Korea's healthcare delivery system consists of clinics, people's hospitals at city and county level, provincial hospitals, and the central hospital in Pyongyang. However, the level of deterioration caused by North Korea's struggling economy varies by the level of the system. The system at primary and secondary medical facilities where most citizens receive medical service has collapsed more than at larger hospitals. As a result, the physical accessibility to the right to health of the general population, who mostly use clinics and People's hospitals, is deteriorating. However, even in the primary and secondary healthcare delivery system, medical offices used by senior officials are operating relatively well. As such, even in People's hospitals, there is a gap in accessibility between officials and the general population.

In contrast, the third and fourth level hospitals that middle class citizens and senior officials have easy access to are in relatively better condition than the primary and secondary facilities.²⁵⁸ While there is a widening gap in physical and financial accessibility

²⁵⁸ Soo-am Kim et al., 『Quality of Life of North Korean Residents: Reality and Perception』 (Seoul: KINU, 2011), pp. 137-138. (In Korean)

to medical service between Pyongyang and other major cities and the provinces, instead of attempting to narrow this gap, North Korea has been expanding its medical facilities for the privileged few, including construction of the Pyongyang Children's Hospital and the Pyongyang Dental Clinic.²⁵⁹ As such, as the North Korean authorities pursue policies that further widen this gap, it is assessed that they are failing to fulfill their duty to realize properly for the North Korean people their right to health.

(2) Unequal Access to Medications

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

The first dimension involves patients with connections to the privileged class who are able to enjoy the benefits of medicines supplied to hospitals on a limited basis.²⁶⁰ As these medicines are provided according to connections and power, the level of discrimination in access to the right to health has become serious.²⁶¹ Moreover, medicines are provided for free to people who are

²⁵⁹ 『Yonhap News Agency』, September 24, 2013; 『Yonhap News Agency』, October 6, 2012.

²⁶⁰ NKHR2015000047 2015-02-24; NKHR2015000131 2015-09-22.

²⁶¹ NKHR2012000234 2012-11-06.

friends of doctors.²⁶²

The second dimension is that, for the general population, there is a gap in access to medicines by financial capability. While treatment is supposed to be free of charge under law, since hospitals suffer from an extreme shortage of medicines, patients often have to purchase their own medicines from markets or unofficial pharmacies run by individuals and introduced by doctors.²⁶³ Currently most in the general population buy medicines in this way. The reality of such private pharmacies is that there is an expanding phenomenon where doctors who have retired or quit from hospitals operate illegal “pharmacies” set up in private houses to sell medicines. Moreover, there are cases where doctors and private pharmacies enter into unofficial contracts for mutual profit.²⁶⁴ Recently, there have even been cases where doctors sell medicines from their home.²⁶⁵ In some cases, doctors write down a list of medicines needed for patients and have the patients buy those medicines at private pharmacies that they are running.²⁶⁶ As a result, the inequality in access to medicines based on financial capability is intensifying.

²⁶²_ NKHR2012000018 2012-02-07; NKHR2014000157 2014-09-23.

²⁶³_ NKHR2011000203 2011-09-06; NKHR2012000131 2012-07-03; NKHR2012000132 2012-07-03.

²⁶⁴_ Interview with North Korean defector ○○○ in Seoul, August 24, 2011, (interviewed in Seoul and one more time); NKHR2015000030 2015-03-10.

²⁶⁵_ NKHR2015000131 2015-09-22.

²⁶⁶_ NKHR2014000013 2014-03-04.

Table III-13 Testimonies of Unofficial Sales of Medicine

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In some cases, doctors will sell medicines at their homes. | NKHR2013000006 2013-01-08 |
| The supply of medicines is insufficient, but an ample amount can be found across society, with people even finding medicines at markets or being sold from homes. | NKHR2014000006 2014-03-04 |
| Many pharmacies are run by individuals, where they sell medicines for the market price. | NKHR2014000096 2014-07-15 |

Such sales of medicines at markets or unofficial private pharmacies is in violation of Article 38 and 41 of the Medicine Control Law. While they do not receive medicines for free from official pharmacies, North Korean people purchase them from markets or unofficial private pharmacies in accordance with the diagnosis and prescription of doctors. Although the North Korean authorities are propagating a free medical care system, it is not fulfilling the duty to realize the right to health, causing North Korean people who are not appropriately supplied with medicines to have no choice but to violate laws.

Table III-14 Article 38 and 41 of the Law on Pharmaceutical Administration

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

Moreover, as the general population, who do not have professional knowledge about medicines, are selling them, this can have fatal results for ordinary people. Medicines are smuggled into the country, stored in private homes, and sold wholesale. The wholesalers learn the basic effects, usage, and dosage by translating manuals brought from China and from the UN, etc. and outline these facts to retailers.²⁶⁷ As there are many ineffective or fake medicines on the market, this threatens the right to health of the North Korean people without financial wherewithal. As there are many fake medicines among those bought at low price by ordinary people, it is working as a negative factor for the right to health of ordinary people.²⁶⁸

The third and final dimension to the deterioration of access to medicine by patients, who are the direct beneficiaries, is corruption in the process of supplying medicine, including skimming. During the supply process from the central government to hospitals in provinces, cities and counties, a significant amount of the medication is pocketed.²⁶⁹ While there are cases where hospitals apply medicine for free²⁷⁰, there is an increasing number of cases where

²⁶⁷_ NKHR2011000203 2011-09-06.

²⁶⁸_ NKHR2012000018 2012-02-07; NKHR2013000050 2013-03-19; NKHR2015000030 2015-02-10.

²⁶⁹_ The distribution should follow a line from the central supplier to province to city, or county to hospital and to the patient. In the process, however, large amounts of medicine are skimmed for sale on the market. NKHR2012000060 2012-04-10.

²⁷⁰_ NKHR2015000131 2015-09-22.

healthcare providers charge for the medicine they apply. In other words, the medicines supplied to hospitals become personal possessions and then merchandise for illegal sales. However, it was found that for certain diseases such as tuberculosis, free treatment is provided through external support, etc., in some regions.²⁷¹

Table III-15 Testimonies of Hospitals Charging In-Patients for Medicines

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In March 2011, the testifier was hospitalized for a month at the Musan Mine Hospital in Musan County, North Hamgyeong Province. There were some medicines at the hospital, but they were charging the patients for them. | NKHR2012000030 2012-02-21 |
| The testifier had his or her eyes treated at a hospital in Yanggang Province. After he or she paid 100 Chinese yuan to the doctor, the doctor gave him or her South Korean eye drops (Cosopt) for the appropriate treatment. | NKHR2012000112 2012-06-12 |
| After you purchased an ampule from the drug store as directed by the hospital, the hospital would administer the shot. | NKHR2012000222 2012-10-23 |
| Hospitals had medicines, but they would only treat them as private property for illegal sales. | NKHR2013000005 2013-01-08 |

As pharmaceutical factories are not operating normally due to the economic crisis, the North Korean authorities are actively developing a movement to cultivate herbal medicines. The Law on Herbal Medicine stipulates that “the State shall have a deep interest in the cultivation of herbal medicine and carry out this cultivation of herbal medicine in a planned manner” (Article 3). The authorities push this cultivation by mobilizing both specialized

²⁷¹ NKHR2010000032 2010-11-23; NKHR2011000213 2011-10-04; NKHR2012000004 2012-01-10.

institutions and general organizations or the general population (Article 19, Herbal Medicine Cultivation by the Masses, the Law on Herbal Medicine). Doctors provide alternative herbal medicines at clinic level, but as such self-made medicines have little effect, the quality of health of the general population is being seriously undermined.

With economic hardship, the practice of taking narcotics to cure illnesses has also undermined health. As North Korea's free treatment system fails to function properly, many patients increasingly depend on opium to relieve pain, as they cannot get treatment or procure the right medicine,²⁷² and it is said that people use narcotics that include the opium poppy, when they cannot find medicines for pain. Narcotics are effective as temporary painkillers, but when users finally go to the hospital, treatment is impossible.²⁷³ The North Korean authorities also stipulate in its Law on Narcotics Control that "Citizens can use narcotics for treatment of illness based on diagnosis of illness and prescription by medical institutions. Use of narcotics is allowed in preventive medical institutions or at home with attendance of such institutions" (Article 41, Use of Narcotics for Treatment of Illnesses). However, people without the necessary financial means are driven to an inevitable situation where they wish to relieve pain even if they

272- NKHR2013000065 2013-04-02.

273- *Good Friends*. 『North Korea Today』, No. 419, September 7, 2011; NKHR2011000173 2011-07-26.

must violate the Law on Narcotics Control as they cannot receive proper treatment.

(3) The Realities of Hospitalization, Surgery and Free Treatment

In an effort to promote the people's right to health, North Korea has stipulated detailed obligations for the government to fulfill. First, its Constitution stipulates a free treatment system as "citizens shall have the right to free treatment (Article 72)." Article 9 of the Public Health Law stipulates, "the State gives all citizens the benefit of free treatment. Citizens including laborers, farmers, and intellectuals have the right to be treated without payment." The Law on Medical Care also stipulates that "in the DPRK, healthcare shall be based on a complete and overall free treatment system (Article 3). Article 10 of the Public Health Law stipulates details of free treatment in Article 10 as seen in the table below.

Table III-16 Article 10 of the Public Health Law (Free Treatment)

Free service shall be according to the following:

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

Officially, North Korea is maintaining a free medical care system. But the reality is that medical treatment is provided free only on a very limited basis for the general population. Under the circumstances where hospitals provide only diagnosis and people must buy medicines on their own, most people tend not to go to hospitals and treat themselves after self-diagnosis and use medicines from private pharmacies or the markets.²⁷⁴ People visit hospitals predominantly only when they need medical examinations, such as X-rays, surgery or hospitalization. However, it is said that there is a high distrust of hospitals because of frequent misdiagnosis.

Table III-17 The Perception of Hospitals by Ordinary Citizens

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| A North Korean defector, who used to practice medicine in North Hamgyeong Province, testified that people visited hospitals only when they needed surgery or special examinations such as X-rays. | NKHR2012000283 2012-12-18 |
| Hospitals are for diagnosis and surgery only. | NKHR2013000006 2013-01-08 |
| Recently, people hesitate to go to hospitals because there are so many wrong diagnoses. People do not trust hospital diagnoses, because there are some doctors who have purchased their licenses. So people simply diagnose themselves, and go to hospitals only for major illness such as cancer or similarly grave illnesses. | NKHR2013000057 2013-03-19 |
| Hospitals will only confirm the nature of the illness, and the patients will have to purchase their own medicines for treatment. | NKHR2013000050 2013-03-19 |

²⁷⁴- NKHR2015000019 2015-01-27; NKHR2015000067 2015-04-07; NKHR2015000123 2015-09-08; NKHR2015000132 2015-09-22.

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

First, while basic medicines are sometimes provided by hospitals for free, patients are mostly charged for special medicines needed for surgery. Even when medicines are provided by hospitals, they are often of low quality so people try to buy medicines externally.²⁷⁵

Second, while hospitalization itself is free of charge, patients are charged for most of the items needed in the hospital rooms. Once a patient is hospitalized, he or she must bring his/her own food and bedding. While some hospitals provide meals, there are cases where the quality of the food is so poor that patients provide their own. They must bear the cost of heating as well. They must bring firewood or an electric stove during the winter if they wish to keep warm because heating is not provided at hospitals.²⁷⁶

Third, it is said that patients are charged for surgery costs in most cases. The hospital receives money from patients needing surgery. If they do not have enough money at the moment, the hospital may sign a contract with the patients allowing them to undergo surgery first and pay later.²⁷⁷ There are even cases where patients pay for blood transfusions.²⁷⁸

²⁷⁵_ NKHR2015000024 2015-01-27; NKHR2015000018 2015-01-27; NKHR2015000130 2015-09-22.

²⁷⁶_ NKHR2011000118 2011-05-17.

²⁷⁷_ NKHR2014000119 2014-08-12.

Table III-18 Testimonies of Patients Charged for Medical Services

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2010, the testifier's husband suffered from neurogenic gastritis, cirrhosis and typhoid. He was hospitalized for three months at a hospital in Poongseo County, Yanggang Province, but eventually died. The expenses for his hospitalization amounted to 1.2 million won. | NKHR2014000055 2014-05-20 |
| In 2010, the testifier underwent an appendectomy at the People's Hospital in Hoeryeong, North Hamgyeong Province. He or she had to pay around 100,000 won. | NKHR2014000115 2014-08-12 |
| In 2012, the testifier's husband was hospitalized for stomach cancer at the Cheongjin Medical University Hospital. At the time of hospitalization, the testifier had to unconditionally pay 50,000 won and another 50,000 won was paid to the head of the department. | NKHR2014000006 2014-03-04 |
| In May 2013, the testifier was hospitalized for eight days at the Provincial Hospital of North Hamgyeong Province after a car accident. The patient had to pay for everything from cotton to needles to soaps that the doctor used to wash his hands. The doctor stitched up his or her wound and put a bandage on it only, which cost the defector 400,000 won. | NKHR2014000014 2014-03-18 |
| In October 2013, the testifier went to a provincial hospital in Hyesan, Yanggang Province for an appendectomy. He or she had to pay 50 Chinese yuan for the operation and 100 yuan to the doctor. | NKHR2014000201 2014-12-12 |
| In September 2013, the testifier had an appendectomy at the No. 2 Hospital in Hyesan, Yanggang Province, and the price for the surgery was pre-decided. Simple surgery such as appendectomies are 50 Chinese yuan, while serious surgeries cost 100 Chinese yuan. | NKHR2015-067 2015-04-07 |
| To have an appendectomy, one needs to pay a bribe to doctors. The amount of the bribe is 50 Chinese yuan for surgery and 100,000 North Korean won for meals. | NKHR2015-172 2015-12-01 |
| In the summer of 2013, a nephew/niece of the testifier had two surgeries for bone tuberculosis in his or her legs. The cost was 700,000 North Korean won for the first surgery and 300,000 North Korean won for the second. | NKHR2015-015 2015-01-27 |
| When the testifier was hospitalized in Hyesan, Yanggang Province, for a third-degree burn, he or she had to pay for the cost of all medicines related to treatment including gauze, etc. | NKHR2015-057 2015-03-24 |

278_ NKHR2014000131 2014-08-26.

However, there are also cases where hospitals provide part of their services free of charge, although not in a comprehensive manner.

Table III-19 The Reality of Free Surgery

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2007, I had a head injury, so I got a few stitches at Hamheung Hospital, and didn't pay anything. | NKHR2013000051 2013-03-19 |
| 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 |

Fourth, although it is not directly related to the cost of surgery, in general, people treat medical providers to meals or give small amounts of cash as an extra when having surgery or for hospitalization. North Korean defector ○○○ testified that his brother was hospitalized in the provincial hospital in Hyesan, Yanggang Province for leg surgery, and gave doctors 200 Chinese yuan for meals instead of paying for surgery.²⁷⁹

There are also cases where the State fails to properly support hospitals financially, who in turn shift the costs related to hospital operations onto patients. North Korean defector ○○○ testified that she was hospitalized in Hyesan, Yanggang Province for third-degree burns, and the hospital asked her to give 200 kg of

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

cement (worth around 100 Chinese yuan) for hospital operations.²⁸⁰ North Korean defector ○○○ who worked as a nurse at a local (Li-level) hospital in Yonsa County, North Hamgyeong Province until 2012, testified as follows.

*“As hospitals also need money for serious surgeries, as well as appendectomies or hysterotomies at military hospitals, they receive some payment for surgery, not as official treatment fees. The hospitals receive around 20,000~30,000 North Korean won or 50,000 won. And after having surgery, patients treat doctors to meals.”*²⁸¹

Fifth, there are also cases where soldiers pay for the cost of surgery for their families as the military hospital is not operating normally. In 2010, a brother of North Korean defector ○○○ was hospitalized in a military hospital due to stomachalgia when he was serving in the military. However as the situation at the hospital was very poor to the extent people could not get proper treatment due to the lack of medicines, his brother paid the entire cost of needed medicine and meals.²⁸²

As the free treatment system does not work properly, patients shoulder all related costs when needing surgery. As a result, the right to health is threatened for ordinary people who do not have sufficient funds for economic access. There are also cases where

²⁸⁰_ NKHR2015000057 2015-03-24.

²⁸¹_ NKHR2015000174 2015-12-15.

²⁸²_ NKHR2015000057 2015-03-24.

ordinary people with less economic access due to improper operation of the free treatment system die from the lack of proper treatment. Such reality of the right to health is also found within the military.

Table III-20 Testimonies on Deaths from Inadequate Treatment

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In February 2007, the testifier's mother died of tuberculosis in Nampo, South Hwanghae Province because she could not get proper and timely treatment. | NKHR2012000144 2012-07-17 |
| The father of the testifier's colleague had tuberculosis and hydrops abdominis but could not receive treatment as he was poor, and died. | NKHR2012000104 2012-06-05 |
| In March 2010, the testifier's mother was hospitalized for two months due to a myocardial infarction. She was not properly diagnosed and ended up dying of medical poisoning. | NKHR2014000013 2014-03-04 |
| A brother-in-law of the testifier had a lung disease but died in May 2014 as he could not receive adequate treatment. | NKHR2014000004 2014-02-18 |
| A relative of the testifier had tuberculosis while in the military but eventually died as he or she had to rely on self-treatment due to the lack of adequate care. | NKHR2014000023 2014-04-01 |

B. Realities of the Preventive Medicine System

Article 12, paragraph 2 of the ICESCR stipulates on the prevention, treatment and control of diseases. North Korea emphasizes preventive medicine. Article 3 of the Public Health Law stipulates that “the basics of Socialist medicine is preventive medicine.” The North Korean preventive medicine system is mainly about prevention of diseases and a district doctor system.

Article 18 of the Public Health Law emphasizes prevention of diseases as “the State shall take establishment of measures in advance so that the people do not develop diseases as an important duty of the State and take such advance measures for prevention.” Moreover, Article 28 of the Public Health Law stipulates regarding the district doctor system “the State shall develop the district doctor system, which is an advanced medical service system under which doctors take charge of a certain district of people and are always in the field to take care of the health conditions of the people in the district for which they are responsible and carry out preventive medicine.” This preventive medicine system is also stipulated in Article 4 and 5 of the Law on Medical Care. Moreover, the Law on Prevention of Epidemics specifically stipulates regarding vaccination that “the State shall rightly establish an epidemic vaccination system and carry out vaccination in a planned manner” (Article 5).

With regard to vaccination, although still insufficient, there were many testimonies collected in the 2014 and 2015 surveys that vaccinations occurred in North Korea. It seems that the system of vaccination to prevent diseases is improving. However, the program of vaccination for students is better than for adults as the former receive vaccinations at school.²⁸³

²⁸³_ NKHR2015000040 2015-02-24.

Table III-21 The Reality of Vaccinations

| Testimonies | Testifier ID |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| The testifier was vaccinated against BCG after childbirth, and against hepatitis a week after that. | NKHR2014000001 2014-02-18 |
| The testifier was vaccinated against typhoid and other infectious diseases in Baeksan-Li, Daehongdan County, Yanggang Province. | NKHR2014000121 2014-08-12 |
| While living in Hamheung, South Hamgyeong Province, the testifier was vaccinated against paratyphoid, malaria, and measles twice a year. | NKHR2014000157 2014-09-23 |
| The testifier received vaccinations against paratyphoid and malaria once or twice a year in Manpo, Jaggang Province until August 2011. | NKHR2015000094 2015-05-12 |
| The testifier was vaccinated against polio in Cheongjin, North Hamgyeong Province, in October 2012. | NKHR2014000092 2014-07-15 |
| Until the testifier escaped North Korea in 2012, he or she received vaccinations for paratyphoid and malaria once a year. There were also vaccinations for newborns once a month in Kimhyongjik County, Yanggang Province. | NKHR2015000074 2015-04-07 |
| There were vaccinations in Hoeryeong, North Hamgyeong Province in December 2013. | NKHR2015000031 2015-02-10 |
| In Cheongjin, North Hamgyeong Province, the testifier was vaccinated against measles, hepatitis, tuberculosis, and paratyphoid until he defected in 2014. | NKHR2014000091 2014-07-15 |
| The testifier received vaccinations for malaria in Yeonsan County, North Hwanghae Province, in the spring of 2014. | 1NKHR2014000021 2014-04-01 |
| People in all of Hoeryeong, North Hamgyeong Province, received anthelmintic through the <i>inminban</i> chief in May 2015. | NKHR2015000123 2015-09-08 |

It is known that the incidence of tuberculosis is still serious in North Korea, with the number in 2013 being 110,000, or 429 of every 100,000. The number of tuberculosis patients per 100,000 people is increasing, with 395 in 2010, 404 in 2011 and 409 in

2012.²⁸⁴ Regarding this issue, the North Korean government initiated, for the first time, a nationwide preliminary investigation of the reality of tuberculosis in June 2015, by the North Korean Ministry of Public Health with the support of the WHO, and a main investigation from October of the same year.²⁸⁵ The WHO estimated that around 5,000 North Korean people died from tuberculosis in 2014 in its “Global Tuberculosis Report 2015.” The figure is equivalent to 20 people out of 100,000, which is 5 to 10 times higher than the 3.8 in South Korea, 2.8 in China and 1.8 in Japan. However, compared to the estimated 6,700 people who died from tuberculosis in 2013, the death toll has decreased.²⁸⁶

North Korean defectors are mostly unaware of the need for medical examinations, but there are some cases where medical examinations are conducted. For example, it is said that workers of enterprises producing food products should receive medical examinations.²⁸⁷ In Pyongyang, in particular, there are testimonies of people receiving examinations for adult diseases. North Korean defector ○○○ who lived in Pyongyang until August 2013, testified that all citizens of Pyongyang received examinations for adult diseases.²⁸⁸

284_ 『Voice of America』, May 20, 2015.

285_ 『Voice of America』, November 20, 2015.

286_ 『Voice of America』, October 30, 2015.

287_ NKHR2015000172 2015-12-01.

288_ NKHR2015000001 2015-01-13.

Table III-22 The Reality of District Doctors

| Testimonies | Testifier ID |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In 2011, there were five district doctors in Kang-an dong, Hoeryeong, North Hamgyeong Province. The number was reduced, and only one is currently serving, and he does not play his proper role of being a district doctor. | NKHR2012000020 2012-02-07 |
| A North Korean defector from Hyesan, Yanggang Province, testified that the district doctor system has now become a system in "name only". | NKHR2012000022 2012-02-07 |
| District doctors are responsible for primary management (preventive medicine) for each "dong" (unit of a small complex of several buildings). But 80-90 percent of his work consists of lectures on good health. | NKHR2012000071 2012-04-24 |
| District doctors have limited roles. | NKHR2014000212 2014-12-30 |
| | NKHR2015000019 2015-01-27 |
| | NKHR2015000018 2015-01-27 |

Most North Korean defectors evaluate the district doctor system as failing to play its role properly. However, there are also regions where district doctors carry out vaccinations, as well as giving prescriptions and giving vaccinations against epidemics. Moreover, district doctors also hold sessions to explain epidemics to people.²⁸⁹ However, it is said that in many cases, nurses act as district doctors, as district doctors were busily engaged with making a personal livelihood.²⁹⁰ Moreover, there are also cases where district doctors ask for money when requested to visit. And

289_ NKHR2014000111 2014-08-12; NKHR2015000024 2015-01-27.

290_ NKHR2013000063 2013-04-02.

there are also cases where patients give cigarettes, etc., upon receiving a diagnosis.²⁹¹

C. Evaluation

The collapse of the medical system in North Korea is still ongoing. In particular, the situation at clinics and People's hospitals at Li or local (Dong-level), which are used mostly by the general population, is even worse. In contrast, as the investment in large hospitals, including those in Pyongyang, is relatively large, the disparities in the right to health by class and region has not been resolved. While the availability of medicines remains insufficient, it has become common practice for ordinary people to buy medicines from the market or unofficial private pharmacies. While North Korea officially maintains a free medical care system, the situation is becoming fixed where most of the items stipulated as free in the Public Health Law regulations are shouldered predominantly by patients. In particular, the infringement on the right to health of vulnerable groups who fall between the cracks in terms of the benefits of the free medical care system, is found to still be serious. Moreover, while some vaccinations are provided, the prevention and control of disease is also assessed to remain poor.

²⁹¹- NKHR2015000130 2015-09-22.

3

Right to Work

The UDHR stipulates that “everyone has the right to work, the free choice of employment, to just and favorable conditions of work and to be protected against unemployment” (Article 23). Article 6 of the ICESCR also stipulates that “the States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.” Moreover, Article 7 stipulates the right to appropriate remuneration for the work. Moreover, it includes provisions on “equal opportunity for everyone to be promoted in his/her employment to an appropriate higher level,” and “leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.” In addition, the ICESCR also stipulates that the States Parties to the Covenant shall recognize the right to work and the rights related to trade unions of all to ensure that everyone enjoys “just and favorable working conditions” and “to ensure the right of everyone to form trade unions and join the trade union of their choice” (Article 7 and 8).

| | |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Parag raph 1 | The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. |
| Article 6 Parag raph 2 | The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual. |
| Article 7 | <p>The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:</p> <p>(a) Remuneration which provides all workers, as a minimum, with:</p> <ul style="list-style-type: none"> (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant; <p>(b) Safe and healthy working conditions;</p> <p>(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;</p> <p>(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays</p> |
| Article 8 Parag raph 1 | <p>The States Parties to the present Covenant undertake to ensure:</p> <p>(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</p> <p>(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;</p> <p>(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</p> |

| | |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country. |
| Parag raph 2 | This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State |
| Parag raph 3 | Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention. |

The goal of the right to work is to guarantee the survival of individuals and their families. However, the right to work in international standards on human rights does not mean the unconditional right to be employed. Each State can decide on the policies and other technical issues to achieve complete and productive employment based on their standards. In general, the right to work is reviewed in terms of freedom to choose jobs,²⁹² decent work,²⁹³ prohibition of forced labor,²⁹⁴ prohibition of

292_ The UN CESCR, General Comment No. 18 (2005), 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.”

293_ The UN CESCR, General Comment No. 18 (2005), 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.”

294_ The UN CESCR, General Comment No. 18 (2005), paragraph 9 stipulates, “the International Labour Organization defines forced labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which

unfair dismissal,²⁹⁵ and principles of non-discrimination²⁹⁶. The right to form and engage in trade unions voluntarily and the right to strike are also important items of the right to work.²⁹⁷

North Korea clearly prescribes the individual's "right to work" in its Constitution, the Labor Law and other laws. The North Korean Constitution stipulates the right to work as "Citizens shall have the right to work. All citizens with the ability to engage in labor may select occupations according to their choice and capability and are guaranteed the right to a secure job and labor conditions. Citizens are supposed to work based on their abilities and receive compensation based on the amount and quality of their labor" (Article 70). The North Korean Labor Law prescribes basic principles, wages, working conditions, protection of workers, social security, and other rules of Socialist labor. North

the said person has not offered himself voluntarily.' The Committee reaffirms the need for States Parties to abolish, forbid and counter all forms of forced labour as enunciated in article 4 of the UDHRs, article 5 of the Slavery Convention and article 8 of the ICCPR."

²⁹⁵ The UN CESCR, General Comment No. 18 (2005), 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."

²⁹⁶ UN CESCR, General Comment No. 18(2005), 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."

²⁹⁷ ICESCR, Article 8, paragraph 1.

Korea's Labor Protection Law (enacted on July 8, 2010) stipulates various institutional measures to protect workers' lives and health in a concrete manner. However, laws and institutional guarantees are irrelevant to the realities on the ground. We will examine infringement on the freedom of employment and choosing one's job, infringement on the right to safe and healthy work conditions, exploitation of labor through technically unpaid labor and infringement on the freedom to form and join trade unions.

A. Job Assignments against One's Ability and Desire and Infringement on the Freedom to Choose One's Job

The UDHR stipulates that “everyone has the right to work, the free choice of employment, to just and favorable work conditions and to be protected against unemployment” (Article 23). Furthermore, the ICESCR stipulates that “the States Parties 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 6). Article 5 of North Korea's Labor Law stipulates the freedom to choose jobs as “All workers are free to choose their jobs according to their wishes and talents and are guaranteed stable jobs and working conditions by the State.” In reality, however, the freedom to choose jobs in North Korea is

extremely restricted.

In North Korea, workers do not choose jobs or workplaces freely, but rather, the government designates work to the people. There is no concept such as a labor contract, and recruitment of the labor force is made through “deployment by application.” The allocation of manpower by economic sector is carried out by the Labor Ministry after the number of people required in its economic sector is determined through manpower planning by the State Planning Committee. Senior officials are assigned to staffing departments at provincial/city/county level and those qualified are college graduates, office workers, and those with high loyalty to the Party and who have manifested good job performance. General workers are uniformly assigned by the labor department of the People’s Committee in each province/city/county.²⁹⁸ Article 30 of the North Korean Labor Law stipulates that in assigning workers, various factors must be considered, including age, gender, physical condition, personal wishes, and capabilities. North Korean defectors testified that the individual worker’s wishes are rarely considered in work assignments. For example, those who do not work as an expression of complaint about being assigned to a job he or she does not want are subject to discipline that includes loss of employment and imprisonment at labor

²⁹⁸ Byong-yu Jeon, Il-young Lee, Yeon-cheol Lee, Moon-soo Yang, *Reforming North Korea’s Markets and Enterprises and the Work-incentive System* (Seoul: Korea Labor Research Institute, 2004), pp. 42~45. (In Korean)

training camps, etc.²⁹⁹

In North Korea, the most common example of violations of the individual's right to choose jobs is that most job appointments are based on group allocation. This means that people are assigned their jobs in groups to factories, mines or construction facilities and workplaces, based on where there is a shortage of labor, at the direction of the State. Group allocations take place most often, in the following order: mines, factories and farms. This is compulsory assignment unilaterally imposed by the authorities, and regardless of the intention of the people subject to group allocations. The fact that personal connections or bribery is frequently used to avoid group allocations is a manifestation that such allocations are taking place with no consideration of the worker's desires.³⁰⁰

Besides job assignments, it is difficult to have the individual worker's free will reflected when changing jobs as well. Although changing jobs is strictly controlled, anyone fired from a job may obtain another job elsewhere. During the change, individuals are controlled through certificates for organizational transfer, suspension of the ration certificates or worker ID cards. In order to change jobs for personal reasons, it is necessary to get the approval of the

²⁹⁹_ NKHR2015000018 2015-01-27.

³⁰⁰_ NKHR2011000209 2011-09-20; NKHR2011000217 2011-10-04; NKHR2012000030 2012-02-21. A North Korean defector testified that he was "group assigned" after graduating from middle school in Hoeryeong, North Hamgyeong Province, but only 3-4 individuals ended up in the (assigned) work (Others were able to avoid the group assignment). NKHR2013000131 2012-05-25.

office manager and the Party secretary, and during this process one needs to mobilize personal connections or engage in bribery. Since the economic hardship in the 1990s, there are increasing cases where workers abandon their assigned jobs and get a new job by bribing related agencies or labor guidance agents.³⁰¹

B. Infringement on the Right to Safe and Healthy Working Conditions

The most important condition for work to be considered “decent” is that it guarantees “a decent living for (workers) and for their families ... in safe and healthy working conditions” (Article 7 of the ICESCR). North Korea has declared that “In the Democratic People’s Republic of Korea unemployment has disappeared forever” (Article 5, the Labor Law). North Korea insists that all workers are guaranteed stable jobs and safe working conditions by the State, but the reality is quite different.

In terms of realizing the right to work to support families in safe working conditions, North Korea’s reality falls far short of “safe working conditions” prescribed in the Labor Law. And because people cannot earn a sufficient living from the jobs officially assigned by the State, they have to support themselves and their families through unofficial work such peddling, daily menial

³⁰¹- NKHR2012000032 2012-03-13; NKHR2013000056 2013-03-19.

labor, and “8.3 work”³⁰² etc.³⁰³ This is evidence that North Korea’s working conditions offer jobs that are far from the “stable jobs” prescribed in North Korean laws.

Legal provisions prescribing “working hours” and “working conditions” are also only nominal in reality. Article 30 of the North Korean Constitution stipulates, “The daily working hours of the working people shall be eight hours. The State shall shorten the daily working hours for certain labor, according to the level of difficulty and special conditions.” The Labor Law and the Labor Protection Law also stipulate the need for rest and safety for workers. However, since the economic hardship in the 1990s, normal factory operations have dropped significantly as old factory facilities broke down, raw materials appeared in short supply, and the supply of electricity became intermittent, although the situation varies by region and size of factory. As a result, the average working hours became meaningless in North Korea. On the other hand, at some factories the working hours have been extended due to such campaigns as worker competitions and mobilizations.³⁰⁴

³⁰² “8.3 work” is a type of “contract work” in which the government pays the enterprise so that workers can concentrate on their work without financial pressures under the reduced manpower demand. Seok-ki Lee, “Work in North Korea: Since The Year 2000,” 『KDI North Korean Economic Review』, November 2011 (Seoul: Korea Development Institute, 2012) p. 83. (In Korean)

³⁰³ NKHR2013000131 2013-07-09.

³⁰⁴ NKHR2012000010 2012-01-31.

C. Exploitation of Labor through Unpaid Labor and Labor Mobilization

While most North Korean people work for the organization they belong to, it is identified that they are technically working without payment as they are not paid the decided wage in an appropriate manner. In most cases, wages are not properly provided, and even when they are, the nominal wage is not at all helpful in sustaining families. Due to drastic inflation the actual amount paid is extremely minimal. Comprehensive analysis of the testimonies collected in the 2015 survey identified that there is a substantial gap between the wages paid according to documents and wages actually paid. While it is recorded in employers' wage payment documents that the wage has been paid, in actuality it has not. As a matter of fact, wages are for documentation purposes only, as even when wages are actually paid, there are a variety of deductibles, resulting in little money actually left for workers.³⁰⁵ It is testified that although monthly salaries are paid in general, the amount is far short of what is needed to support workers and their families. When they are paid, it is irregularly and after membership fees (Youth League fees), patriotic support fees, condolence money and money for celebrations, etc., are deducted there is not much left.³⁰⁶ Technically, this constitutes unpaid labor

³⁰⁵- NKHR2015000030 2015-02-10.

³⁰⁶- NKHR2015000061 2015-03-24.

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

Meanwhile, if a worker does not go to work for a certain period of time because he or she did not like the job assignment he or she received, he or she is subject to statutory punishment, including imprisonment at labor training camps (*rodongdanryundae*).³⁰⁷ Since the economic hardship in the 1990s, most enterprises have not operated normally and maintaining family life with only the income from one's official workplace became difficult. As a result, most North Korean workers began to engage in various market-related activities rather than going to their workplace. This practice is regarded as an irregularity under North Korean laws. Article 90 of the Administrative Penalty Law prescribes penalties for "jobless hoodlum" behaviors. According to this provision, if anyone does not come to their assigned workplace for 6 months or more or if anyone is missing from work for a month or more, he/she can be penalized with 3 months or less, or 3 months or more of reeducational labor discipline, depending on the seriousness of the case. That workers need to perform the work they do not want because of the threat of the punishment that they may suffer constitutes an infringement on human rights.

In addition, the North Korean authorities are found to mobilize

³⁰⁷- NKHR2012000002 2012-01-10; NKHR2012000038 2012-03-20; NKHR2012000060 2012-04-10.

people for large-scale civil engineering work and force people to work in poor working environments. In the 2015 survey, a North Korean defector testified that he or she was working for the “618 Shock Troop,” with the name 618 coming from the fact that there were 6 hours of rest given for every 18 hours of labor. The 618 Shock Troop was assigned to construction of Samsoo power plant in Yanggang Province, Bukcheong-Hyesan highway, Gosan fruit farm in Gangwon Province, and in spite of the intense labor, the monthly wage was 5,000 North Korean won, and 230g of corn was provided per meal. The corn was mostly rotten, and excluding the by-products, actually weighed around 180g. It is said that they had to get up at 3:30 am and work from 6 am until midnight or until the daily quota was filled. The testifier said that many of the mobilized people died during labor due to malnutrition and weakness.³⁰⁸

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

Free labor unions that protect and represent the interests of laborers do not exist in North Korea. The only labor union that exists is the Chosun (North Korea) General Federation of Trade Unions, but its only functions is as a “link between the Party and

³⁰⁸_ NKHR 2015000021 2015-01-27.

the working class,”³⁰⁹ and does not have the right to collectively organize or bargain. Following the Ninth Plenum of the Fourth Party Central Committee held in June 1964, “trade union roles of monitoring and controlling corporate management” were abolished and the interests of the laborers were placed under the complete control of the Party. The Chosun (North Korea) General Federation of Trade Unions is responsible for controlling the work environment, including projects for worker protection, promotion of productivity, and tightening of work rules, etc. In this respect, it is entirely different from trade unions in capitalist societies.³¹⁰ Furthermore, in North Korea’s general worker-related laws, there are no provisions concerning workers’ rights to collective action or collective bargaining.

However, Article 59 of the Enforcement Regulations of the Business Law for Foreigners mentions some of the roles of the Chosun (North Korea) General Federation of Trade Unions as they relate to protection of workers’ rights including supervision of signing and execution of collective contracts, mediation of labor disputes between foreign enterprises and their workers, participation in discussions related to the rights and benefits of workers and the giving of advice and recommendations.

³⁰⁹- Gang-sik Kim, 『Labor in North Korea』, p. 153. (In Korean)

³¹⁰- Ibid., p. 155.

E. Evaluation

According to the 2015 survey, the North Korean authorities do not properly recognize the right to work stipulated in international standards on human rights. It is identified that the freedom to choose jobs based on one's ability and desire, the right to work under favorable working conditions, the right to receive just compensation for labor, and the freedom to form, join and withdraw from trade unions, etc., are still not protected or guaranteed. The system of assigning jobs without consideration of personal desire, and based simply on the allocation of labor by the State, continues and "group allocations" involving assigning people forcibly to work on construction projects and harmful labor environments is found to be strengthening rather than lessening. In particular, with large-scale civil engineering projects being pushed ahead as achievements for Kim Jong-un since he came to power, it is identified that they increasingly involve people being forcibly mobilized. In this process, it is identified that working hours are being excessively extended unlawfully, and the required rest and safety are not provided. This not only represents a serious infringement on the right to work stipulated in international standards on human rights but also a serious violation of the 8 hour work day system and work safety stipulated by North Korea itself in its Constitution and Labor Protection Law.

4

Right to Education

The right to education refers to everyone, not only children. The right to education includes the right to private or public education as well as formal or non-formal education, and also includes the right to lifelong education of all members of society. Article 26 of the UDHR stipulates that “everyone has the right to education,” while Article 13 of the ICESCR, to which North Korea is a State party, stipulates the right to education as is represented in the following table:

| | |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Paragraph 1 | The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace. |
| Paragraph 2 | The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education; (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education; (e) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education; |
| Paragraph 3 | The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions |
| Paragraph 4 | No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State. |

The internationally accepted standards with which to assess the level of guarantee of the “right to education” are availability,

accessibility, acceptability, and adaptability. We will now examine the status of implementation in North Korea of the right to education in accordance with the above standards.

A. Lack of Availability in Education

Availability means that there should be normally operating educational institutions and programs offering education of a sufficient quality. Article 29 of the CRC stipulates that 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 and to the development of respect for human rights and fundamental freedoms. In education, availability means whether the minimum preconditions are in place for education to occur.

Article 7 of the North Korean Education Law describes the principles of guaranteeing the conditions for educational programs as “the State shall systematically increase investment in education and reinforce support for education by smoothly guaranteeing educational conditions.” The educational system in North Korea guarantees 12 years of free compulsory education, from 1 year of pre-school through primary and middle school education. In the North Korea's basic school system calls, there are 5 years of elementary school, 3 years of primary middle school, 3 years of advanced middle school, and 3~6 years of advanced (college)

education. Kindergartens (pre-school) are divided into one year of lower class and one year of upper class.³¹¹

Although the free compulsory education and educational system by stages (elementary, middle, advanced school) are established by law, as with other sectors of North Korea since the economic hardship of the mid-1990s, the government has suspended the issuing of school uniforms and school supplies, including textbooks, to students. Most North Korean defectors replied negatively to questions on support for education at the government level including provision of textbooks, developmental change of educational curricula and other forms of direct and indirect support for education.³¹² In other words, the economic deprivation in North Korea is the leading cause of the lack of availability in terms of the right to education.

B. Lack of Accessibility in Education

Accessibility means whether educational institutions and programs are accessible by everyone without discrimination and is divided into non-discriminatory physical and economic accessibility.³¹³

³¹¹- In the past, it was the “4–6–4–year” system. The school system was revised in September 2012 when the Supreme People’s Assembly adopted a new “overall 12–year compulsory education” system. Key changes were extending elementary education from four years to five, separating the middle school into primary and advanced, and extending the length of compulsory education to 12 years from 11.

³¹²- NKHR2015000018 2015–01–27; NKHR2015000052 2015–03–10.

Non-discriminatory means that there should be no legal or practical discrimination against specific groups of people when it comes to educational opportunity. Regarding the principle of non-discrimination, it can be pointed out that North Korean authorities do not permit access to normal education or educational programs to children of political criminals and individuals who are potential reactionaries. The 12 years of compulsory education which are offered under the law are not permitted inside political prison camps (*kwanliso*). Although elementary education is offered inside camps, the curriculum is different from elementary schools outside.

In terms of gender equality in education, it is identified that there is no difference in the rate of boys and girls going to school and those advancing to higher education because elementary and middle school education is compulsory in North Korea. However, the rate is significantly different between the genders in college education, where the rate of female students advancing to college

³¹³ UN CESCR, General Comment No. 13 (1999), paragraph 6 (b) Accessibility stipulates, "Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions: Non-discrimination – education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds. Physical accessibility – education has to be within safe physical reach, either by attendance at some reasonably convenient, geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a "distance learning" programme); and Economic accessibility – education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education: whereas primary education shall be available "free to all", States parties are required to progressively introduce free secondary and higher education."

is much lower than that of male students. To address this gender difference in 2004, the UN Committee on the Rights of the Child recommended that North Korea “provide female students with the same opportunities for higher education as male students.” Such gender difference in accessibility in educational reality is also related to the lower participation in society by women in North Korea.

In terms of physical accessibility, Article 22 of North Korea’s Elementary Education Law mandates that elementary and middle schools may be operated together, or a branch school may be established, depending on the number of students and distance to the school. However, outside of these legal regulations, the actual accessibility to education by students living in remote areas is assessed to be substantially low given the general situation of roads, mass transit systems and the reality of distance learning. Furthermore, these students are mostly from the absolute poverty class, and the inequality to educational opportunity caused by isolation tends to coincide with poor economic accessibility.

Since the economic hardship of the 1990s, the access to education of economically vulnerable groups grew worse as the public education system deteriorated. The State’s financial support for elementary and middle school education has greatly reduced, and it has become common for schools to depend on parents for the funds required for operation of the school. Currently, a substantial portion of the costs of public education, ranging from the cost of

textbooks and school supplies to school equipment such as desks and chairs, and the cost of maintaining school facilities, is shouldered by parents. This shouldering of the costs related to education on parents applies not only to elementary and middle schools, but also for kindergartens and colleges, and has increased greatly, leaving the free education system meaningless in all but name.³¹⁴ Recently, there have been many cases where juveniles from the most impoverished households drop out of the public education for economic reasons. Given this fact and others like it, it is assessed that educational inequality has worsened due to economic hardships as North Korea has gone through economic upheaval and marketization.

C. Lack of Acceptability in Education

Acceptability is about whether the form and nature of education, including educational programs and instructional styles, are acceptable to students who are the receivers of education and its direct beneficiaries. In other words, it is intended to enable examination of whether the education is culturally appropriate and qualitatively good. Article 29 of the CRC stipulates that “...

³¹⁴. Most North Korean defectors had consistently similar views of the collapse of the free education system and matters related to support for school supplies. NKHR2015000018 2015-01-27; NKHR2015000052 2015-03-10 and many other testimonies.

education of the child shall be directed to: (a) The development of the child’s personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms...” As such, the CRC presents the goal that education be well-rounded in terms of acceptability and stresses its importance, particularly with regard to child education.

North Korea also advocates, by law, a well-rounded education based on Socialist principles, as it stipulates in Article 3 of the Education Law that “raising trust-worthy personalities who possess sound ideological awareness, deep scientific-technological knowledge, and strong physical capability is the basic principle of Socialist pedagogy.” As implied by the expression “sound ideological awareness,” however, the ideological education pursued by the North Korean authorities cannot guarantee universal validity in that it pushes Socialist revolutionary ideas and loyalty to *Suryong* and the Party, instead of the universal ethics of humanity. Moreover, given that the possibility of learning other ideologies other than the ideology of the Unitary *Suryong* Ruling System is prohibited, the nurturing of “sound ideological awareness” cannot be recognized as part of an educational curriculum based on universal values.

Among the three areas of ideological awareness, scientific knowledge and strong physical capability, North Korea stresses “ideological awareness” as the most fundamental element. Article 29 of the Education Law states, “educational organizations must

impart to students sound ideology, morality, and deep knowledge, so that they can attain strong bodies and broad sensibilities, along with scientific, technological, athletic and artistic education, under an overall political ideology education.” Under these principles, all students from kindergarten to advanced middle school are taught such topics as the history of the anti-Japanese struggles of Kim Jong-un’s family’s and idolization of that family, as well as the “revolutionary history of the Great *Suryong* Kim Il-sung.”

The political ideology education centered around the loyalty to Kim Il-sung’s family accounts for an excessively dominant part of the education in that it is taught not only as part of regular school curricula but at all compulsory organizations in daily life, including the Chosun Children’s Union and the Kim Il-sung Socialist Youth League, and students have absolutely no right to choose their subjects. From this perspective, it seems that North Korea’s educational curricula are far from a balanced development of mental and physical capabilities.

Meanwhile, Article 32 of the CRC 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 be harmful to the child’s health or physical, mental, spiritual, moral or social development.” Article 31 of the North Korean Constitution and Article 15 of the Labor Law prohibits child labor under the legal working age of 16. However, it is also true that North Korean

schools continue to mobilize students for work as part of their educational programs, which is widely criticized as exceeding the educational aims.

In the concluding observations in the combined third and fourth periodic report, the Committee on the Rights of the Child 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 heavy physical exertion (paragraph 59).³¹⁵ North Korea limits the freedom of choice of students by assigning labor for certain hours as part of the curricula.

Students at primary middle schools are mobilized for four days every spring to plant trees and three days every fall to pick fruit from trees. Advanced middle school students, in addition to the above tasks, are mobilized for three weeks every year to assist farmers in the fields in what is called “productivity work” programs. Most North Korean defectors pointed out in their testimonies that this “productivity work” is most times excessive as it exceeds what would be considered reasonable for education and does not suit the original intention of combining education and practical tasks. There are also many reported cases of students being

³¹⁵- UN CRC, “Concluding Observations: Democratic People’s Republic of Korea” (Unedited Version) (2009.1.31.).

mobilized for farming or construction work after school, or even during school hours in addition to the designated productivity work period.³¹⁶

The mandatory military training of juveniles is also a system that deteriorates the overall right to acceptability of education. All North Korean students, upon entry to advanced middle school, must join the Kim Il-sung Socialist Youth League and become a member of the Red Youth Protective Guard. As part of the educational curriculum for the 2nd and 3rd grade of advanced middle school, a military curriculum entitled, “Military Activity for Beginners” is offered. All students in the 2nd grade, both boys and girls, receive military training during a week at field training camp for the Red Youth Protective Guard. Third grade students spend a week at outdoor camping sites on school grounds and receive basic military training. In response to this, the CRC expressed in their second recommendation that there is serious concern over the students’ participation in military camp during the summer vacation, including weapon assembly training (paragraph 56). In their concluding observations in the combined third and fourth periodic report, the CRC expressed their concern that this military training can have a negative impact on the purpose of education specified in Article 29 of the CRC, and asked North

³¹⁶ NKHR2015000006 2015-01-13; NKHR2015000030 2015-02-10; NKHR2015000051 2015-03-10.

Korea to take the necessary steps to stop the practice of early military training of students (paragraph 57).

D. Lack of Adaptability in Education

Adaptability in education is about the level of guarantee of an adequate educational environment from the perspective of the receivers and the level of appropriateness of the educational material provided for each developmental stage. It also reflects the degree to which the various ways the social environment is changing is adequately reflected in education. Whether North Korean students receive adequate education that is also appropriate according to such standards varies according to family background, family environment, social status and economic capability, etc. One thing noteworthy is that the State is the only authority that decides and controls educational programs in North Korea. This is a common denominator applied uniformly on receivers of education from all social classes in North Korea.

While, in addition to State-run educational facilities, there are other educational facilities run by the workplace, social organizations, and other social facilities, the State decides the system, direction, content and methods of basic education, and hand down related instructions to lower levels, strictly controlling the process and outcomes.

From school education to social education and education for

adults, the State picks the content and develops the educational programs and textbooks. The operation of all educational programs is centrally and uniformly controlled. In selecting the scope of teaching, organizing lecture plans, and textbooks, the school teachers' autonomy and the right of students to choice in what to learn are substantially limited in terms of deciding the scope of lessons, lesson planning, and textbooks. It is no exaggeration to say that there is little left to the discretion of schools and teachers in the operation of educational programs. As there are few elective subjects, all students take the same educational programs, except for specially-talented students at special educational facilities. All educational institutions, from kindergarten to elementary and middle school to college, are set up and operated by the State, and no private educational institutions exist in North Korea. Although the No. 1 Primary Middle School and No. 1 Advanced Middle School, which are designed to teach "talented" students, select students through competitive examinations, students and parents have little choice in institutions. It can be said that the students' and parents' needs are seldom reflected in school or the educational program.

Such rigidity in education caused by the State-led system serves as a constraint that prevents the North Korean educational program and system from fundamentally reflecting the changes and innovations of the time. Although North Korea emphasizes modernization and informatization of education through its official media, such

educational goals are bound to face fundamental limitations as long as the educational system is led by the State and the Party. The receivers of education in North Korea have and deserve the right to be engaged in a reasonable system of appropriate education.

E. Evaluation

As examined above, when analyzed in terms of availability, accessibility, acceptability and adaptability, the educational reality of North Korea was found to be insufficient on all counts. In particular, the ideological education that the North Korean authorities continue to emphasize is assessed to constitute a serious infringement on the right to autonomous learning and to choose what to learn. The North Korean authorities are responsible for providing a universal and creative educational environment for students, and breaking away from the educational policies that are absolutely focused on “Kim Il-sung and Kim Jong-il Patriotism.” The international community should spare no effort in supporting and assisting, through diverse channels, North Korea in improving its educational system.

5

Right to Social Security

The UDHR stipulates that everyone, as a member of society, has the right to social security (Article 22). The ICESCR also stipulates that the States Parties shall recognize the right of everyone to social security (Article 9). The UN Committee on Economic, Social, and Cultural Rights stipulates in the General Comments on this provision that the right to social security is of central importance in guaranteeing human dignity for all persons.³¹⁷ Social security plays an important role in reducing and alleviating poverty, as well as preventing social exclusion and promoting social inclusion.³¹⁸ Meanwhile, Article 2, paragraph 1 of the ICESCR stipulates that each State Party to the Covenant shall undertake to take steps “to the maximum of its available resources”, with a view to “achieving progressively” the full realization of the rights recognized in the Covenant. However, this provision should not be misused by the States Parties to the ICESCR to avoid the

³¹⁷ UN CESCR, General Comment No. 19 (2007), paragraph 1.

³¹⁸ UN CESCR, General Comment No. 19 (2007), paragraph 3.

duties in the Covenant. The UN Committee on Economic, Social, and Cultural Rights, in its General Comment No. 3, stipulated that even when it is only possible to progressively achieve full realization of the rights, the sovereign States have a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of those rights.” The UN Committee on Economic, Social, and Cultural Rights has mentioned the obligations to provide essential primary healthcare, basic shelter and housing, and an educational environment such as general primary school education as the minimum core obligations of the State Parties to the ICESCR.³¹⁹

Table III -25 Article 9 of the ICESCR

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

It is difficult to find an established definition of the concept and scope of social security. It is also used in a mixed way with the concept of social welfare. Moreover, the right to social security is closely related to other rights, including the right to equality, the right to food, the right to health, the right to work and the right to education, etc. It is also related to improvement of the rights of women, children and persons with disabilities which are covered

³¹⁹- UN CESCR, General Comment No. 3 (1990), paragraph 10.

in the later part of this *White Paper*.

The social security system, pensions and related subsidies in North Korea will be examined below.

A. North Korea's Social Security System Existing in Name Only

The UN Committee on Economic, Social, and Cultural Rights presents healthcare, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors and orphans as the nine principal branches of social security.³²⁰ And it presents availability, adequacy and accessibility as factors required in social security. Availability refers to the laws and systems for social security.³²¹ Adequacy refers to sufficient benefits to realize the right to family protection and assistance stipulated in Article 10 of the ICESCR, the right to an adequate standard of living stipulated in Article 11, and the right to adequate access to healthcare stipulated in Article 12.³²² Accessibility refers to coverage, eligibility and affordability. All persons should be covered by the social security system, and the qualifying conditions for benefits must be reasonable, proportionate and

³²⁰_ UN CESCR, General Comment No. 19 (2007), paragraph 12~21.

³²¹_ UN CESCR, General Comment No. 19 (2007), paragraph 11.

³²²_ UN CESCR, General Comment No. 19 (2007), paragraph 22.

transparent. The contribution of people to social security should be at an affordable level.³²³

The North Korean Constitution stipulates that the right to free treatment, and the right to material assistance for people who have lost their ability to work, elderly persons with no one to rely on, and children are guaranteed by the national social insurance and social security systems (Article 72). North Korea has also enacted and implemented sub-laws in diverse areas to execute the social security provisions in its Constitution, including the Social Security Law in 2008. In particular, it stipulates free treatment,³²⁴ free childcare,³²⁵ and free education³²⁶ in its laws. Table III-26 below summarizes the laws of North Korea related to their fulfillment of the 9 categories of social security presented by the UN Committee on Economic, Social, and Cultural Rights.

³²³- UN CESCR, General Comment No. 19 (2007), paragraph 23~27.

³²⁴- Article 10, 11 of the Public Health Law ; Article 79 of the Socialist Labor Law.

³²⁵- Article 5 and 12 of the Law on the Nursing and Upbringing of Children.

³²⁶- Article 12 of the Education Law; Article 9 and 13 of the Elementary School Law; Article 10 of the High School Law.

Table III-26 North Korean Laws on Social Security

| Category of Social Security | Relevant Laws | |
|-----------------------------|---------------------|-------------------------------------------------------------------------------|
| | Framework Law | Special Laws |
| Healthcare | | Law on Public Sanitation, Law on Food Hygiene, Law on Prevention of Epidemics |
| Sickness | | Public Health Law, Law on Medical Care, Medicine Control Law |
| Old Age | | Law on the Protection of Elderly Persons |
| Unemployment | Social Security Law | Social Insurance Law, Socialist Labor Law, Labor Protection Law |
| Employment Injury | | |
| Family and Child Support | | |
| Maternity | | |
| Disability | | Law on the Protection of Persons with Disabilities |
| Survivors and Orphans | | Social Insurance Law |

As evidenced above, a legal framework has been established in North Korea for a social security system. It can therefore be said that North Korea fulfills the aspect of availability as one of the factors required by the UN Committee on Economic, Social, and Cultural Rights for execution of social security. However, it is assessed that a social security system for the general population in North Korea exists in name only. Such a phenomenon has continued since North Korea went through economic hardship in the mid-1990s. As of 2012, the per capita GNI of North Korea (645 US dollars) is ranked in the bottom 20 of the 212 countries in

the UN statistics.³²⁷ Although North Korea has recorded positive economic growth since 2011,³²⁸ the reality of its social security has changed little, and is very insufficient in fulfilling the aspect of adequacy, which refers to adequately sustaining life. Meanwhile, North Korea stipulated the abolishment of taxes when it enacted its Constitution in 1972 (Article 33), and officially abolished the tax system in 1974. Currently, taxes are collected only in special economic districts. However, in reality, it requires a variety of payments: workers are required to pay 1% of their monthly compensation, and enterprises and cooperative organizations are required to pay 7% of the living expenses calculated by monthly sales as social insurance premiums (Article 42 of the Law on National Budget Income. People must pay other fees as well. People who violate national payment orders are subject to 1 year or less of labor training punishment (Article 110 of the Criminal Law). These various charges technically constitute tax and cause further difficulty in the lives of the North Korean people. In other words, the charges that North Korean people must pay goes beyond the level they can afford, which means that North Korea is failing to fulfill its obligation to provide accessible social insurance.

³²⁷- Seong-min Moon, 『Introduction of National Income of North Korea and International Comparison』(Seoul: Institute for Monetary & Economic Research, Bank of Korea, 2015), pp. 5-6. (In Korean)

³²⁸- North Korea's economic growth rate was 0.8% in 2011, 1.3% in 2012, 1.1% in 2013 and 1.0% in 2014. Statistics Korea, 『2015 Major Statistical Index of North Korea』(Daejeon: Statistics Korea, 2015), p. 99. (In Korean)

B. Pension and Subsidies Insufficient for Sustaining Life

(1) Old Age Pension and Subsidies

The international community protects the right of women, children and persons with disabilities through adoption of the CEDAW, CRC and CRPD. However, unlike it has for other vulnerable groups, it has not adopted international treaties on elderly persons. Only in 1991 was the United Nations Principles for Older Persons adopted through a resolution of the UN General Assembly.³²⁹ The United Nations Principles for Older Persons presents 18 principles on independence, participation, care, self-fulfillment and dignity for elderly persons, each of which are clearly related to the rights stipulated in the ICESCR.³³⁰ The first principle stipulates that older persons should have an access to adequate food, water, shelter, clothing and healthcare through the provision of income, family and community support, and self-help. In other words, it emphasizes the need for a certain level of income to maintain an adequate standard of living. The UN General Assembly has recommended promotion of the United Nations Principles for Older Persons in the international community³³¹ as

³²⁹ UN Doc. A/RES/46/91.

³³⁰ Byeong-geun Kang, "The Protection of Older Persons in the Perspective of International Law with Specific Reference to General Comments by UNCESCR", *Seoul International Law Study*, No. 15, Vol. 2 (2008), p. 98. (In Korean)

it adopted the Proclamation on Ageing in 1992.³³²

The North Korean Social Security Law stipulates the obligation to provide a social security pension and subsidies (Article 17~23), and the North Korean Law on the Protection of Elderly Persons stipulates the obligation to provide old age pension and subsidies for elderly persons (Article 14). To receive an old age pension and subsidies, one must have completed the labor period or be working, and must be aged 60 or above for men and 55 or above for women (Article 2 of the Law on the Protection of Elderly Persons).

Before the economic hardship of the mid-1990s, old age pensions were sufficient to maintain life, although not much was provided.³³³ However, since the economic hardship, the provisions on payment of old age pensions have been not been enforced. While laws stipulate payment of old age pensions and subsidies, it is found that in actuality they are not paid in many cases. Even when they are, some people give up seeking them as the amount is minuscule. The old age pension most often amounts to around 600 to 1,000 North Korean won, insufficient for even one meal.³³⁴ As of 2014, 700 North Korean won is less than the price of a bowl of noodles.³³⁵ When paid, old age pensions and

³³¹_ UN Doc. A/RES/47/5, paragraph 1(b).

³³²_ UN Doc. A/RES/47/5.

³³³_ NKHR2013000065 2013-04-02.

³³⁴_ NKHR2014000065 2014-06-03.

subsidies are not paid on a regular basis, once every several months, instead of on a monthly basis. In other words, it is impossible to sustain life with the existing old age pension. This is in violation of the United Nations Principles for Older Persons and the UN Proclamation on Ageing. Elderly people in North Korea hold jobs on the side to support themselves, or receive support from family, relatives or acquaintances. It was found that those who served in high-ranking posts or with significant accomplishments receive a slightly higher old age pension, with those awarded the Medal of Labor through activities as deputies receiving 3,000 North Korean won in old age pension³³⁶, while a North Korean who served as the president of Samjiyeon Students Palace received 1,000~1,200 North Korean won per month in old age pension.³³⁷ However, even this increased amount is insufficient to sustain life.

There are testimonies that recently, the authorities have been distributing land for people to manage instead of paying out money. Testimonies included the story of one recipient of old age pension being allocated by the authorities a certain amount of land from the farm that he or she used to work on and he or she was to manage the land.³³⁸

335_ NKHR2015000178 2015-12-15.

336_ NKHR2013000197 2013-10-29.

337_ NKHR2014000085 2014-07-01.

338_ NKHR2015000132 2015-09-22.

Table III -27

Testimonies of the Practical Impossibility of Sustaining Life with Old Age Pensions

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Farmers rarely receive old age pension. Workers receive 700 won. | NKHR2013000049 2013-03-19 |
| Those with accomplishments receive more in old age pension. Those without accomplishments received around 1,000 North Korean won. | NKHR2013000197 2013-10-29 |
| The amount paid differed by region. Sometimes several months of overdue payment was paid at once, but the monthly payment was less than the cost of a meal. | NKHR2014000065 2014-06-03 |
| The testifier, who resided in Hyesan, Yanggang Province, received old age pension from September to October 2013. As her husband had been a manager of an enterprise, not a general worker, she received 3,000 won, which is equivalent to two months' of regular pension. However, it was still insufficient to sustain life. | NKHR2014000096 2014-07-15 |
| The father of the testifier, who resided in Bocheon County, Yanggang Province, received 1,000 won per month in old age pension before he died in October 2013. As he was a Party member, he received more than other people. Sometimes, the payment was made irregularly with several months paid together. | NKHR2014000119 2014-08-12 |
| The father-in-law of the testifier who resided in Myeonggan County, North Hamgyeong Province, was a former MPS officer and received an old age pension but it was impossible to buy even 1 kg of corn with the payment. | NKHR2014000123 2014-08-26 |
| The father of the testifier, who lived in Samjiyeon County, Yanggang Province in 2013, received help from the testifier's brother and a male friend who were in China as he could not live on the old age pension. | NKHR2014000085 2014-07-01 |
| The grandmother of the testifier, who lived in Hoeryeong, North Hamgyeong Province, received an old age pension of 700 won per month. | NKHR2015000141 2015-10-06 |

Table III-28 Testimonies on Failing to Receive Old Age Pensions

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The old age pension was 600 North Korean won, but the testifier did not actually receive it. | NKHR2013000054 2013-03-19 |
| The old age pension was paid only when there were enough resources for the month. Before the economic hardship, although minimal, the pension could support life. | NKHR2013000065 2013-04-02 |
| The son of the testifier, who lived in Daehongdan County, Yanggang Province, died in an electrical accident while serving in the military in Gangwon Province, but the testifier did not receive any care or assistance other than a certificate of martyrdom. | NKHR2013000070 2013-04-02 |
| The testifier did not receive his or her pension and was simply excluded from work. | NKHR2013000095 2013-05-14 |
| The father of the testifier, who lived in Poongseo County, Yanggang Province, was 64 years old as of 2014 and was qualified to receive the old age pension, but did not. He survived by doing side jobs. He assumed that he had to live this way and did not expect the State to give him a pension. | NKHR2014000055 2014-05-20 |
| The grandfather of the testifier, who lived in Poongseo County, Yanggang Province in 2012, qualified for an old age pension but only received a minuscule amount. | NKHR2014000075 2014-06-17 |

(2) Employment Injury Pension and Subsidies

The North Korean Constitution stipulates that those who cannot work due to disability shall have the right to material assistance and this right shall be guaranteed by the social security system (Article 72). The Social Security Law also includes those who cannot work due to disease or physical disability as eligible for social security (Article 2). The Socialist Labor Law stipulates that Employment Injury Pensions and subsidies and survivor pensions shall be given. For workers who temporarily are unable to work due to industrial accidents, sickness or other injuries, temporary

subsidies shall be paid, and if the duration exceeds 6 months, a disability benefits shall be paid (Article 73). In the event of a worker's death, a survivors pension shall be paid to the bereaved family (Article 77). As stipulated in such provisions, there are cases where a certain amount of money and food is provided in the name of social security in the event of employment injuries. However, it is impossible to sustain life with these payments. It is identified that Employment Injury Pensions and subsidies are not received more often than they are received. In such cases, the authorities sometimes help families find jobs so that the family of a worker who was injured can sustain themselves. It is impossible to express complaints about a failure to receive an Employment Injury Pension or subsidies.³³⁹

One should receive a written diagnosis from a hospital to receive an Employment Injury Pension or subsidies. Moreover, to extend the beneficiary status, one needs to be diagnosed every six months or 1 year.³⁴⁰ There is corruption in this process. Without bribing the doctors at hospitals, one cannot be eligible for social security as the doctors will not proceed with diagnosis.³⁴¹ Some North Korean people try to become eligible for social security through bribery as well, because once they are eligible, they can be absent from

³³⁹_ NKHR2014000174 2014-10-21.

³⁴⁰_ NKHR2014000036 2014-04-15; NKHR2015000175 2015-12-15.

³⁴¹_ NKHR2014000036 2014-04-15.

work and make money from peddling during that time.³⁴²

Table III-29 Testimonies on Receiving Employment Injury Pension or Subsidies

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| A certain amount of money and 140 kg of corn was paid to farmers. | NKHR2014000036 2014-04-14 |
| Honored veterans were given some help including with cutting of wood, etc. Around 1,500~2,000 won was provided per month and medicines were provided once a year. | NKHR2014000115 2014-08-12 |
| An acquaintance of the defector's father who could no longer work received 500 won and 6 kg of corn per month. | NKHR2015000141 2015-10-06 |

Table III-30 Testimonies on the Failure to Receive Employment Injury Pension or Subsidies

| Testimonies | Testifier ID |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Miners lost their lives due to an accident in Myeonggan (Hwaseong) County, North Hamgyeung Province. There was no money paid out to the miners' families. Instead, the wives of the miners were given jobs at diners at the mine. | NKHR2013000043 2013-03-05 |
| The father of the testifier, who lived in Hyesan, Yanggang Province in 2000, lost two fingers while working on plastering. He did not receive insurance money and neither the State nor the enterprise took responsibility. | NKHR2013000195 2013-10-29 |
| The father of the testifier was a company commander of 12.5 Youth Mine in Shindo County, North Pyeongan Province. There were many industrial accidents involving the loss of fingers and death. If someone died from an employment injury, only a medal (citation) was given to the family, and no other special treatment. | NKHR2014000174 2014-10-21 |
| In principle, a cash payment is supposed to be given in accordance with the grade of employment injury. However, the testifier had never received one. | NKHR2015000060 2015-03-24 |
| There is no special guarantee or pension provided. But one does not need to go to work. | NKHR2015000175 2015-12-15 |

³⁴² NKHR2014000004 2014-01-13.

C. Evaluation

In terms of laws, the North Korea social security system is well established. However, it does not work for the general population due to the economic crisis. Elderly people do not generally receive these old age pensions or subsidies. Even when they are received, they consist of such a small amount of money or goods as to be insufficient to support life for a single day. As a result, elderly persons in North Korea need to have side jobs or receive help to if they wish to live. The situation is the same for employment injuries. Although the provisions stipulate that pensions or subsidies shall be provided, they are not, or are in such small quantities that they offer no assistance in reality. This was found to be the case in the 2015 survey. North Korea continuously emphasizes their commitment to improving the people's lives. In the New Year's speech on January 1, North Korea also stated that improvement of the people's lives was the top priority in State policy.³⁴³ However, as long as North Korea continues its nuclear testing, does not give up pursuing nuclear capabilities along with the economy, the social security situation will remain at a standstill for the general North Korean population.

³⁴³ KINU North Korean Studies Division, Analysis of North Korea's 2016 New Year's Address and Domestic and Foreign Policy Outlook, Online Series Co 16-01 (2016.1.1), p. 2.



White Paper on Human Rights
in North Korea 2016



Chapter IV

Vulnerable Groups

- 1 Women
 - 2 Children
 - 3 Persons with Disabilities
-

1

Women

In North Korea, women experience more discrimination in society and family life than men. The strong patriarchal aspects of North Korean society continue in spite of the socialism that pursues gender equality, and this seems to be attributable to the Confucianism that continues to influence society there. Most North Korean defectors testified that North Koreans are still accustomed to the family life being centered around fathers (heads of households) in spite of the changes in perceptions of the times and reality of gender roles. Moreover, in regards to social advancement, it seems that there are still not many cases where women have entered major positions within the State. It can be said that there is still gender discrimination in social perceptions and legal and institutional reality. We will now examine North Korea's implementation regarding the guarantee of women's rights within the country.

A. Infringement on the Right to Gender Equality and Insufficient Guarantee of Women’s Social Participation

Article 3 of the ICCPR, to which North Korea is a State party, stipulates that “The States Parties to the present Covenant undertake to ensure the equal rights of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.” Article 3 of the CEDAW also states that, “States Parties shall take in all fields, in particular the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.” Moreover Article 2 (f) of the CEDAW stipulates “States parties (will) take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.”³⁴⁴

North Korea became a signatory of the CEDAW in February of 2001 and also submitted its first report on implementation of the

³⁴⁴– North Korea deferred legislation of this article when it joined the CEDAW in 2001. However, on November 23, 2015, North Korea withdrew from its deferral of Article 9, paragraph 2 which stipulates that States Parties shall grant women equal rights with men with respect to the nationality of their children and this article and the UN immediately accepted the withdrawal. Voice of America, “North Korea. Withdrawal from partial deferral of CEDAW”, November 26, 2015.

CEDAW in September 2002.³⁴⁵ In the report, North Korea stated, “Discrimination against women has been abolished over a long history, and with regard to gender equality, the concept that takes women, more importantly, beyond simple equality, has been reflected in the policies and legislation.” This is related to the fact that North Korea, which has advocated the Socialist regime, has maintained a more confident stance on the right of women than on many other areas of human rights.

North Korea enacted the Gender Equality Law (July 30, 1946) before the government was established, and has taken measures to guarantee women’s political and social roles through legislation of various laws including its Constitution after the government was established. Specifically, Article 77 of the Constitution stipulates that “women have equal social position and rights as those of men. The State protects mothers and children through maternity leave, shortening of labor hours for mothers with children, expansion of maternity hospitals, nurseries and kindergartens and other measures. In addition, the State protects mothers and children with other special measures. The State establishes all the conditions that enable women to advance into society.” Article 31 of the North Korean Labor Law stipulates, “the State guarantees all the conditions for women laborers so they can actively participate

³⁴⁵ North Korea indicated it would submit its second report on implementation of the CEDAW on March 27, 2006. As of January 2016, the report has not been submitted.

in social labor”, while Article 66, which reflects the revision in 2015, stipulates that “60 days and 180 days of maternity leave shall be provided before and after, respectively, female workers give birth.” Article 18 of the Family Law stipulates the right to equality between husband and wife, and the Law for the Protection of Women’s Rights includes a guarantee of gender equality and women’s rights.³⁴⁶

As such, while by law women’s rights, including gender equality and women’s social participation, are guaranteed overall, it was found that disparity between the law and what is occurring in reality is significant. In practical terms, the status and roles of North Korean women have not improved, contrary to what the North Korean authorities claim, and the perceived social discrimination against women due to pre-modern paternalism still remains.

With regard to gender equality and women’s social participation, 75.4% of the respondents who participated in the KINU survey, conducted from 2011 to 2015 replied that the status of women in North Korea is “Unequal (16.9% replied Very unequal)” while 54.5% of defectors who entered South Korea in 2015 replied that the status of women in North Korea is “Unequal.” This seems to indicate that a substantial number of people assess that the status

³⁴⁶The Law for the Protection of Women’s Rights was adopted as Government Ordinance No. 309 by the Presidium of the Supreme People’s Assembly on December 22, 2010, and was revised and updated into No. 1743 on July 5, 2011. The Law for the Protection of Women’s Rights was partially revised in July 2015. 『Korea Central News Agency』, July 22, 2015.

of women in North Korean society is still unequal.

In terms of political participation, which is part of the social participation of women, female deputies hold positions that are symbolic only and they do not have the authority to supervise or criticize state affairs, meaning their political influence is less than the number of seats they hold would suggest. Only an extremely small number of women are hired as members of the Cabinet with political and administrative responsibilities and authority, and the proportion of women in the Party Central Committee, where power is exercised in reality, is very low. Female delegates made up only 4 percent (5/124) of those at the Conference of Party Delegates on September 28, 2010, where Kim Jong-un appeared as the successor, while female candidates for selection as delegates made up only 2.9 percent (3/100). In its first report on implementation of the 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 improve the social status of women. The ratio of female judges, for example, has reached 10 percent, while some 15 percent of employees at the Foreign Ministry are women.” The UN Committee on the Elimination of All Forms of Discrimination Against Women, which deliberated on the report, has expressed concern regarding the relatively small number of women in decision-making positions in the political, judicial, and public sectors in the North Korean government.

B. Discrimination against Women and Unfair Share of Housework

During the early days of the regime, North Korea declared that the existing male-centered and authoritarian traditional Confucian family system was not only a hurdle to the Socialist revolution but also oppressed women politically and economically. Furthermore, it regarded the “liberation of women from the colonial and feudalistic yoke of oppression and the guarantee of equal rights with men in all aspects of social activity as crucial tasks in its anti-imperialist, anti-feudal democratic revolution.” As such, superficial legal and institutional measures were implemented to provide a Socialist equality between men and women, although traditional patriarchal structures were maintained in families. Moreover, as the sole leadership of Kim Il-sung and Kim Jong-il solidified during the 1970s, premodern traditions in family life were emphasized. North Korea’s Family Law, enacted in 1990, contains outdated patriarchal elements of the family structure, such as prohibiting certain marriages, the principle of the family bloodline following the paternal side, and the man’s role as breadwinner of the family.

Aside from such discriminatory perception of the status and treatment of women at home, the pressure on women in terms of labor, including housework is rising. Since household chores and child-rearing is not shared in most North Korean families, the

continued economic crisis, which led to a reduction of policies on socialization of housework and childcare, has shouldered women with even more responsibility, most specifically in securing food for her family, on top of the excessive workloads they already have. The KINU surveys between 2010 and 2015 show that 93.9 percent of the respondents believed “women” were responsible for housework while 78.9 percent felt “wives” should take responsibility for housework even when they are financially supporting their families. In our 2015 survey, these figures changed to 93.5 percent and 83.3 percent, respectively.

The husband is at the center of family life in most North Korean families. Called the household head, a husband has absolute authority over all family affairs including child-rearing. However, as the economic activities by North Korean women, including vending and peddling, have significantly increased since the famine, it is said that women’s economic influence in the family has also grown. This means that the status of the household heads (husbands) in families is changing.

In the KINU survey in 2015, 75% of those surveyed said husbands were the “actual authority” in the family, while 16.6% viewed them as the “formal authority.” In addition, 45.8% replied that the status of and perceptions toward women have “changed since they started engaging in economic activities.” In spite of such changes in the home, however, it can be said that there are no noteworthy changes in the status of women in society in North

Korea as such changes have not translated the fundamental level of legal implementation and changes of perception in state policies.

C. Social Perception of Domestic Violence and Lack of Policy Response

The CEDAW, in its General Recommendation 19(24).(r) stipulates, “necessary measures to overcome family violence should include: Criminal penalties where necessary and civil remedies in cases 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, General Recommendation 19(24).(b) states, “states 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.”

The UN Committee on the CEDAW expressed concerns in July 2005 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.” The CEDAW Committee asked North Korea to “investigate all incidents of violence against

women, including family violence, as well as their frequency (ratio), causes and effects, and include them in North Korea's next periodic report." The Committee also recommended that North Korea legislate detailed laws against family violence, penalize acts of violence against women and young girls as serious crimes, provide effective protection and immediate relief for female victims of violence, and indict and punish the assailants of women.

However, domestic violence in North Korean society continues to be reported. According to North Korean defectors, domestic violence is quite frequent in North Korea and, in particular, husbands who use narcotics or have drinking habits often beat their wives. Domestic violence is also frequent in families where the housewives do not engage in vending or peddling, due to the belief that she is not behaving as a woman should (supporting the family by vending or peddling).³⁴⁷ Survey results from 2011 to 2015 indicate that 81.2 percent of those surveyed believed domestic violence was "common" (including 27.4 percent who chose "very common.")

In reflection of this reality, Article 46 of the North Korean Law for the Protection of Women's Rights includes a provision prohibiting domestic violence, stating "All types of domestic violence against women must not take place in the family." To

³⁴⁷ NKHR2015000043 2015-05-31.

prevent domestic violence, there are educational programs conducted by local People's Committees and institutions, enterprises, and other organizations. However, there are no legal provisions stipulating penalties for domestic violence in North Korea's Criminal Law, the Administrative Penalty Law, the People's Security Law, or the Law on City Administration.

In North Korea, domestic violence is not regarded as a problem and, in general, the Democratic Women's Union chooses not to intervene in cases of domestic violence or infidelity, labeling such as family problems. Sometimes domestic violence is reported to the MPS city/county branches, but it is not punished, on the grounds that it is a family matter. Even the Party organizations simply issue a personal warning or advise the husband. In this regard, the concept of domestic violence itself might be unfamiliar in North Korea.

D. Evaluation

North Korea advocates a Socialist regime, and in its history it has enacted laws on gender equality and joined the CEDAW. As the country went through economic hardship, women were more active and manifested a stronger will to live than did men. However, there are numerous obstacles facing North Korean women, including the male-centric political system and political culture, and social discrimination, etc. The life of North Korean

women at home has also changed significantly. Specifically, it is mostly women who are engaging in the prevalent vending or peddling in the markets of North Korea, and it is women who are fully responsible for housework and childcare. The deep-rooted patriarchal Confucian culture in North Korea is the most significant obstacle to women's equality and empowerment which come through the sharing of roles and realities at home. Most North Korean defectors point out that the treatment of women in North Korea is still poor. The next step for the North Korean authorities should be gaining a clear awareness of the situation of women in a changing society and a changing home, and promoting corresponding fundamental changes in perceptions and policy. The North Korean authorities need to respond in a more specific way to the concerns and interests of the international community regarding women, who are one of the vulnerable groups in North Korea.

2

Children

Article 25, paragraph 2 of the UDHR stipulates that all children in their childhood are entitled to special care and assistance. The CRC³⁴⁸ 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.” The 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” (Article 24).

³⁴⁸ Article 1 of the CRC 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.”

A. Duty to Implement and Measures Taken by the North Korean Authorities

(1) Overall Measures by the North Korean Authorities

North Korea joined the CRC in September 1990. It has fulfilled its duties to submit reports, including the first Rights of the Child Performance Report in February 1996, the second report in May 2000, and a consolidated report on the third and fourth terms of the implementation of the CRC in December 2007. It has taken measures to improve the health of children in the overall laws, including the North Korean Constitution, the Education Law, the Public Health Law, the Law on the Nursing and Upbringing of Children, the Law on the Protection of Persons with Disabilities, the Family Law and the Law on Prevention of Epidemics, etc. It stipulates the existence of a free treatment system for children in the Law on the Nursing and Upbringing of Children (Article 25), and the Law for the Protection of Children's Rights (Article 33), etc. In particular, On December 22, 2010, North Korea enacted the Law for the Protection of Children's Rights³⁴⁹ for domestic implementation of the CRC.

³⁴⁹The Law for the Protection of Children's Rights consists of six parts and 62 articles, including topics such as the "basis of the Law for the Protection of Children's Rights," "protection of rights of children in the social realm," "protection of rights of children in the education/health sectors," "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."

Specifically, the Law on the Nursing and Upbringing of Children stipulates that medical workers shall be assigned at nurseries, and both kindergartens and nurseries shall have a pediatric ward (Article 28). Based on such provisions, there are also cases where treatment is provided at nurseries. North Korean defector ○○○ testified that when children have diarrhea or a fever, the nursery teachers would give injections.³⁵⁰

In the combined third and fourth periodic report submitted to the CRC, North Korea insisted that in 2002, it established a National Plan of Action on Education for All for 2003~2015 for improvement of the right to education of children and provision of equal opportunities, and a “Strategy of the DPRK for the Promotion of Reproductive Health, 2006~2010” in 2006 for protection and improvement of children’s health. In addition, North Korea emphasized that it took positive measures to reinforce the function and scope of the National Commission for the Rights of the Child (NCRC), established in 1999, for implementation of the CRC.

(2) Potential for Human Rights Infringement Due to the Definition of Children

With regard to the definition of children, there is a gap between the CRC and the Law for the Protection of Children’s Rights.

³⁵⁰_ NKHR2015000015 2015-01-27.

While the CRC defines children as all human beings “below the age of eighteen years” (Article 1), the Law for the Protection of Children’s Rights defines children as those up to “sixteen years old” (Article 2). Regarding this gap, the CRC recommended that North Korea revise the age of adulthood and the minimum marriage age for women to 18 years old.³⁵¹ As this gap on age in the definition of children between the CRC and the Law for the Protection of Children’s Rights, there is potential for human rights violations in the area of military service and the prohibition against child labor, etc.

B. Right to Food and Right to Health

(1) Poor Nutritional Status of Children

North Korea has revised laws including the Law on the Nursing and Upbringing of Children, the Public Health Law, and the Law for the Protection of Children’s Rights, etc. to improve nutrition for children.

³⁵¹ CRC, “Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Concluding Observations of the Committee on the Rights of the Child: Democratic People’s Republic of Korea,” UN Doc. CRC/C/15/Add.239 (July 1, 2004), paragraph 25.

Table IV-1 Laws on Children's Nutrition and Relevant Provisions

| Relevant Law | Relevant Provisions |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Law on the Nursing and Upbringing of Children | In the DPRK, all children shall be given food from birth (Article 15). State institutions and social cooperative organizations shall guarantee a supply of diverse whole foods such as milk, meat, eggs, fruit, vegetables and processed foods such as confectionery, etc., to nurseries and kindergartens. The cost for food supplied to children at nurseries and kindergartens shall be borne by State institutions and social cooperative organizations (Article 16). |
| Public Health Law | The institutions, enterprises and organizations in charge shall provide a good supply of vitamins needed for health and growth and nutritional supplements including growth accelerators, etc. (Article 25). |
| Law on Protection of Children's Rights | Institutions and enterprises in charge shall further develop and guarantee the production of nutritional supplements, nutritious food and the daily supplies needed for the health and growth of children (Article 37). |

In spite of such laws and policies, the nutritional situation of children in North Korea is identified to remain poor. Although this situation is improving through continued humanitarian support from the international community, the growth impairment caused by chronic malnutrition remains serious. According to the nutrition survey report on North Korea's children (0~59 months) and women (15~49 years old) conducted by UNICEF and North Korea's Central Statistical Bureau in September 2012³⁵², 15.2 percent of North Korean children were below normal weight, 27.9 percent had chronic malnutrition, among which 7.2 percent were at a serious level. In addition, 4 percent had acute malnutrition

³⁵² This research was based on a randomly selected group of about 7600 households from ten cities and provinces including Pyongyang. CBS with UNICEF / WFP / WHO, "Democratic People's Republic of Korea Preliminary Report of the National Nutrition Survey 2012," (October, 2012).

and as much as 29 percent suffered from anemia. There is a wide gap in the nutritional situation of children between Pyongyang and the North Korea/China border area. While chronic malnutrition was identified in 19.6 percent of children in Pyongyang, it was identified in 39.6 percent in Yanggang Province, 33.3 percent in Jagang Province, 32.9 percent in South Hamgyeong Province, 28.7 percent in North Hamgyeong Province. Acute malnutrition was identified in 2.3 percent of children in Pyongyang, but in 6.1 percent in Yanggang Province, and 5.7 percent in Jagang Province. Ten percent of children were underweight in Pyongyang, but as many as 20 percent were underweight in Yanggang Province. In the 2009 survey, 19 percent of children aged under 5 were found to be underweight, 32 percent with chronic malnutrition and 5 percent with acute malnutrition.³⁵³

The UN Food and Agriculture Organization (FAO) estimated that 26.7 percent of children are underweight in rural areas of North Korea in its “The State of Food and Agriculture 2015.” It ranked North Korea 24th among the 123 underdeveloped countries with low per capita incomes. It estimated that there are around twice as many underweight children in rural areas as there are in cities. While one out of four children are underweight in rural areas, one out of about 7.6 children are underweight in cities.³⁵⁴

³⁵³ UNICEF, “The State of the World’s Children 2012: Children in an Urban World,” (2012), p. 92.

³⁵⁴ 『Voice of America』, 22, October, 2015

(2) Poor Health among Children

Article 12, paragraph 2 of the ICESCR stipulates that States Parties are to take action to realize a “reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child.” And Article 24, paragraph 2 of the CRC stipulates the need to implement the right to health of children and the measures that should be taken:

- (a) To diminish infant and child mortality;*
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;*
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, 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;*
- (d) To ensure appropriate pre-natal and post-natal health care for mothers*

To protect such rights, North Korea also has provisions that include the “right to free treatment” (Article 33) and “medical service for children” (Article 34) in its Law for the Protection of Children’s Rights.

In spite of such provisions, anti-epidemic measures are not taken appropriately due to the worsening economic crisis. Due to unsanitary drinking water and living environment, paratyphoid,

cholera, typhoid, tuberculosis, malaria and other contagious diseases have frequently spread among the population since the mid-1990s, killing many children. According to the combined third and fourth periodic report to the CRC, the most common illnesses among North Korean children are diarrhea and acute respiratory illness.

The mortality of children aged 5 or younger is 33.3 per 1,000 children in North Korea according to “State of World Population 2011.”³⁵⁵ According to “The State of the World’s Children in Numbers 2014” by UNICEF, North Korea, with 29 deaths per 1,000 children, ranked 77th in mortality rate of children aged 5 or younger.³⁵⁶

C. Right to Protection by Family and State

(1) Food/Economic Crisis and Homeless Child Beggars (*Kotjebi*)

Article 19 and 20 of the CRC stipulates that States Parties shall take all necessary 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, and a child temporarily or permanently deprived of his or her

³⁵⁵ UNFPA, “State of World Population 2011,” p. 112.

³⁵⁶ UNICEF, “The State of the World’s Children in Numbers 2014,” p. 85.

family environment shall be entitled to special protection and assistance provided by the State.

North Korea stipulates in the Law for the Protection of Children's Rights that "children who cannot be cared for by parents or guardians shall be raised, at a cost paid for by the State, at *Yukawon*, *Aeyukwon* and other institutes" (Article 31).

North Korea has stated that it has explored appropriate ways to handle the problem of children living on the streets since 1996. As such, it is said that such children are sent to institutions where they can be protected by the State and receive vocational education. As a matter of fact, the North Korean authorities send homeless child beggars (*kotjebi*) who are caught to accommodation facilities known as "relief centers," "lodging centers," "boys' education centers," "lodging centers for drifters or protection centers," and "protection centers" to protect and manage them.

However, it is said that these facilities are reportedly run improperly and have poor environments and overwhelmingly harsh discipline. The children sent there reportedly have difficulty adapting to the controls and daily routines at these facilities and are not properly fed. As a result, they often sneak out to wander the streets again and many of them die in the cold winters in the provinces.

Children housed in the primary and middle institutes that are said to be orphanages run by the State are known to experience similar conditions as at other detention facilities. They are not fed

well, and are forced to work in the field as the orphanages need to secure food on their own. Thus, most children prefer to live on the streets as beggars (*kotjebi*) rather than stay at orphanages.³⁵⁷

(2) Sex Exploitation and Mistreatment of Children

The CRC stipulates, “State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.” It also stipulates that “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 (Article 34).” Furthermore, Article 35 stipulates, “States 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.” And Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography stipulates “States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol (Article 1).” North Korea ratified the protocol on November 10, 2014.

North Korea’s Law for the Protection of Children’s Rights also

³⁵⁷– North Korean defector ○○○, April 29, 2011, interviewed in Seoul; North Korean defector ○○○, May 12, 2011, interviewed in Seoul.

specifies that “the abduction of or traffic in children is prohibited” (Article 18). North Korea’s Criminal Law prescribes that the crime of having sex with an under-aged person will be punished by a sentence of up to one year or less of labor training punishment, and in repeated cases up to 5 years of correctional labor punishment (Article 281). The crime of stealing or hiding a child for profit or retribution will be punished with a penalty of up to 1 year of labor training punishment (Article 277).

In spite of such improved laws, however, it is 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 ○○○ testified that there were cases of young female homeless child beggars (*kotjebi*) aged 15 to 16 being lured into human trafficking circles in China.³⁵⁸ Additionally, there are cases of four- to five-year-old children being trafficked to China for adoption by Chinese families.³⁵⁹

D. Personal Liberty and Safety

CRC stipulates that “(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

³⁵⁸- North Korean defector ○○○, interviewed in Seoul on October 5, 2012.

³⁵⁹- NKHR2011000223 2011-10-19.

Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily” (Article 37).

In terms of the right to justice, North Korea’s Law for the Protection of Children’s Rights prescribes that “In handling child-related crimes, the law enforcement agencies must fully guarantee all the rights for the child at all steps” (Article 47). In addition, Article 48 prohibits imposing capital punishment or charging children with criminal responsibility. Article 50 also guarantees the right to receive assistance in terms of legal counsel. There are also provisions on the obligation to respect the child’s personal integrity (Article 51), as well as the right of the child to have his or her next-of-kin present during interrogation (Article 52).

Contrary to North Korea’s claims, children deported from China have experienced various forms of mistreatment and torture, especially verbal and physical abuse, from the beginning of the questioning process. During detention, they are known to be beaten, forced into harsh labor and suffer from starvation. There are testimonies that they have been detained in facilities designed for adults and endured violence and forced labor. In terms of detention facilities for under-aged youngsters, some defectors said each county maintains a boys’ education center³⁶⁰ while other defectors testified that boys’ education centers were

abolished.³⁶¹ Yet there were other defectors who testified that boys' education centers had been reestablished.³⁶²

Table IV-2 Testimonies of Children in Detention

| xTestimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| The testifier, who was born in 1997, was detained at a holding center (<i>jipkyulso</i>) in Sinuiju, North Pyeongan Province in 2011, and was beaten during the investigation. | NKHR2013000032 2013-02-19 |
| There were six homeless child beggars (<i>kotjebi</i>) brought into the labor training camp (<i>rodongdanryundae</i>). They were all forced to work for 15 days, same as adults. This was reported up the channels, and the responsible agent was fired. | North Korean defector ○○○○ during an interview in Seoul on October 29, 2012 |
| When the defector was detained in a provincial holding center (<i>jipkyulso</i>), there were also under-aged young people detained together. There was no forced labor or mistreatment of the young people. | NKHR2012000044 2012-03-19 |
| There was a 15-year old girl detained in Jagang provincial holding center (<i>jipkyulso</i>) on charges of illegal river-crossing (border-crossing). They forced her to work as hard work as the adults even though she was under-aged. | NKHR2013000018 2013-01-22 |

E. Evaluation

Since Kim Jong-un came to power, the North Korean authorities have defined children as targets of particular protection and have taken action to protect them through various laws. However, unlike the CRC, North Korea defines children as those up to 16

³⁶⁰_ NKHR2012000090 2012-05-22.

³⁶¹_ NKHR2012000066 2012-04-20.

³⁶²_ NKHR2012000238 2012-11-06.

years of age, with consequent potential for infringement on human rights, including in terms of military service and the prohibition against child labor, etc. In addition, the malnutrition of North Korean children is assessed to be serious and include chronic malnutrition. As found in the survey by the UN, the regional gaps in nutrition, particularly between Pyongyang and other large cities and the Northeastern regions, is serious. Although North Korea is taking measures for children who cannot be protected by guardians through facilities including *Aeyukwon*, the reality of children wandering homeless child beggars (*kotjebi*) is still serious due to poor facility environments, etc.

3

Persons with Disabilities

The CRPD specifically stipulates the rights of persons with disabilities, declaring that “States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability” (Article 4). On July 3, 2013, North Korea signed onto this Convention, but has not yet ratified it, so officially it is not a formal signatory. However, signing itself was a welcome gesture, and North Korea has recently expressed its willingness to ratify the Convention.³⁶³

A. Policies on and Population of Persons with Disabilities

(1) Policies on Persons with Disabilities

Taking into consideration criticism from and concerns of the

³⁶³ DPRK Association for Human Rights Studies, 『DPRK Association for Human Rights Studies Report 』, (September 13, 2014). (In Korean)

international community, North Korea enacted the Law on the Protection of Persons with Disabilities in June 2003. Following is a quick overview of the main articles of this Law, which was enacted “to provide favorable living conditions and environment for persons with disabilities by firmly establishing systems and order in terms of treatment, rehabilitation, education, work and cultural life” (Article 1). Article 2 defines persons with disabilities as “citizens whose normal life is hampered for an extended period of time due to the loss or restriction of physical and mental functions.” It also states, “the State shall respect the personal dignity of all persons with disabilities, and guarantee them rights and freedoms, as well as benefits, that are equal to those granted to healthy citizens in all social and political areas.” The Law on the Protection of Persons with Disabilities also stipulates details concerning Rehabilitation (Chapter 2), Education (Chapter 3), Cultural Life (Chapter 4), and Work (Chapter 5). Provisions to protect persons with disabilities also exist in the Social Insurance Law, the Socialist Labor Law and the Social Security Law, etc.

The advocate for the interests of persons with disabilities is the “Chosun (North Korea) Federation for Protection of Persons with Disabilities”, which carries out important tasks such as conducting surveys on the status of persons with disabilities, improving their health and living conditions, and developing action programs to enhance social awareness of persons with disabilities. It has branch committees at the county, city and province levels.³⁶⁴ The

Chosun (North Korea) Federation for Protection of Persons with Disabilities has also established the Chosun Association for the Deaf, the Chosun Rehabilitation Center for Disabled Children, the Chosun Association for the Blind, the Chosun Company for Sponsoring the Disabled, the Chosun Disabled Athletes Association, and the Chosun Association of Disabled Artists.³⁶⁵ The Chosun (North Korea) Federation for Protection of Persons with Disabilities established its first mission in Beijing in 2010, and the Shenyang mission in 2015. It is said that Pun-hui Ri, formerly the secretary general of the Chosun Disabled Athletes Association, is serving as the first representative.³⁶⁶ The North Korean authorities also established a “2008~2010 Comprehensive Action Plan for Persons with Disabilities.”³⁶⁷

However, according to the 2015 survey by KINU, only 2.6 percent replied that they knew of the Federation, showing that there is little awareness about its presence or activities among the general population. However, some North Korean defectors were

364_ CRC, “Consideration of Reports Submitted by States Parties under Article 44 of the Convention: The Combined Third and Fourth Periodic Reports of States Parties Due in 2007: Democratic People’s Republic of Korea,” UN Doc. CRC/C/PRK/4 (January 15, 2008), paragraph 134.

365_ 『Rodong Shinmun』, September 30, 2012; 『Korea Central News Agency』 December 16, 2014.

366_ 『Voice of America』, May 13, 2015.

367_ CRC, “Consideration of Reports Submitted by States Parties under Article 44 of the Convention: The Combined Third and Fourth Periodic Reports of States Parties Due in 2007: Democratic People’s Republic of Korea,” paragraph 134; Kyu-chang Lee et al., *Ibid.*, p. 66.

aware of the existence of organizations for persons with disabilities, with some testimonies of a pilot organization in Wonsan, Gangwon Province.³⁶⁸

Table IV-3 Awareness of Organizations for Persons with Disabilities

| Year | Testifiers Aware of Such Organizations (%) |
|------|--------------------------------------------|
| 2012 | 6.0 |
| 2013 | 4.2 |
| 2014 | 5.9 |
| 2015 | 2.6 |

(2) Size of the Population of Persons with Disabilities

The North Korean authorities stipulate in the Law on the Protection of Persons with Disabilities that “the State shall regularly investigate the reality for disabled people, accurately evaluate the levels of disability and establish the right standards” (Article 5). It has not been identified whether the North Korean authorities have conducted systematic investigation of the overall reality for persons with disabilities in accordance with this provision. However, it is identified that there have been two instances of sample investigations, once before and once after the enactment of the Law on the Protection of Persons with Disabilities.

According to data collected by the World Association of Milals,

.....
³⁶⁸ NKHR2013000075 2013-04-16.

the Chosun (North Korea) Association for Supporting the Disabled investigated the reality in 1999. According to the same data, there are 763,237 persons with disabilities, accounting for 3.41% of the entire North Korean population. According to these findings, there were 296,518 persons with physical disabilities, accounting for the largest portion of the total disabled population at 38.8 percent, while there were 168,141 persons with hearing-impairment, 165,088 with visual impairments, 68,997 persons with severe disabilities and 37,780 persons with mental disabilities. It was found that around 1.75 percent of the population of Pyongyang was disabled. Persons with disabilities more often lived in cities (64%) than in rural areas (35.4 percent).³⁶⁹

In addition, according to its 2009 report to the UN, North Korea conducted a survey in 2005. According to the same report, there were 3,639 children with handicapped mobility, including 2,176 boys and 1,463 girls.³⁷⁰

Table IV-4 Children with Disabilities by Age Group (Unit: %)

| 0~4 years | 5~6 years | 7~10 years | 11~17 years | Total |
|-----------|-----------|------------|-------------|-------|
| 11.6 | 11.2 | 30.2 | 47.0 | 100 |

³⁶⁹ 『Yonhap News Agency』, April 9, 2006; 『Yonhap News Agency』, November 23, 2006.

³⁷⁰ The DPRK, "National Human Rights Report submitted in accordance with Human Rights Council Resolution 5/1, Annex 15(A)," p. 20.

The Chosun (North Korea) Federation for Protection of Persons with Disabilities and the Central Bureau of Statistics conducted a second sample survey in 2011 on 2,400 households in three provinces.³⁷¹ According to Mun-chol Kim, Deputy Chairman of the Federation's Central Committee, who led the North Korean sports delegation to the 14th "Paralympics" held in London (August 30~September 10, 2012), and partially disclosed the findings of the survey, the number of persons with disabilities in one of five major categories of sight, hearing, physical movement (limbs), mental abilities (including intelligence), or multiple disabilities equaled 5.8% of the population.³⁷²

The WHO in its "2013 World Report on Persons with Disabilities in the Southeast Asian Region" estimated that persons with disabilities in North Korea made up about 3.4 percent of the population as of 2007. In terms of types of disability, the highest number were those with physical disabilities, followed by those with visual impairments, hearing and speech impairments, and those with mental disabilities, in that order.³⁷³ A relief group for North Korea, known as Together-Hamheung and with headquarters

371_ 『Rodong Shinmun』, September 30, 2012.

372_ 『Yonhap News Agency』, September 10, 2012. North Korea also disclosed that 5.8% of its population were persons with disabilities in its report submitted to the UPR in 2014. National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council Resolution 16/21.

373_ 『Voice of America』, September 20, 2013; Kyu-chang Lee et al., 『Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance, (Seoul: KINU, 2013), p. 82.

in Germany, held its “7th Gathering of Deaf Persons” in Pyongyang for five days from August 7, 2015, and around 350,000 deaf persons were registered.³⁷⁴

B. Reality of the Rights of Persons with Disabilities

(1) Reality in Terms of Training and Rehabilitation

The CRPD stipulates regarding training and rehabilitation that “States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life” (Article 26, paragraph 1). North Korea also stipulates in the Law on the Protection of Persons with Disabilities that “the State shall organize professional or comprehensive rehabilitation institutions for rehabilitation of persons with disabilities” (Article 11), and that “health guidance institutions and the institutions in charge and enterprises should guarantee production of assistance devices including alignment apparatus, motor tricycles, glasses and hearing aids, etc., in a planned manner” (Article 14).

³⁷⁴ 『Voice of America』, August 13, 2015.

Based on the Law on the Protection of Persons with Disabilities, the North Korean authorities have taken measures on its own towards training and rehabilitation of persons with disabilities. First of all, with a focus on children with mental disabilities and disabilities related to their limbs, the Chosun Rehabilitation Center for Children with Disabilities was put in charge of projects for early detection and rehabilitation of disabilities in Pyongyang in March 2013.³⁷⁵ On December 6, 2013, the Munsu Functional Recovery Center was launched in Pyongyang, offering comprehensive services for functional rehabilitation of people with disabilities. The Center is known to serve as North Korea's hub for functional recovery at physical therapy departments for the treatment of the functionally impaired in provincial, city and county hospitals.³⁷⁶

North Korea has reportedly been working on construction of the Dongdaewon Gymnasium for the Disabled in Dongdaewon District, Pyongyang, for athletes with disabilities, and is aiming at completion in May 2016.³⁷⁷

In North Korea, it is reported that there are many alignment apparatus manufacturing outlets, such as the Hamheung Alignment Apparatus Factory, Songrim Alignment Apparatus Factory, and

375_ 『Rodong Shinmun』, September 30, 2012; 『Korea Central News Agency』, March 29, 2013; Kyu-chang Lee et al., 『Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance』, p. 69. (In Korean)

376_ 『Chosun Shinbo』, December 17, 2013; 『Korea Central News Agency』, December 16, 2014.

377_ 『Tongil News』, February 27, 2016.

Pyongyang Honored Veterans' Alignment Apparatus Repair Factory. The Hamheung factory is known to use polypropylene resin materials to manufacture various alignment apparatus, and the employees of each of these factories provide mobile on-site repair services.³⁷⁸ There are also North Korean defectors who were aware of the operation of manufacturers of alignment apparatus in Hamheung, South Hamgyeong Province. However, it is said that it is difficult for ordinary persons with disabilities to purchase items such as prosthetic legs and hands, etc., as they are expensive.³⁷⁹ It is assessed that the reality of rehabilitation and training is poor as the systems for rehabilitation and training, although introduced, are in their very initial stages due to the economic crisis.

(2) Reality of Adequate Living Standards and Employment

The CRPD stipulates that “States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of

378_ 『Chosun Shinbo』, May 23, 2013; Kyu-chang Lee et al., 『Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance』, p. 71; 『Yonhap News Agency』, December 3, 2014. (In Korean)

379_ NKHR2013000057 2013-03-19; NKHR2013000070 2013-04-02; NKHR2015000131 2015-09-22.

disability” (Article 28, paragraph 1).

North Korea also has policies to care for persons with disabilities so they can maintain an appropriate standard of living through factories where persons with disabilities can work. Two classifications exist: “honored veterans” who receive preferential treatment, and “general persons with disabilities”, with factories for either one operated separately.³⁸⁰ Factories are also operated in the form of “light workplaces”, where persons with disabilities, including those suffering from hunchback and polio, engage in light work such as carving seals and repairing clocks, bicycles, shoes and TVs at local convenience service centers, while some persons with visual impairments earn money by playing guitar.³⁸¹ However, it is identified that such factories for persons with disabilities do not normally operate due to the lack of funds budgeted to those factories since the mid-1990s.

³⁸⁰ 『Daily NK』, August 28, 2012; Kyu-chang Lee et al., 『Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance』, pp. 71~72. (In Korean)

³⁸¹ NKHR2012000026 2012-02-21; NKHR2015000036 2015-02-10.

Table IV-5 Reality of Operation of Factories for Honored Veterans

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| There is an honored veterans factory in Hyesan, Yanggang Province. It used to produce a variety of plates but it does not produce anything now. | NKHR2015000043 2015-02-24 |
| There are honored veterans factories in Yeonbong 1-dong, Yeondu-dong, Songbong-dong and Wiyeon-dong in Hyesan, Yanggang Province. Currently they are not operated normally due to issues with electricity and raw materials. | NKHR2015000130 2015-09-22 |
| The Nakrang honored veterans factory is in Nakrang district in Pyongyang. It serves as a nation-wide model. | NKHR2013000168 2013-09-17 |
| There is a factory for blind honored veterans in Sinsang County, South Hamgyeong Province. | NKHR2014000016 2014-03-18 |
| There is an honored veterans factory in Hyemyeong-dong in Hyesan, Yanggang Province. It is said that there are around 200-300 people working there. | NKHR2014000063 2014-06-03 |
| There is an honored veterans factory in Yeonbong-dong in Hyesan, Yanggang Province, and it is said that the factory is now producing bags. | NKHR2014000136 2014-09-23 |
| The husband of the testifier worked at Heungnam honored veterans factory, which had product support from a medical equipment factory in Hamheung as Heungnam honored veterans factory and Hamheung honored veterans medical equipment factory were connected. | NKHR2014000157 2014-09-23 |
| There is a communications machinery factory operated by honored veterans in Gilju County, North Hamgyeong Province, and the factory also provides rations. However, the rations are not in normal amounts, but equal to about up to 6 months' worth per year. | NKHR2015000053 2015-03-10 |

Table IV-6 Reality of Operation of Factories for General Persons with Disabilities

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| There are factories for visually-impaired persons in Suseong district, Cheongjin, North Hamgyeong Province. | NKHR2013000036 2013-02-19 |
| There is a light-labor workplace for persons with disabilities in Seoncheon-dong, Hoeryeong, North Hamgyeong Province. | NKHR2013000095 2013-05-14 NKHR2015-131 2015-03-22 |
| Although there was a factory for persons with disabilities in Musan County, North Hamgyeong Province, the factory is not maintained due to a lack of equipment. | NKHR2013000116 2013-06-11 |
| There are light workplaces for persons with hearing impairments and persons with physical disabilities. | NKHR2013000186 2013-09-17 |
| The testifier heard from his or her aunt that there is a factory for blind persons in Suseong district, Cheongjin, North Hamgyeong Province in 2013, where the aunt worked as a cashier. | NKHR2014000144 2014-09-02 |

North Korean defectors testified that persons with disabilities do not benefit from any consideration or protection from the government and in most cases, live with their families or by begging on the street. It is said that only honored veterans are entitled to disability benefits or financial support from the government. General persons with disabilities have to purchase assistance devices or supplies on their own as they do not receive any support from the State, while honored veterans receive livelihood support, including for supplies.

In its Law on the Protection of Persons with Disabilities, North

Korea stipulates that “educational guidance institutions and the institutions in charge can organize and operate training institutions and vocational schools for masseuses, computer typists, painters and engineers in consideration of academic achievement, age and level of disability of persons with disabilities” (Article 22).

In accordance with such provisions, North Korea is implementing policies to support employment of persons with disabilities. On May 2, 2012, the Chosun Technical and Vocational Skills Class for the Disabled opened in Pyongyang to help persons with disabilities to more actively participate in social life. This “Class” is a one-year course designed for the hearing-impaired and other persons with disabilities, including those without the use of limbs.³⁸² Moreover, a U.K. relief organization for North Korea, DULA International, entered into an agreement with the Federation to establish a design school for persons with disabilities in Pyongyang on May 2, 2016.³⁸³

However, there are some testimonies that persons with disabilities are discriminated against in employment. A North Korean defector ○○○ testified that the father of his friend could not be a teacher but had become a librarian at a university as he had a limp.³⁸⁴

382_ 『Korea Central News Agency』, May 2, 2012; 『Chosun Shinbo』, May 9, 2012; 『Chosun Shinbo』, May 23, 2013; 『Ablenews』 August 9, 2013; Kyu-chang Lee et al., 『Improving Human Rights Conditions of North Korea’s Vulnerable People through Humanitarian Assistance』, p. 70. (In Korean)

383_ 『Voice of America』, December 29, 2015.

384_ NKHR2014000009 2014-03-04.

(3) Reality of Special Education for Children with Disabilities

The CRPD stipulates that “States Parties recognize the right of persons with disabilities to education” (Article 24, paragraph 1) and “Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability” (Article 24, paragraph 2 (a).) In its Law on the Protection of Persons with Disabilities, North Korea also stipulates this equal right to education as “persons with disabilities shall not be excluded from general compulsory middle school education” (Article 17). Moreover, it stipulates regarding special education that “based on the physical and mental characteristics and types of disability, special classes shall be established or special schools, including those for people with visual or hearing impairments and schools for those with learning disabilities shall be established and operated” (Article 19.) The equal right to education of children with disabilities and special education is also stipulated in the Law for the Protection of Children’s Rights (Article 30.)

North Korea also operated special schools for persons with disabilities before enactment of the Law on the Protection of Persons with Disabilities and the Law for the Protection of Children’s Rights. In North Korea, facilities for persons with disabilities include special schools and rehabilitation centers for

the deaf (those with hearing impairments and those with speech impediments) and the blind (persons with visual impairment). In North Korea, there are schools for the deaf in Sambong, Hamheung, Wonsan, Sijung, Unjeon, Seongcheon, Bongsan and Bongcheon and schools for the blind in Hamheung, Bongcheon and Daedong. And in its second report to the ICESCR, the North Korean authorities presented statistics that around 1,800 children with disabilities are receiving primary and middle school education in those schools. In the same report, North Korea asserted that these children were receiving State-provided scholarships and living in a dormitory specially built for them.³⁸⁵ In spite of these assertions, it is identified that the facilities and environment at these special schools are extremely poor due to the economic hardship. A North Korean defector ○○○ testified that her parents visited the school for the deaf in Wonsan to send her, but decided not to because the facilities and environment were so poor.³⁸⁶

North Korea is also pursuing programs for education of persons with visual impairment and persons with hearing impairment. The Chosun Association for the Deaf is planning to develop subtitles and sign language services and a sign language dictionary for the deaf. The Chosun Association for the Blind is also working on

³⁸⁵- Refer to the Green Tree International website.

³⁸⁶- NKHR2013000224 2013-12-10.

establishing a braille information technology center for the visually challenged.³⁸⁷ However, it is yet to be identified whether special classes for children with disabilities are operated in general schools as stipulated in the Law on the Protection of Persons with Disabilities.

C. Reality on Efforts to Engage Persons with Disabilities at Home and in Local Communities

(1) Violation of the Right to Independent Life and Participation in Local Communities

The CRPD stipulates regarding the freedom of residence that “Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement” (Article 19 (a)). It also stresses the aspects of integration with local communities as “Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community“ (Article 19 (b)).

A representative case of the violation of this freedom of

³⁸⁷ 『Chosun Shinbo』, June 24, 2014; August 27, 2014.

residence and integration into local communities stipulated in the CRPD is the operation of segregated areas for midget persons. A substantial number of North Korean defectors also testified that there are segregated areas for midget persons. A representative area is Yeonha-li, Kimhyongjik County (formerly Huchang County).³⁸⁸ However, along with the testimonies that midget persons are segregated, there are also testimonies of observing midget persons in areas where ordinary people live. In the interviews in 2014 and 2015 in particular, there were many testimonies of observing midget persons in general residential areas.³⁸⁹ Given such testimonies, it seems that although there are some segregated areas for midget persons, not all midget persons are segregated. Therefore, continued identification, through testimonies, of the accurate situation regarding segregation of midget persons is needed. Meanwhile, there are also testimonies that although discriminated against, including through segregation, midget persons maintain good standards of living.³⁹⁰

³⁸⁸_ NKHR2015000074 2015-04-07; NKHR2015000106 2015-05-19.

³⁸⁹_ NKHR2014000027 2014-04-01 and many others.

³⁹⁰_ NKHR2013000011 2013-01-22; NKHR2013000218 2013-11-26.

Table IV-7 Testimonies on Segregation of Midget Persons

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The testifier witnessed midget persons weeding in Yeonha-li, Kimhyongjik County, Yanggang Province. | NKHR2013000011 2013-01-22 |
| The testifier heard about a town of midget persons from a person who used to live there. | NKHR2013000047 2013-03-05 |
| The testifier witnessed midget persons segregated when he or she visited an aunt's house in Sanchang-gu, Kimhyongjik County, Yanggang Province. | NKHR2013000060 2013-04-02 |
| It is said that there is a place that separately accommodates midget persons in Yonghwa-li, Sinpa County, Yanggang Province. | NKHR2013000074 2013-04-16 |
| It is said that Duji-li, Kimhyongjik County, Yanggang Province is a town for midget persons. | NKHR2013000117 2013-06-25 |
| There was segregated accommodation and forced sterilization of midget persons. | NKHR2014000004 2014-02-18 |
| The testifier heard that midget persons are segregated in residences and controlled so that they cannot have children. | NKHR2014000055 2014-05-20 |
| The testifier witnessed midget persons in Yeon-dong, Kimhyongjik County, Yanggang Province. Midget persons could not live in general residential areas but lived together in remote mountain villages. | NKHR2014000137 2014-06-17 |
| It is said that persons with disabilities were forced not to have children and populated in a concentrated manner in Huchang so that they do not spread to other areas. | NKHR2014000076 2014-09-12 |

Table IV-8 Testimonies that Midget Persons are not Segregated

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Midget persons used to be segregated, but were not subjected to crackdowns or segregated after the death of Kim Il-sung. | NKHR2012000004 2012-01-10 |
| The testifier witnessed a midget person in Namyang-gu, Onsung, North Hamgyeong Province. | NKHR2013000100 2013-05-28 |
| A great-aunt on my mother's side was a midget, but was not segregated. | NKHR2013000141 2013-07-23 |
| The testifier witnessed a midget father and a midget son farming in 7-ban, Imgang-li, Musan County, North Hamgyeong Province in 2010. | NKHR2013000165 2013-09-03 |
| The testifier heard from her sister that there were midget persons living in Hyesan, Yanggang Province. | NKHR2013000218 2013-11-26 |
| The testifier witnessed many midget persons selling CD-Rs, etc., in a marketplace in Cheongjin, North Hamgyeong Province. | NKHR2014000100 2014-03-04 |
| The testifier witnessed many midget persons. | NKHR2014000027 2014-04-01 |
| There was a midget person in the same <i>inminban</i> as the testifier and he had a wife and children. There are many midget persons living in Hyesan, Yanggang Province. | NKHR2014000075 2014-06-17 |
| The testifier witnessed a midget person (male) living in the same neighborhood as his or her aunt in Bocheon County, Yanggang Province. | NKHR2014000131 2014-08-26 |
| The testifier, who was born in 1995, said that he or she went to school with two midget persons in Hoeryeong, North Hamgyeong Province. | NKHR2015000126 2015-09-08 |
| Since the testifier was a child until he or she defected from North Korea in 2015, there was a midget person living in Saneop-dong, Hoeryeong, North Hamgyeong Province. | NKHR2015000141 2015-10-06 |

The freedom of persons with disabilities to choose their area of residence is restricted in North Korea. According to North Korean defectors, the North Korean authorities restrict residence by persons with disabilities in Pyongyang due to its status as a special district, and Nampo, Gaeseong, and Cheongjin, where foreigners visit often. With exception granted to people with special skills, the authorities control the residence of persons with disabilities under the pretext that they may leave an unpleasant impression on visiting foreigners.³⁹¹ North Korean defector ○○○ testified that she “had a conversation that ‘It seems there are many persons with disabilities in South Korea, but why are there no persons with disabilities in Pyongyang?’” when she was watching South Korean dramas.³⁹²

However, there are also testimonies that persons with disabilities live in Pyongyang. With regard to restrictions on residence in Pyongyang by persons with disabilities, a relief group for North Korea, Together-Hamheung, with headquarters in Germany, held the “7th Gathering of Deaf Persons” for five days from August 7, 2015. They visited the newly established deaf center in Gaeseon Kindergarten in Moranbong District, Pyongyang and visited a barber shop where hearing-impaired persons work. It is said that there are 20,000 deaf persons living in Pyongyang.³⁹³ Moreover,

³⁹¹_ NKHR2014000078 2014-07-01.

³⁹²_ NKHR2015000176 2015-12-15.

maybe in consideration of external criticism it has received, the State-run “Chosun Central TV” has broadcast an image of persons with disabilities visiting the Federation and learning how to dance and play instruments on February 11, 2015. It also showed persons with disabilities freely going around downtown Pyongyang.³⁹⁴ There needs to be continuous cross-verification of the infringement of rights through prohibition of persons with disabilities in Pyongyang.

Table IV-9 Testimonies of Persons with Disabilities Living in Pyongyang

| Testimonies | Testifier ID |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In the summer of 2006, the testifier witnessed a person paralyzed from the waist down in Mangyeongdae district, Pyongyang. | NKHR2014000158 2014-09-23 |
| The testifier witnessed persons with polio in Samseok district and Gangdong County while staying in Pyongyang in May 2011. | NKHR2013000140 2013-07-23 |
| There were persons with disabilities in Pyongyang. Only where persons with mental disabilities live was controlled while where those with physical disabilities live was not. | NKHR2013000196 2013-10-29 |
| The testifier witnessed persons with hunchbacks and those without limbs in front of Pyongyang Station (Jung district). | NKHR2014000063 2014-06-03 |

(2) Violation of Family Rights

The CRPD stipulates that “The right of all persons with disabilities who are of marriageable age to marry and to found a

³⁹³ 『Voice of America』, August 13, 2015.

³⁹⁴ 『Voice of America』, February 20, 2015.

family on the basis of free and full consent of the intending spouses is recognized” (Article 23, paragraph 1 (a)). Moreover, it stipulates that “the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children” (Article 23, paragraph 1 (b)) are recognized.

The most obvious human rights violations that infringe upon family rights, and inhumane discrimination, would be the forced abortions of pregnant midget persons. There are many testimonies that the North Korean authorities also enforce a program of sterilization of midget persons. It is identified that there have been complaints and protests regarding this in recent years, and many midgets were actually having their own children. A North Korean defector ○○○ testified that he heard that midget persons protested against discrimination in 2000 in Kimhyongjik County, Yanggang Province.³⁹⁵ There exists a need for follow-up investigation of the reality surrounding whether forced sterilization of midget persons has been performed, and if it was, whether this practice continues, etc.

³⁹⁵ NKHR2013000117 2013-06-25.

Table IV-10 Forced Abortions Performed on and Sterilization of Midget Persons

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| A North Korean defector testified that he was a consulting physician at the hereditary department of a provincial hospital. He enforced a sterilization plan as instructed by the Party after conducting a survey on little people. Midget persons are called the subjects of “No. 71” measures, because Kim Il-sung had sent all midgets to collective camps in 1971. In North Korea, it seems that people below 130 cm in height are defined as little people. In recent years, midgets know they are subject to sterilization shots, so they refuse and even file petitions if doctors try to give them shots. But these petitions are dismissed because sterilization was the Party’s policy. Those midgets with lower mental abilities were especially subject to sterilization shots, and would be told that the shots would “help them grow”. | NKHR2012000072 2012-04-26 |
| It is said that midget persons are segregated and forcibly sterilized. | NKHR2012000073 2012-05-08 |
| They are trying to eradicate the root cause for midget persons, but are not very successful. | NKHR2013000117 2013-06-25 |
| They were forcing sterilization on midget persons, but in reality many midgets have children. | NKHR2013000200 2013-11-12 |
| The testifier witnessed forcible sterilization on short people in Onsung, North Hamgyeong Province in 2014. Social security benefits were given to those who were sterilized. | NKHR2015000171 2015-12-01 |

(3) Reality of Mobility

The CRPD stipulates regarding mobility of individuals as “States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities” (Article 20). After signing the CRPD, North Korea established an “Assistance Fund for Persons with Disabilities” on November 21, 2013, and revised the Law on the Protection of

Persons with Disabilities in a way that reflected the accessibility stipulated in Article 9 of the CRPD, updating provisions with emphasis on accessibility by persons with disabilities to buildings and facilities.³⁹⁶

North Korea created spaces for persons with disabilities in the restrooms at Sunan International Airport as part of airport remodeling. Other than such special facilities, it is identified that North Korea has failed to take measures that guarantee the mobility of persons with disabilities due to the economic hardship.

D. Reality of Raising Awareness of Persons with Disabilities

The CRPD stipulates that the States shall “promote positive perceptions and greater social awareness towards persons with disabilities” (Article 8, paragraph 2, (a), ii).

North Korea also initiates activities to improve public awareness of persons with disabilities based on the Law on the Protection of Persons with Disabilities.

First, the North Korean authorities have designated June 18 as the “Day of Persons with Disabilities” since 2011 in accordance with Article 49 of the Law on the Protection of Persons with Disabilities, and hold celebration events.³⁹⁷ Also, since 2010,

³⁹⁶ 『Chosun Shinbo』, December 6, 2013; 『Yonhap News Agency』, December 6, 2013.

North Korea has held Joint Celebrations on the Occasion of the International Day of Persons with Disabilities every year, hosted by the Central Committee of the Federation, to celebrate the International Day of People with Disabilities in Pyongyang on December 3.³⁹⁸

North Korea also sponsors joint sporting events in which persons with and without disabilities participate together, to promote public interest in disability issues. With establishment of the State Athletic Guidance Committee (November 2012), etc., it is raising public attention to sporting events involving persons with disabilities. Recently, table-tennis matches for those with and without disabilities have been held on a regular basis, and the number of participants is also increasing.³⁹⁹

According to the survey by KINU, although the North Korean authorities have worked to improve social perception of the handicapped, a sense of discrimination against persons with disabilities still persists strongly. Most North Koreans are not familiar with the term “persons with disabilities” and generally understood it in the negative term of “handicapped”.⁴⁰⁰

397_ 『Chosun Shinbo』, June 24, 2014.

398_ Kyu-chang Lee et al., 『Improving Human Rights Conditions of North Korea's Vulnerable People through Humanitarian Assistance』, p. 72; 『Chosun Shinbo』, December 7, 2013. (In Korean)

399_ Kyu-chang Lee et al., *Ibid.*, p. 72. (In Korean)

400_ NKHR2013000003 2013-01-08; NKHR2013000068 2013-04-02; NKHR2013000095 2013-05-14; NKHR2015000122 2015-09-08; NKHR2015000132 2015-09-22.

In the interviews for the 2015 survey, 66.07 percent of respondents replied that there is “strong” discrimination against persons with disabilities, and of these, 16.07 percent replied that the discrimination is “very strong”.

TableIV-11 Perception of Discrimination against Persons with Disabilities (Strong & Very Strong)

| Year | Rate (percent) |
|------|----------------|
| 2012 | 54.8 |
| 2013 | 54.5 |
| 2014 | 45.8 |
| 2015 | 66.0 |

E. Cooperation with the International Community

North Korea has pursued cooperation with South Korea and the international community to support persons with disabilities.

First, there has been inter-Korean cooperation for persons with disabilities. As part of the inter-Korean exchange and assistance project for persons with disabilities, an inter-Korean seminar on scientific rehabilitation of persons with disabilities, attended by a delegation from Daegu University (South Korea) and a delegation from Chosun Red Cross Hospital, for discussion of research results on rehabilitative treatment and special education, etc., was held for the first time at the Yanggakdo Hotel in Pyongyang on December 19, 2006.⁴⁰¹ In addition, in May 2007, the Botonggang Convenience Complex was built and opened for operation on Red

Avenue, Botonggang District, Pyongyang, with the support of South Korea's Lighthouse Foundation. It is the first self-reliant rehabilitation center for persons with disabilities and is jointly operated with the Federation.⁴⁰²

Second, cooperation with international NGOs is also taking place. Green Tree International is seeking to build the Daedonggang Rehabilitation Center for the Disabled in Pyongyang, which will offer medical support and training on rehabilitative skills for people with disabilities, as well as education programs for athletes and artists with disabilities.⁴⁰³ Handicap International will also teach therapeutic skills to physical therapists at the Pyongyang-based Munsu Functional Recovery Center, the Chosun Rehabilitation Center for Disabled Children, and elsewhere.⁴⁰⁴

Third, exchanges with the international community are also underway. The Central Committee of the Chosun Federation for the Protection of Persons with Disabilities entered into a memorandum of understanding (MOU) with the World Federation of the Deafblind (WFDB) on February 9, 2011, through which the Chosun Association for the Blind (launched in March 2014) and the Chosun Association for the Deaf (launched in December 2013) are working on

401_ 『Yonhap News Agency』, December 22, 2006.

402_ ○○○, KINU Advisory meeting, June 29, 2012. Name is not disclosed upon request.

403_ Refer to Green Tree International, (www.greentreekorea.org)

404_ 『Voice of America』, February 10, 2015; 『Nocut News』, February 10, 2015.

arrangements to join the World Federation.⁴⁰⁵ On November 7, 2014, through the good offices of the Finnish Association of the Deaf, six North Korean delegates, including three persons with hearing impairment, went to Finland and paid a courtesy visit to Ms. Sirpa Paatero, Minister of Foreign Trade and Development.⁴⁰⁶ A concert was held by students with disabilities in the U.K. and France from February 20 to March 2, 2015.⁴⁰⁷ Eighteen persons with hearing impairment from Japan, Singapore, and the Netherlands also visited North Korea from August 8 to 12, 2014.⁴⁰⁸

Fourth, there is participation in international sport events for persons with disabilities. North Korea established the National Paralympic Committee in September 2011 and officially joined the International Paralympic Committee held in Athens from November 21~24, 2013. It also takes part in a wide range of international competitions for persons with disabilities, including the 2012 London Paralympics, the Asia Youth Para Games held in Kuala Lumpur, Malaysia in October 2013, and the Asia Para Games held in Incheon in October 2014. On December 13, 2014, a football team of disabled athletes, led by Head General Manager Hyon Jang and Pun-hui Ri, the secretary-general of the Chosun

405_ 『Chosun Shinbo』, June 24, 2014.

406_ 『Voice of America』, November 8, 2014.

407_ 『Chosun Shinbo』, August 27, 2014; 『MK News』, September 17, 2014; 『The Asia Economy Daily』, February 6, 2015.

408_ 『Chosun Shinbo』, August 27, 2014.

Disabled Athletes Association, had a friendly match with the Australian team.⁴⁰⁹

F. Evaluation

North Korea has continuously sought to take domestic measures and engage in international cooperation to protect persons with disabilities after signing the CRPD. It has designated persons with disabilities as targets for particular protection and has responded to the issue of the disabilities with forward-looking policies. Although North Korea is making efforts to improve awareness of persons with disabilities, it is identified that there is still a negative perception that they are “handicapped.” Moreover, suspicion over practices that violate the right to integration in local communities and the right to family, such as through segregation and sterilization, is yet to be resolved. While efforts for rehabilitation are being made through honored veterans factories and factories for general persons with disabilities, these are assessed as ineffective due to the economic hardship. While the authorities emphasize that there is care for persons with disabilities, it seems that they are not investing significant resources. In particular, it is assessed that there are few meaningful policies and measures towards mobility of persons with disabilities.

⁴⁰⁹ 『Yonhap News Agency』, December 12, 2014.

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White Paper on Human Rights
in North Korea 2016



Chapter V

Major Issues

- 1 Political Prison Camps
 - 2 Corruption
 - 3 Overseas Defectors
 - 4 Overseas Workers
 - 5 Separated Families, Abductees,
and Korean War POWs
-

1

Political Prison Camps

A. Overview of Political Prison Camps (*Kwanliso*)

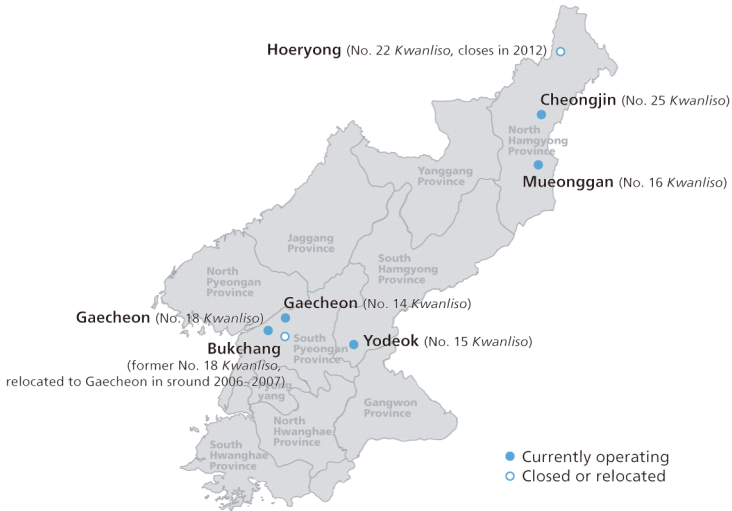
Although North Korea denies their existence, there are political prison camps, called “*kwanliso*”, in North Korea. These political prison camps (*kwanliso*) in North Korea have embedded in them fundamental factors that violate human rights in that they are not official detention facilities. It is identified that there are five political prison camps (*kwanliso*): No. 14 *kwanliso* in Gaecheon, No. 15 *kwanliso* in Yodeok, No. 16 *kwanliso* in Myeonggan, No. 18 *kwanliso* in Gaecheon, and No. 25 *kwanliso* in Cheongjin.⁴¹⁰ No. 14 *kwanliso* in Gaecheon is located in Dongchanggol, Jamsang-li, Chang-dong, Gaecheon, South Pyeongan Province. No. 15 *kwanliso* in Yodeok is located in the 5 lis of Daesuk-li,

⁴¹⁰ Although it was known that a total of six political prison camps (*kwanliso*) were operating, it is identified that No. 22 *kwanliso*, located in Naksaeung-li, Haengyoung-li and Namseok-li in Hoeryeong, North Hamgyeong Province, finally closed around 2012, according to testimonies by North Korean defectors. Many testimonies on the closedown of No. 22 *kwanliso* in Hoeryeong were also collected in the 2015 survey. NKHR2015000023 2015-01-27; NKHR2015000025 2015-01-27; NKHR2015000026 2015-01-27; NKHR2015000031 2015-02-10; NKHR2015000129 2015-09-22; NKHR2015000135 2015-09-22; NKHR2015000163 2015-12-01.

Ipseok-li, Gueup-li, Yongpyeong-li and Pyeongjeon-li in a vast area accounting for one-third of Yodeok County. No. 16 *kwanliso* in Myeonggan is located in Jungpyeong-dong, Gari-dong and Buhwa-li in Myeonggan County, North Hamgyeong Province. While known by the old name of Myeonggan, it is also called Hwaseong *kwanliso*. No. 18 *kwanliso* in Gaecheon is located in Dongrim-li, Gacheon, South Pyeongan Province, and it is identified that the former No. 18 *kwanliso* in Bukchang, located in Sepo-dong, Sampo-dong and Sinheung-li, was downsized and moved to Dongrim-li, Gaecheon, South Pyeongan Province. No. 25 *kwanliso* in Cheongjin is located in Suseong-dong, Songpyeong district, North Hamgyeong Province. While No. 25 *kwanliso* in Cheongjin is also called Suseong *kyohwaso*, it is actually a political prison camp (*kwanliso*) accommodating political criminals. There are also testimonies that senior officials including heads of provincial Party MPS, and chairmen of provincial People's Committees, etc. have been seen in No. 25 *kwanliso* in Cheongjin.⁴¹¹

411- NKHR2014000056 2014-05-20; NKHR2014000010 2014-03-04.

Figure V-1 Location of Political Prison Camps (*Kwanliso*)



KINU estimated in 2013 that there are at least between 80,000 and 120,000 political criminals imprisoned in the five political prison camps (*kwanliso*) based on testimonies of North Korean defectors and interpretation of satellite photos, etc.⁴¹² The downsizing/relocation of Bukchang *kwanliso* in 2006~2007, and the shutdown of Hoeryeong *kwanliso* around 2012 also supports these estimated numbers, as do the testimonies of North Korean defectors, that the number of new prisoners has not been large since the 1990s, and that the accident mortality rate is high due to

⁴¹² Keum-Soon Lee et al., 『Political Prison Camps in North Korea』, pp. 19-21. (In Korean)

poor work environments inside coal mines also support such estimation. However, this reduction in the number and size of the political prison camps (*kwanliso*) cannot be interpreted as an indication of a change in view and policies on political prison camps (*kwanliso*) by the North Korean authorities. What is important is that the system of political prison camps (*kwanliso*) that segregates groups hostile and potentially threatening to the regime still remains under Kim Jong-un.⁴¹³

The political prison camps (*kwanliso*) in North Korea can be classified into: those in the form of a town and those in the form of a prison camp (*kyohwaso*); those with both total control zones and revolutionary zones and those with only total control zones; those where only political criminals themselves are imprisoned and those where criminals are imprisoned together with their families; and those managed by the SSD and those managed by the MPS. Details can be seen in the table below.⁴¹⁴

⁴¹³- Ibid., p. 21.

⁴¹⁴- Refer to Ibid., pp. 11~16 for more details.

Table V-1 Reality of Management and Operation of Political Prison Camps (*Kwanliso*)

| | No. 14 <i>Kwanliso</i> in Gaecheon | No. 15 <i>Kwanliso</i> in Yodeok | No. 16 <i>Kwanliso</i> in Myeonggan | No. 18 <i>Kwanliso</i> in Gaecheon (former Bukchang <i>Kwanliso</i>) | No. 25 <i>Kwanliso</i> in Cheongjin |
|---------------------------|------------------------------------------|------------------------------------------------|-------------------------------------------|--------------------------------------------------------------------------------------|-------------------------------------------|
| Form | Town | Town | Town | Town | Detention facility |
| Division of zones | Total control zone | Revolutionary zone Total control zone | Total control zone | Immigrant (No division of zones) | Prison camp (<i>kyohwaso</i>) |
| Possibility of release | Impossible | Impossible, possible | Impossible | Impossible, possible | Impossible, possible |
| Accompanying family | Accompanying families | Criminals only/ accompanying families | Accompanying families | Criminals only/ accompanying families | Criminals only |
| Management entity | SSD | SSD | SSD | MPS | SSD |

B. Imprisonment of Political Criminals

While those who commit “absolute” political crimes were imprisoned in political prison camps (*kwanliso*) in the early stage of their operation, it is identified that the scope of prisoners has expanded to include those who have committed general crimes, who cannot easily be regarded as political criminals.⁴¹⁵ According to surveys so far, people are imprisoned mostly for criticizing the North Korean regime or insulting *Suryong*, attempting escape to

.....
⁴¹⁵ Ibid., pp. 10~11.

South Korea, contacting South Koreans or making favorable comments about South Korea, etc. There are also continuous cases of imprisonment for engaging in religious activities such as religious services or for having family members that defected from North Korea and went to South Korea. It also seems that some are imprisoned as punishment for social delinquency or as examples, and some testimonies mentioned cases where people were imprisoned for human trafficking⁴¹⁶, as well as serious economic crimes.⁴¹⁷ Meanwhile, it is identified that the principle of “guilty by association,” where both the criminal and his or her family, and sometimes even his or her relatives, are punished is applied to political criminals. It is said that generally “guilty by association” applies to direct families. There are also testimonies that when a spouse is accused as a political criminal, one may avoid going to political prison camp (*kwanliso*) by divorcing the accused spouse.⁴¹⁸

It seems that legal procedures are not abided by in the process of arresting political criminal suspects and imprisoning them in political prison camps (*kwanliso*). North Korean defector ○○○ testified that imprisonment at political prison camps (*kwanliso*) is decided exclusively by the SSD without trials.⁴¹⁹ As political

⁴¹⁶- NKHR2011000068 2011-03-15; NKHR2011000124 2011-05-24.

⁴¹⁷- NKHR2011000196 2011-09-06.

⁴¹⁸- NKHR2013000154 2013-08-20.

⁴¹⁹- NKHR2013000154 2013-08-20.

criminal suspects are imprisoned at political prison camps (*kwanliso*) in such ways, it is not easy for the general population to know what has happened to their family members, and whether they have been imprisoned in political prison camps. However, there are also cases where the testifier was able to find out through documents about an imprisonment at a political prison camp (*kwanliso*). North Korean defector ○○○ testified that when he or she checked his or her own document, it was written that two uncles were imprisoned in political prison camps (*kwanliso*).⁴²⁰

There were testimonies also in the 2015 survey of imprisonment at political prison camps (*kwanliso*). North Korean defector ○○○ testified that his or her mother was imprisoned in No. 25 *kwanliso* in Cheongjin as it was discovered that she met her daughter in China and encouraged her to go to South Korea in February 2011.⁴²¹ A North Korean defector who lived in Hoeryeong, North Hamgyeong Province, testified that a colleague and his or her family was arrested in China as they attempted to go to South Korea and were imprisoned at a political prison camp (*kwanliso*) around 2011.⁴²² According to the testifier, there were many families imprisoned at a political prison camp (*kwanliso*) in Hoeryeong, North Hamgyeong Province as they were arrested

⁴²⁰_ NKHR2013000001 2013-01-08.

⁴²¹_ NKHR2015000101 2015-05-19.

⁴²²_ NKHR2015000031 2015-02-10.

while attempting to go to South Korea.⁴²³ Another North Korean defector testified that he or she had heard that ○○○, who lived in the neighborhood, was imprisoned at a political prison camp (*kwanliso*) for smuggling goods from China and engaged in searches for separated family members in South Korea as he or she was caught through phone detection equipment in November 2014.⁴²⁴ It is said that the MPS officer in charge mentioned that ○○○ went to a political prison camp (*kwanliso*) in a People's meeting and that “not even a law would forgive those who have relations with South Korea.”⁴²⁵ In addition, there was also testimony that the testifier heard that a mother of a colleague was caught for calling a son living in South Korea and was imprisoned at a political prison camp (*kwanliso*) in the summer of 2013.⁴²⁶ However, in the 2015 survey, there were testimonies that while there used to be many cases of imprisonment for the remaining family of defectors from North Korea, such cases have decreased as the cases of people escaping to South Korea have increased and it is difficult to handle each case in that way.⁴²⁷ Moreover, in the 2015 survey, there were testimonies that even when families are imprisoned for “guilt by association“, children were released.

423_ Above testimonies.

424_ NKHR2015000136 2015-09-22.

425_ Above testimonies.

426_ NKHR2015000085 2014-04-21.

427_ NKHR2015000028 2015-02-10.

Other testimonies were that families who attempted to escape to South Korea were imprisoned in political prison camps (*kwanliso*), but their children were not.⁴²⁸

C. Overview of Prison Life

(1) Extrajudicial, Summary or Arbitrary Execution

According to the testimonies by North Korean defectors collected so far, it is identified that executions are carried out by SSD agents, who do so without following any legal procedures, for violation of rules or disobedience to orders, etc., at political prison camps (*kwanliso*). It is testified that such executions are carried out in public in most cases, but sometimes in secret.

(2) Forced Labor

Prisoners are identified as being forced into hard labor at political prison camps (*kwanliso*). The type of labor differs by political prison camp (*kwanliso*), but it was testified that at the former No. 18 *kwanliso* in Bukchang, prisoners were mostly put to work at a coal mine as farming was impossible due to the area's geological characteristics.⁴²⁹ Work units at No. 15 *kwanliso* in

⁴²⁸. NKHR2015000015 2015-01-27; NKHR2015000030 2015-02-10.

⁴²⁹. North Korean defector ○○○, September 14, 2012, interviewed in Seoul; North Korean defector ○○○, October 12, 2012, interviewed in Seoul.

Yodeok were engaged in industry, agriculture, and other types of work.⁴³⁰ As labor at coal mines is done according to “production plans,” if one fails to fulfill the daily workload quota by the end of the normal work day, he/she must continue working until the quota is met.⁴³¹ It is identified that prisoners are mobilized for labor even on weekends without rest. Hye-suk Kim, a woman who was imprisoned at the former No. 18 *kwanliso* in Bukchang testified that she was mobilized on off days to work in the houses of coal mine SSD agents or MPS officers in charge as well as plowing fields, planting potatoes, weeding, or carrying coal to the warehouse.⁴³² There are also cases where forced labor resulted in death. North Korean defector ○○○ testified that he or she worked in the former No. 18 *kwanliso* in Bukchang and around 10 people died a year.⁴³³

(3) Inhumane Treatment

It is identified that violence and mistreatment are prevalent at political prison camps (*kwanliso*). North Korean defector ○○○ testified that in former No. 18 *kwanliso* in Bukchang, Vice mine captain ○○○ who was in charge of the coal mine shift kicked

⁴³⁰- North Korean defector ○○○, September 27, 2012, interviewed in Seoul.

⁴³¹- North Korean defector ○○○, September 14, 2012, interviewed in Seoul.

⁴³²- Hye-suk Kim, 『A Prison Camp Created in Tears.』, (Seoul: Sidajeongshin, 2011), p. 38. (In Korean)

⁴³³- NKHR2013000126 2013-07-09.

him and struck him with a bat when he failed to come up with the required amount of coal, and the MPS officer in charge of the coal mine also beat him.⁴³⁴

It is identified that prisoners also suffer from poor nutrition, sanitation and healthcare at political prison camps (*kwanliso*). Hye-suk Kim, while imprisoned at the former No. 18 *kwanliso* in Bukchang, testified that her seven family members were given only eight kilograms of Annam rice (*allyangmi*) per month.⁴³⁵ Since there was no way to get more rice, they had no choice but to go out and climb hills and mountains to pick wild greens to fill their hungry stomachs, and even when off duty, all families had to collect edible greens from the mountain and store them for food.⁴³⁶ North Korean defector ○○○ testified that in the former No. 18 *kwanliso* in Bukchang, his or her father died from chronic sickness and malnutrition, and his or her two younger siblings died from malnutrition and sickness respectively.⁴³⁷ Moreover, at Yongjong Hospital in the former No. 18 *kwanliso* in Bukchang in April 2004, medical staff took only an X-ray of his injured leg, and told him his leg should be amputated. No other medical treatment was offered.⁴³⁸

434_ NKHR2013000126 2013-07-09.

435_ Hye-suk Kim, 『A Prison Camp Created in Tears』, pp. 73~76. (In Korean).

436_ Ibid., pp. 73~76.

437_ NKHR2013000126 2013-07-09.

438_ Above testimonies.

(4) Restrictions on Family Life

According to the testimonies of North Korean defectors collected so far, one cannot live with one's parents or siblings or even the spouse in total control zones. Moreover, in revolutionary zones, marriage and childbirth are generally prohibited. There were testimonies that husbands and wives were assigned to opposite work shifts to prevent them from having sex.

D. Evaluation

According to the 2015 survey, there continue to be cases of imprisonment at political prison camps (*kwanliso*) for attempting to escape to South Korea or contact South Koreans, etc. However, in the 2015 survey, there were testimonies that the incidence of the remaining family members being sent to political prison camps (*kwanliso*) when one of them escaped to South Korea has decreased and that even when a whole family is imprisoned at political prison camps (*kwanliso*), children were released. The situation where political criminal suspects are imprisoned after arrest without any legal procedures being followed, and their families left in the dark regarding their whereabouts or whether they were alive or dead constitute infringements on the right to not be tortured or receive inhumane treatment (Article 7 of the ICCPR), the right to liberty and security of person (Article 9 of the ICCPR) and the right to a fair trial (Article 14 of the ICCPR).

Meanwhile, there was no testimony on the actual life of prisoners in political prison camps (*kwanliso*) in the 2015 survey. If the situation remains essentially unchanged for prisoners, it is assessed that their diverse rights and freedoms recognized by the ICCPR are infringed upon. More specifically, summary execution of prisoners and death caused by inhumane treatment constitute infringements on the right to life (Article 6 of the ICCPR) while serious exploitation of prisoners for labor constitute infringement on the right to not be forced into labor (Article 8 of the ICCPR). The violence, mistreatment and the poor nutrition, sanitation and healthcare that prisoners receive in themselves constitute violations of the right to humane treatment in detention (Article 10 of the ICCPR), and in serious cases, may also constitute infringement on the right to not be tortured or receive inhumane treatment (Article 7 of the ICCPR). In addition, restrictions on family life at political prison camps (*kwanliso*) also infringe on the right to form a family and be protected by society and the State (Article 23 of the ICCPR). The political prison camps (*kwanliso*) in North Korea can be concluded to form the most comprehensive and definitive version of the violation of human rights.

2

Corruption

A. Overview of Corruption in North Korean Society

Corruption is prevalent in North Korean society to the extent where it is part of daily life, without distinction between central, provincial and lower levels. Since the economic hardship of the 1990s, the provision of rations for the general population had technically been suspended, and the planned economy is operating in a distorted way. Against this backdrop, the North Korean people have sought ways to survive through the markets, and the unlawful and anti-socialist practice of abnormally pursuing private interest has spread rapidly in North Korea.⁴³⁹ North Korea punishes bribery through the Criminal Law and the Administrative Penalty Law. Article 230 of the North Korean Criminal Law stipulates that “those who receive large bribes shall be subject to one year or less of labor training punishment. Those who receive particularly large bribes shall be subject to three years or less of

⁴³⁹ Soo-am Kim et al., “The Correlation between Corruption and Human Rights in North Korea”, p. 3. (In Korean)

correctional labor punishment.” Article 163 of the Administrative Penalty Law states that those who receive or offer bribes or engage in brokerage of bribes may be subject to admonitions, stern warnings, three months or less of unpaid labor and reeducational labor, and in serious cases, three months or more of unpaid labor, reeducational labor or demotion, dismissal, or loss of employment. However, in spite of such legal restrictions, corruption such as bribery has become even more prevalent in North Korean society. In particular, bribery during the investigation or preliminary examination process, in detention facilities such as prison camps (*kyohwaso*) etc., and during the trial process indicates that the corruption of judicial authority and bureaucratic society is serious. Bribery is also general practice in the daily lives of the North Korean people, for example, in issuing travel permits, buying and selling houses, and job assignments, etc.

B. Corruption in Control of People and the Punishment Process

(1) Corruption in Crackdowns

Control of the people by the North Korean authorities has been consistent, although the degree has varied over time. This control most often takes place in economic and market activities, and is mostly aimed at preventing relaxation of social order due to marketization. Meanwhile, as the control of and punishment for

anti-socialist activities, as defined by the North Korean authorities, is strengthened, the practice of offering bribes to avoid punishment has become ever more widespread in overall society. In the 2015 survey, there were many testimonies of people avoiding punishment or receiving lighter punishments by offering bribes after being caught using mobile phones or watching and distributing recordings.

Table V-2 Testimonies of Bribery during Crackdowns

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The testifier was caught by Group 109 while watching recordings at home but avoided punishment by paying a bribe of 1,000 Chinese yuan in 2013. | NKHR2015000027 2015-02-10 |
| The testifier was caught and arrested in 2013 when he or she was listening to South Korean songs with friends, but avoided punishment as the son of an official of the People's Security Agency and other children of senior officials were among them. | NKHR2015000052 2015-03-10 |
| The testifier was arrested in April 2014 for making phone calls to a relative in China, as a cousin of his second wife informed on him, but was released after paying a bribe to the SSD. | NKHR2015000070 2015-04-07 |
| A cousin of the testifier was caught in 2012 making five or more phone calls to his mother in China but escaped punishment by paying a bribe through connections with an espionage prevention officer of the City Security Division. | NKHR2015000134 2015-09-22 |

The amount of bribe required to avoid punishment was related to the severity of the punishment. North Korean defector ○○○ testified that in 2013, the required bribe was around 5,000~6,000 Chinese yuan for relatively minor violations related to mobile phones, while around 20,000 Chinese yuan was required for serious violations.⁴⁴⁰ It is said, however, that in general, it is difficult even for security agents to excuse people from punishment

even when offered bribes, for serious violations like those involving phone calls to South Korea.⁴⁴¹ However, there are also testimonies that a large bribe paid to security agents allowed people to avoid punishment in such cases.⁴⁴² Sometimes, security agents ask directly for money. There are also cases where there are agreements with security agents to handle phone call violations with bribes, when persons are caught for making international phone calls to receive money from relatives or acquaintances.⁴⁴³

(2) Corruption in the Investigation Process

There are also many cases of corruption involving bribes being paid to avoid punishment or reduce a prison term during the investigation process (investigation and preliminary examination stage) after cases are established. Sometimes the preliminary examination officers reduce the applicable punishment in return for the bribe during the preliminary examination process before trials. Even for the same violation, preliminary examination officers sometimes fabricate details to reduce the penalty. For example, this can include details on defectors such as the frequency and purpose of border-crossings, and the suspect's activities in China, so that the suspect can receive the minimum penalty. In extreme

440_ NKHR2015000031 2015-02-10.

441_ NKHR2012000139 2012-07-10.

442_ NKHR2012000015 2012-02-07.

443_ NKHR2015000123 2015-09-08.

cases, they can fabricate the time of arrest and the duration of detention. Even for cases related to smuggling and trafficking, they will complete forms in a way that the criminal can avoid the most severe punishment such as by reducing the amount of trafficked items.⁴⁴⁴ Some preliminary examination officers who were paid bribes did not forward the relevant files up the chain of command. For example, there was a case where the parents of a forcibly-repatriated defector bribed an investigator and obtained a diagnosis of mental illness, and the defector was released during the process of the investigation.⁴⁴⁵ Although in very rare cases, there are testimonies that those who paid bribes were prioritized for release when directions were given to carry out pardons on special occasions such as the founding day of the Party.⁴⁴⁶ In some cases, people bribe the agents during the investigation stage and are released after completing a self-criticism form.⁴⁴⁷ However, if the timing of the arrest is not favorable, including during central Party inspections or if the offense is related to activities subject to special crackdowns, then avoiding punishment or having documents adjusted for a bribe is difficult.⁴⁴⁸

444- Soo-am Kim et al., 『The Correlation between Corruption and Human Rights in North Korea』, p. 95. (In Korean)

445- NKHR2011000155 2011-07-05.

446- NKHR2011000186 2011-08-16.

447- NKHR2011000197 2011-06-06.

448- Soo-am Kim et al., 『The Correlation between Corruption and Human Rights in North Korea』 (Seoul: 2012), pp. 96-97. (In Korean)

There are also cases where people avoided punishment and were released on bail for illnesses or given a reduced punishment when detained at SSD detention centers. For example, the mother of North Korean defector ○○○ was detained at the detention center in Onsung, North Hamgyeong Province, as she had engaged in the business of facilitating the sending of money to families in North Korea in 2013, but was asked to submit two EVD players, and was released on bail for illness after paying 3500 Chinese yuan and submitting the EVD players.⁴⁴⁹ There is another example where the father of North Korean defector ○○○ was detained at a detention center in Musan County, North Hamgyeong Province, at the end of October 2014 for using a mobile phone, but was released in 25 days as a brother in South Korea sent three million South Korean won and the defector and his or her sister who were in China sent 6,000 Chinese yuan and 4,000 Chinese yuan, respectively. The testifier said that it seemed to have cost so much, despite the mother understanding such business well and maintaining good relations with the SSD agents, because the crackdown and punishment had been strengthened.⁴⁵⁰

Even at detention centers where visitors are not allowed in principle, they are possible when bribes with cigarettes and cash, etc., are offered. North Korean defector ○○○ testified that visits

449_ NHHR2015000096 2015-05-12.

450_ NKHR20150000046 2015-02-24.

were not allowed during inspections, but they were possible every other day when bribes of 100 Chinese yuan were paid per visit or 200 Chinese yuan per week for visit every other day.⁴⁵¹ As such, to send even food to family members in detention centers during the preliminary examination period, the families outside must bribe the guards, the preliminary examination MPS officers, or at least through someone who knows the MPS officers well.

(3) Corruption in Trials

Representative cases of corruption during the trial stage involves bribing judges to give favorable judgment and bail or probation. This bribery frequently results in people having their punishment reduced, and some are released for social education or put on probation. In the 2015 survey, there were testimonies that people received reduced penalties by directly bribing the chief judge, other judges and prosecutors. In 2012, an elder brother of North Korean defector ○○○ was put on trial for drug (*bingdu*)-related charges, but bribed the judge and prosecutor before the trial and received answer that “the trial is only a formality.” The elder brother was sentenced to one year and six months of correctional labor punishment but another bribe resulted in him being able to avoid prison camp (*kyohwaso*) and he was released on bail for illness.⁴⁵²

⁴⁵¹- NKHR20150000149 2015-10-20.

⁴⁵²- NKHR2015000043 2015-02-24.

People are mostly informed of the term of imprisonment during the interrogation process before trials, and there are testimonies that the chief judge informed people of ways to reduce this imprisonment through bribery. North Korean defector ○○○, who had a trial in 2012, testified that he or she was able to be sentenced to a shorter term of imprisonment than expected by denying testimonies made during the investigation process and the number of kilograms stated in other testimonies regarding the amount of smuggled scrap iron were reduced.⁴⁵³ A testifier who was put on trial in a court in Hoeryeong, North Hamgyeong Province, for illegal border-crossing in 2012, was supposed to be sentenced to five years of correctional labor punishment as he or she stayed in China for three years or longer, but was instead sentenced to two years and six months based on consideration of the fact that he or she sent condolence money to the central bank when Kim Jong-il died (contributed to the Geumsusan project) and paid 1,000 Chinese yuan to the chief judge.⁴⁵⁴

The bribery practiced in North Korean society actually burdens most people there. It is said that bribes should be paid to all the related people, even if simply a small amount, instead of just one person.⁴⁵⁵ Meanwhile, there are other cases where people put

⁴⁵³_ NKHR2015000149 2015-10-20.

⁴⁵⁴_ NKHR2015000123 2015-09-08.

⁴⁵⁵_ NKHR2015000043 2015-02-24.

together money for bribery through other illegal means. It is testified that the brother-in-law of North Korean defector ○○○ was sentenced to three years of correctional labor punishment in the first trial, as he was caught engaging in the business of making phone calls to South Korea, but his sentence was reduced to one year and six months after paying bribes in the final trial. Meanwhile, the sister of the testifier engaged in human trafficking (sending people to China in cooperation with the border defense unit) to make money for the bribes.⁴⁵⁶

(4) Corruption in the Execution of Sentences

After sentencing is done, there are also cases where people receive a reduced penalty in return for a bribe, being sent to labor training camps (*rodongdanryundae*) instead of prison camps (*kyohwaso*) or released on bail for illness. As one example, the nephew or niece of testifier ○○○, who was sentenced to three years and six months of correctional labor punishment in a trial as the family's plans to defect had been overheard through wiretaps, was imprisoned at a labor training camp (*rodongdanryundae*) instead of a prison camp (*kyohwaso*) through bribery.⁴⁵⁷ North Korean defector ○○○, who was detained at a detention center in Bocheon County, Yanggang Province, after investigated at the

⁴⁵⁶- NKHR2015000164 2015-12-01.

⁴⁵⁷- NKHR2015000014 2015-01-27.

prosecutor's office for smuggling scrap iron) in December 2013, was sentenced to limited-term correctional labor punishment during trial, but delayed his or her transfer to a prison camp (*kyohwaso*), had an appendectomy at an external hospital and was released on bail for sequela of appendectomy as his or her family had sent bribe money.⁴⁵⁸ There are also cases where people are able to change the location of the labor training camp (*rodongdanryundae*) where a sentence is to be carried out, and engage in "business" (bribery) and obtain early release. In 2010, the sister of North Korean defector ○○○ was transferred to Jagang Province after forcible repatriation from China, but was sent to a labor training camp (*rodongdanryundae*) in Yanggang Province, as the SSD contacted its counterpart in Yanggang Province. During this process, the mother of the testifier gave bribes and the sister was released in three days.⁴⁵⁹

It also seems that the basic rights of convicted prisoners, including the right to access to family, etc., are also dependent on bribery. North Korean defector ○○○, who was imprisoned at Jeongeori *kyohwaso* in 2012, testified that while the rule is to allow one visit every three months, it is possible to make this one visit per month by giving a bribe (one pack of cigarettes) to the agent in charge of visits.⁴⁶⁰

⁴⁵⁸_ NKHR2015000149 2015-02-24.

⁴⁵⁹_ NKHR2015000177 2015-12-01.

⁴⁶⁰_ NKHR2015000123 2015-09-08.

North Korean defector ○○○, who visited Jeongeori *kyohwaso* from 2013 to 2015, testified that it is impossible to visit if one does not have money, but one would be allowed to visit for a long time and watch the convicted prisoner eat the food that had been brought only when the money or goods asked for by agents at prison camps (*kyohwaso*), including MPS officers, were also brought.⁴⁶¹

C. Corruption Related to Issuance of Travel Permits

North Korea maintains a travel permit system for movement of people for reasons of social control, and it seems that bribery is the general practice when one wishes to expedite issuance of a travel permit. As a particular example, while it is difficult to obtain travel permits to go to Pyongyang, Kaesong, or the border region, it is possible through a substantial money bribe for such “districts requiring permit numbers.”⁴⁶² North Korean defector ○○○ testified that in general, one had to submit 10 US dollars or more to travel to Pyongyang and give bribes to agents at the MPS city/county branches (People’s Committee) at Section 2 Office of the People’s Committee to obtain a travel permit. One pack of Craven A cigarettes to the section head would buy a travel permit for three days to about one week in 2010. Sometimes, people are

⁴⁶¹_ NKHR2015000132 2015-09-22.

⁴⁶²_ NKHR2015000017 2015-01-27.

asked for bribes. One testifier said that the head of Section 2 Office of the People's Committee asked him or her to send 200 kg of rice.⁴⁶³ North Korean defectors who obtained travel permits to the border region through bribery in 2015 testified that people give bribes to Section 2 Office of the MPS city/county branch. Two packs of cigarettes were required to travel to Pyongyang or Raseon region, with an additional bribe to the Section 2 Office of the MPS city/county branch in the area to which they wish to travel would buy an extension of the permitted period of travel.⁴⁶⁴

D. Corruption Related to House Sales and Registration

As housing is also managed as state property in North Korea, it is assigned according to the job location. It is also illegal for individuals to engage in housing transactions between them. However, as the central ration system is barely working, it is the reality that the right to use housing is also included in private transactions between individuals.⁴⁶⁵ North Korean people pay bribes to agents of competent institutions or those involved in crackdowns to avoid punishment related to movement or residence

⁴⁶³_ NKHR2015000108 2015-06-02.

⁴⁶⁴_ NKHR2015000142 2015-10-06.

⁴⁶⁵_ Soo-am Kim et al., 『The Correlation between Corruption and Human Rights in North Korea 』, p. 111. (In Korean)

or to expedite the process even when it is legitimate.⁴⁶⁶ North Korean defector ○○○, who engaged in sale of a house in May 2013 testified that housing sales occur without permits for housing use and one can pay bribes to agents during inspections.⁴⁶⁷ North Korean defector ○○○, who sold a house and bought another single-story house in 2011 testified that while sales of housing are illegal as housing belongs to the State, he or she received a permit to use the house after paying 4,000 Chinese yuan to the housing agent of the city management division of the city's People's Committee.⁴⁶⁸ Meanwhile, bribery is also frequent in the process of moving-in notifications after transaction. North Korean defector ○○○, who engaged in sale of housing in 2015, testified that one can move to the border region by giving 2,000~3,000 Chinese yuan to the head of the MPS city/county branch.⁴⁶⁹

E. Corruption Related to Job Assignments and Overseas Dispatch

In North Korean society, bribery related to job assignment is very common. In the 2015 survey, there were many testimonies of

⁴⁶⁶_ Ibid.

⁴⁶⁷_ NKHR2015000122 2015-09-08.

⁴⁶⁸_ NKHR2015000140 2015-10-06.

⁴⁶⁹_ NKHR2015000142 2015-10-06.

assignment to comfortable enterprises or to enterprises of acquaintances through connections and also of not going to work through bribery. Meanwhile, it also seems that there are cases where bribes are requested to avoid discrimination at the assigned workplace due to family background. North Korean defector ○○ ○ testified that he or she was discriminated against because of a missing family member when he or she was working in the instigation group of a paper factory. To avoid that discrimination, he or she submitted a carton of cigarettes every month for one and a half years.⁴⁷⁰ The situation is the same when dispatched as overseas workers. The selection as or the location of dispatch for North Korean overseas workers is also decided through bribery. Most overseas workers are known to be paid low wages and hand over a substantial part of the wages to the North Korean authorities as part of planned quota or loyalty money. Nonetheless, North Koreans wish to be dispatched overseas because they can receive higher wages when assigned to jobs back in North Korea and can accumulate a certain level of wealth through private contracts, etc. The actual amount paid in bribes in the selection process is substantial. It is said that the amount required to be dispatched to Russia is the highest as people preferred it to hotter regions such as the Middle East.

⁴⁷⁰_ NKHR2015000167 2015-12-01.

F. Evaluation

In the 2015 survey, it was found that corruption, including bribery, is prevalent in North Korean society. Corruption goes against the basic principles of human rights, including equality and non-discrimination.⁴⁷¹ The fact that the ability to pay bribes decides whether a person can enjoy economic, social and cultural rights, as well as civil and political rights, undermine equal application and realization of human rights. The majority of North Korean defectors say that many things can be resolved through the use of “money” in North Korean society. Although family background is still an important influence in employment as a senior official or when entering central colleges, it is noteworthy that many things, including becoming a Party member or entering a general college, that used to mainly be decided by family background (*songbun*), can be handled through financial means. North Korean people use the term “business” to describe bribery. This indicates that the people perceive the practice as a normal thing and do not have a negative perception of handling issues in this way. Meanwhile, it may be more difficult to establish an awareness of universal human rights if there is an overwhelming perception that bribery is just a part of life. Moreover, such practices prevent fair application of standards in punishment and

⁴⁷¹-Soo-am Kim et al., “The Correlation between Corruption and Human Rights in North Korea”, p. x. (In Korean)

may serve to aggravate the violation of human rights of the North Korean people.

The prevalent corruption in North Korean society infringes upon the right of individuals to be equal before the law and receive, without any discrimination, the equal protection of the law (Article 26 of the ICCPR). In particular, the corruption during crackdowns and the investigation stage breach the principle of non-discrimination as the establishment of a case or punishment is decided simply by whether a bribe is paid or not.⁴⁷² Moreover, in cases where the crime involves victims, it violates the principle of fairness.⁴⁷³ Corruption during the trial process influences the realization of judiciary justice in that one who does not give a bribe would receive unfair punishment.⁴⁷⁴ In people's daily lives, there were specific cases of bribery and corruption related to the issuance of travel permits, housing sales, and job assignments. This undermines the fair enjoyment of individual rights. Specifically, it can serve as an obstacle to realization of individual rights to freedom of movement and residence (Article 12 of the ICESCR) and limit realization of the right to work (Article 6 of the ICESCR). As such, this prevalent corruption can undermine fair realization of everyone's civil and political rights, as well as

⁴⁷²- Ibid., p. 97.

⁴⁷³- Ibid., pp. 99~100.

⁴⁷⁴- Ibid., p. 93.

economic, social and cultural rights.

Given the current characteristics of the North Korean regime, there is an element of bribery providing a measure of relief from unfair or excessive enforcement of public authority over the North Korean people. However, if bribery serves as the ultimate deciding factor in exercising and enjoying rights by individuals, this may undermine the development of a rule of law and awareness of human rights.

3

Overseas Defectors

A. Size of the Overseas Defector Population and Background

The ICCPR stipulates that “everyone shall be free to leave any country, including his own” (Article 12, paragraph 2). Although a large number of North Koreans who fled the country are believed to be residing illegally in other countries such as China and Russia, the collection of accurate data on the exact number and details of individual conditions is impossible due to their insecure status preventing them from openly asking for help. The Tumen River region is normally used as the defection route for many North Koreans because it is easier to cross than other geographical points. However, there are a variety of ways to flee, such as escaping the workplace when assigned to jobs abroad legitimately or defecting to a third country after overstaying an authorized visit to China to visit relatives.

(1) Reinforced Control of Defections and Decrease in the Number of Defectors Living in China

Since the latter years of the first decade of the 2000s, the number of defectors living in China has dropped dramatically. The reasons are assessed to be more stringent border defense and control, continuous forced repatriations, fewer new defectors due to the increasing cost of defection, increases in the number of legal visitors with an increase in the issuance of border crossing cards, improved economic conditions in North Korea including reinvigoration of marketplaces, etc., and increased resettlements in South Korea or other third countries. It is identified that as the SSD has reviewed the emergency measures to prevent defection since 2009, it has strengthened surveillance and identification of ideological trends in families and relatives of defectors, ideological education, inspection of travel permits and bed-checks in border regions, and inspection of border guard commands. Moreover, it is identified that the North Korean authorities have increased punishment of residents found using cell phones in the border regions and intensified surveillance of coast guard personnel to prevent defections by sea. During the mourning period following Kim Jong-il's death on December 17, 2011, the movement of people was tightly controlled and every family along the border region was required to take turns standing guard.⁴⁷⁵ Bed-check

⁴⁷⁵- NKHR2012000260 2012-12-04; NKHR2014000020 2014-03-18.

inspections were reinforced and each *inminban* had to appoint a new informer.⁴⁷⁶ In Onsung County, North Hamgyeong Province, it is said the authorities placed land mines along the border or wooden boards studded with 10 cm nails along the Tumen River.⁴⁷⁷ Barbed wire fences and cameras were also installed, camouflaged traps set up⁴⁷⁸ and noise makers hung on the barbed wire fences to assist in detection⁴⁷⁹ along the major defection routes near Hoeryeong, Musan County, and Onsung County, North Hamgyeong Province. On the other hand, it is identified that official grain rations have partially resumed and some relief assistance offered to discourage defections. In an effort to prevent re-defection, it seems that local Party secretaries are also held responsible,⁴⁸⁰ and economic support is provided while there is a close watch on the activities of individuals who have attempted to defect.⁴⁸¹

During this time, Hyesan, Yanggang Province, became a new defection route, and the authorities installed electronic walls and other devices to detect cell phone activities and prevent defections in the area. As a result, it became very difficult for escape brokers

476_ NKHR2012000151 2012-07-24.

477_ NKHR2012000182 2012-09-11. For this purpose, each enterprise was required to submit 5 nail-spike panels (30 cm x 50 cm). In January 2014, middle school students were each required to submit five regular-sized, nail-studded boards. NKHR2014000050 2014-05-13.

478_ NKHR2014000050 2014-05-13.

479_ NKHR2012000213 2012-10-16.

480_ NKHR2014000207 2014-12-16.

481_ NKHR2012000140 2012-07-10; NKHR2013000019 2013-02-05.

to contact potential defectors. Moreover, a barbed wired fence was installed along 12 km of the border region in Hyesan. Although the fence was only connected with horizontal wires as of June 2015, there are plans to add vertical wires.⁴⁸² Two-storied posts have also been installed.⁴⁸³ North Korean defector ○○○ testified that he or she attempted to defect North Korea in 2014 but gave up because of very tight border controls and instead defected in June 2015.⁴⁸⁴

In January 2014, a proclamation from Kim Jong-un was communicated. It reportedly stipulated that anyone caught talking to defectors or escape brokers over mobile phones in the border areas would not be handled in his area of residence but be transferred to the SSD provincial bureau.⁴⁸⁵ This may also be interpreted as a move to curtail the practice of North Korean defectors avoiding punishment by bribing personnel in their areas of residence. In January 2014, training sessions on this issue were held for individual *inminban* in Hoeryeong, North Hamgyeong Province. The participants were told, “The border areas will be transformed into politically stable zones; families with relatives in China and South Korea will be deported to South Hamgyeong Province and Gangwon Province. Those making phone calls to

⁴⁸²- NKHR2015000130 2015-09-22.

⁴⁸³- NKHR2015000136 2015-09-22.

⁴⁸⁴- NKHR2015000130 2015-09-22.

⁴⁸⁵- NKHR2014000040 2014-04-29; NKHR2014000037 2014-04-15.

defectors or brokers or crossing the border will be dealt with by the SSD.”⁴⁸⁶ The proclamation is known to include a plan to demolish private houses close to the border areas. This plan, however, is identified to have not been implemented fully in reality as such forced deportation of the families of defectors may backfire, instead triggering a mass exodus of these families.⁴⁸⁷

As there was a new and strong official warning issued to the effect that three generations (of a family) would be destroyed (punished) if anyone defected, and defectors would be executed on-site,⁴⁸⁸ it is assessed that the number of defections has reduced substantially.⁴⁸⁹ Such warnings regarding shootings were made not only during the mourning period for Kim Jong-il but also during the special vigilance period when the guidelines were communicated.⁴⁹⁰ There were testimonies that the Border Security Guards were instructed to order attempted defectors to “Order them to stop, and shoot them if they do not.”⁴⁹¹ And there are

⁴⁸⁶_ NKHR2014000050 2014-05-13.

⁴⁸⁷_ NKHR2014000166 2014-10-07; NKHR2014000165 2014-10-07; NKHR2014000136 2014-09-02.

⁴⁸⁸_ NKHR2012000151 2012-07-24; NKHR2012000183 2012-09-11; A North Korean defector from Onsung testified that she/he was found by a border guard while crossing Tumen River on February 1, 2011. However, the guard just shouted at him/her without shooting. NKHR2012000165 2012-08-07.

⁴⁸⁹_ NKHR2012000094 2012-05-29; NKHR2012000269 2012-12-11. There was an official warning that “3 generations (of a family)” would be wiped out if anyone tried to engage in peddling or other business during the ‘mourning period.’

⁴⁹⁰_ NKHR2014000024 2014-04-01; NKHR2014000129 2014-08-29; NKHR2014000131 2014-08-26; NKHR2014000175 2014-10-21.

⁴⁹¹_ NKHR2014000063 2014-06-03; NKHR2014000131 2014-08-26.

many testimonies that guns were actually used during defection attempts. In contrast, there are also testimonies that guns are only used as threats to prevent defection, and the guards cannot actually shoot people.⁴⁹²

Table V-3 Testimonies on the Use of Guns during Defection Attempts

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| On January 16, 2012, at Wonjong Customs Office in Wonjong-ri, Rason (Sonbong County), while the testifier, who was 38 years old, and two friends of his or hers were crossing the river, a man believed to be an SSD agent fired at them from three meters away and followed them all the way to China. | NKHR2014000020 2014-03-18 |
| In April 2013, a man 37 years old, who was a friend of the testifier, was caught while illegally crossing the river in Deoksan, Samjiyeon County, Yanggang Province. There were prior warnings from the border defense unit and the man died without resistance. | NKHR2013000231 2013-12-24 |
| On August 15, 2013, a group of 12 men and women crossed the river to collect blueberries in China. The border security guards shot at them immediately, although it is unclear whether they fired live rounds or blanks. A man in his 40s who was from Bocheon County, Yanggang Province, was injured. | NKHR2014000055 2014-05-20 |
| In July or August 2014, two men were caught in Samjiyeon County, Yanggang Province, while escaping after voluntarily returning to North Korea. One was shot in the arm and the other killed on the spot after the defense unit opened fire. | NKHR2015000084 2015-04-21 |

As anti-defection measures have tightened, the fee for “river-crossing guides” paid to defection brokers and border security guards has increased.⁴⁹³ It is identified that this practice has

⁴⁹²_ NKHR2015000122 2015-09-08.

⁴⁹³_ OO Yoon , “Current Status and Prospect of Defectors in China,” Closed Advisory Meeting of KINU (May 2, 2012); NKHR2014000037 2014-04-15.

become so widespread that at one point, an order was issued in Onsung County, North Hamgyeong Province, that border guards who accepted money from river-crossing guides were not penalized as long as they reported it afterwards.⁴⁹⁴ As the number of brokers and soldiers who reported, after the fact, receiving money increased, some defectors began to investigate the border control situation alone and defect without the brokers' help. As the risk of getting caught in the process of defection increased, the number of people trying to enter China to earn money significantly decreased.

(2) Defector Attempts to Migrate Globally

In addition to China, defectors appear to be attempting to move to Russia, other CIS countries, Mongolia or Southeast Asia, or live in illegal settlement areas of Chinese people, including Korean-Chinese and Han Chinese. With the support of private organizations and volunteer activists, defectors are seeking asylum and safe havens around the world, including Thailand, Japan, Canada, Australia, the United States, EU member states, and Israel. According to the UNHCR, as of the end of 2014, there are 1,282 North Korean defectors around the globe with refugee status.⁴⁹⁵

⁴⁹⁴_ NKHR2014000118 2014-08-12.

⁴⁹⁵_ UNHCR(www.unhcr.org), Global Trends: Forced Displacement 2014, Table 2.

Table V-4 Number of Overseas Defectors with Refugee Status

| Year | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|------------------|------|------|-------|-------|-------|-------|
| Number (persons) | 881 | 917 | 1,052 | 1,110 | 1,166 | 1,282 |

Source: Compiled based on the annual Global Trends of the UNHCR

Since 2004, the number of North Korean refugees illegally entering Thailand in hopes of going to South Korea or the United States has risen constantly. With the increasing number of defectors, there have been many cases of group arrests of North Koreans illegally entering Thailand. Furthermore, as the period at detention facilities of immigration offices grows longer, some refugees have begun to stage hunger strikes to protest their detainment, which has resulted in speedier entry procedures.⁴⁹⁶ Moreover, an increasing number of North Koreans have also applied for political asylum (refugee status) to EU member states. However, many of these were found to be Chinese, including Korean-Chinese disguised as North Korean defectors, or North Korean defectors who had already settled in South Korea. For a North Korean citizen to cross the border and apply for political asylum with the European Union or another Western country, a large amount of money is needed. Thus, it is very difficult for any North Korean defector to file an exile application with a Western

⁴⁹⁶ Thailand served as a major transit country for North Korean defectors on their way to South Korea in 2015.

country, except for those working overseas who left their work areas and an extremely few wealthy people. South Korea revised its Enforcement Decree to the Act on the Protection and Settlement Support of Residents Escaping from the North, which means that for any former North Korean who has obtained South Korean nationality and applies for political asylum in a third country afterwards by concealing his/her new nationality, the South Korean government has the right to suspend or terminate protection and settlement support.

(3) Increasing Number of North Korean Workers Leaving Workplaces in Russia

North Korea and Russia have recently reinforced cooperation in crackdowns and repatriation of illegal immigrants. The two governments signed an agreement on the treatment of illegal immigrants in November 2014. The gist of the agreement is that those who are caught without legitimate documents shall be detained and will be deported within 30 days if illegal immigration is confirmed through an interview.⁴⁹⁷ Following the agreement, it is also reported that North Korea and Russia signed an agreement on mutual assistance in criminal matters and on extradition, in November 2015.⁴⁹⁸ In addition, North Korea and Russia signed

497_ 『Voice of America』, November 19, 2015.

498_ 『Voice of America』, November 19, 2015.

an agreement and protocol on repatriation of illegal immigrants on February 2, 2016.⁴⁹⁹ It is of concern in that it is part of the measures to reinforce crackdown and repatriation of defectors in Russia by North Korea and Russia. As many North Korean workers are dispatched to Russia, it is identified that those who are exposed to human rights violations are leaving their workplaces. For example, North Korean defector ○○○ left his or her workplace at a construction site on Sakhalin Island, Russia, on August 27, 2013.⁵⁰⁰ North Korean defectors in Russia face human rights infringements including delayed payment of wages and surveillance, etc.⁵⁰¹ In that North Korean workers can earn significant amounts of money if they can find private work, it is expected that an increasing number of them will leave their workplaces.⁵⁰²

B. Reality of Defectors Staying Overseas

As defections have occurred since the mid-1990s, the lives of North Koreans crossing the border into China has changed significantly. At the initial stages, most North Koreans quickly returned to North Korea after getting help from their relatives, and

499_ 『Yonhap News Agency』, March 3, 2016.

500_ NKHR2015000001 2015-01-13.

501_ 『Yonhap News Agency』, November 4, 2015.

502_ NKHR2015000158 2015-11-17. The testifier earned 1,500 US dollars per month.

the relatives tried their best to protect them. However, as the food crisis persisted in North Korea, even those without relatives in China began to cross the border in a blind attempt to survive.

As the food shortage continued for a sustained period of time, more North Korean women went to China to earn money, and a number of them who did not return to North Korea but instead settled in China began to increase. Not only those who were single but also those who were married with children ended up living with Chinese men to continue their hidden life in China. In such cases, although some women married voluntarily after being introduced to these men,⁵⁰³ most were sold without their knowledge and forced into marriage.⁵⁰⁴ In such cases, they sometimes escaped to other regions as they could not endure the inhumane conditions of being in a forced marriage and poverty,⁵⁰⁵ but it is identified that most of them remained because of fear of forced repatriation, giving up all hope. Since most North Korean women were traded like merchandise, they were usually under the constant watchful eyes of families and neighbors of their husbands. The reality is that any North Korean woman who

⁵⁰³ NKHR2012000090 2012-05-22 and 55 cases; NKHR2013000008 2013-01-08 and 37 cases; NKHR201400083 2014-07-01 and 47 cases.

⁵⁰⁴ NKHR2011000014 2011-01-04 and 85 cases; NKHR2012000014 2012-01-04 and 167 cases; NKHR2013000019 2013-02-05 and 66 cases; NKHR2014000086 2014-07-01 and 90 cases.

⁵⁰⁵ NKHR2011000052 2011-02-15; NKHR2011000057 2011-02-22; NKHR2011000073 2011-03-22; NKHR2011000109 2011-05-11; NKHR2011000138 2011-06-14; NKHR2011000212 2011-10-04; NKHR2011000224 2011-10-19; NKHR2014000157 2014-09-23.

illegally crosses the river into China could not find ways to stay in China other than living with a Chinese man. Consequently, it is assessed that once they realized the danger of arrest and other unavoidable realities, most North Korean women accepted that they had to live with a Chinese man.⁵⁰⁶ After prolonged stays in China, there were cases where some defectors were able to obtain resident permits (*hokou*).⁵⁰⁷ Also, some gave birth to babies with their Chinese husbands,⁵⁰⁸ and it is identified that some children born to female North Korean defectors received Chinese resident permits (*hokou*).⁵⁰⁹ In Han Chinese villages in rural areas, no forced repatriation is known to have taken place except when North Korean defectors are involved in serious problems and are thus reported to local authorities.⁵¹⁰ In some regions such as Hebei Province, it appears to be relatively easier than in other regions to obtain resident permits (*hokou*) through bribery.⁵¹¹ However, since 2014, it is identified that it has become difficult to

⁵⁰⁶_ NKHR2010000007 2010-03-16; NKHR2010000015 2010-10-05; NKHR2010000018 2010-10-05.

⁵⁰⁷_ NKHR2012000069 2012-01-13 and 8 cases; NKHR2013000128 2013-07-09 and 6 cases; NKHR2014000192 2014-11-18 and 3 cases.

⁵⁰⁸_ NKHR2011000014 2011-01-04 and 31 cases; NKHR2012000069 2012-01-13 and 48 other cases; NKHR2013000036 2013-02-19 and 37 other cases; NKHR2014000171 2014-10-07 and 85 other cases.

⁵⁰⁹_ NKHR2011000014 2011-01-04 and 21 cases; NKHR2012000069 2012-01-13 and 31 other cases; NKHR2013000036 2013-02-19 and 24 other cases; NKHR2014000053 2014-05-13 and 53 other cases.

⁵¹⁰_ NKHR2014000114 2014-08-12.

⁵¹¹_ NKHR2012000172 2012-08-21, It is said that many children who were born to female North Korean defectors received resident permits (*hokou*) after paying fines in the census in early 2012. NKHR2012000208 2012-10-09.

forge resident permits (*hokou*) in China.⁵¹² North Korean defectors find it increasingly difficult to live there as they are more often asked to present their citizen ID cards than before. When North Korean women are forcibly repatriated to North Korea, a considerable number of children are abandoned by their Chinese fathers while a majority of them do not receive education or medical services.⁵¹³

As more North Koreans stay in China for extended periods of time, practices have had to change. Unlike as in earlier years, North Koreans are living more in homes of Chinese people, including Han Chinese, than in the homes of Korean-Chinese. As they learn the Chinese language and became familiar with the Chinese environment, many defectors rent a room of their own. Some take jobs with South Korean businesses with an office in the area, or with families of South Koreans. Some defectors earn a living in China by engaging in vending businesses after saving money.⁵¹⁴ Also, although only in extremely few cases, there are some female North Korean defectors who have entered South Korea with the South Korean men with whom they resided in China. Some North Korean women in China go to South Korea through brokers after they find out about settlement support grants

⁵¹² NKHR2014000066 2014-06-03.

⁵¹³ 『Voice of America』, November 5, 2011.

⁵¹⁴ NKHR2011000030 2011-01-04.

offered by the South Korean government through Korean-Chinese men they live with, who went to South Korea first to find jobs, found about the support grants and later advised their North Korean partners to go to South Korea. In their effort to receive these settlement support grants, some North Korean defectors go to South Korea, with their male Korean-Chinese partners, on employment visas they obtain with fake Chinese passports and then report themselves.⁵¹⁵ There are also continuous cases of North Korean defectors obtaining Chinese passports with forged resident permits and coming to Jeju Island (South Korea), where no visa is required, and declaring their identity as North Korean defectors. However, it seems that a substantial number of female defectors continue to live in Han Chinese farming villages in China as there is little information on South Korea.⁵¹⁶

C. Punishment of Defectors

(1) Punishment Provisions

The North Korean Criminal Law divides charges for defection into illegal border-crossing and treason against the fatherland. It prescribes one year or less of labor training punishment and five years or less of correctional labor punishment for illegal border-crossing

⁵¹⁵- NKHR2011000127 2011-05-31; NKHR2011000192 2011-08-23.

⁵¹⁶- NKHR2012000186 2012-09-11.

(Article 221). It also stipulates that “citizens that commit treason against the fatherland, including those who flee to other countries, surrender or defect or turn over state secrets, shall be subject to five years or more of correctional labor punishment. Those who flee, surrender or defect to other countries, betray the fatherland or commit the treasonous action of handing over secrets of the fatherland are subject to five years or less of correctional labor training, and in serious cases, to unlimited-term correctional labor punishment or the death penalty and confiscation of property” (Article 68).

In addition to punishment for the crime of illegal border exit/entry, North Korean defectors can also be subject to punishment under a number of laws, including “Dealing in foreign currency” (Article 106), “Transgression of foreign currency management orders” (Article 107), “Illegally buying and selling merchandise in foreign currency” (Article 107), and “Smuggling and dealing in historical relics” (Article 189). In addition, any North Korean citizen violating North Korea’s Immigration Law shall be subject to fines and an administrative penalty of a ban on overseas travel, and in serious cases, a criminal penalty may be imposed (Article 45).

In addition to North Korean Criminal Law, the terms of punishment for defection are dictated by the People’s Security Enforcement Law and the Administrative Penalty Law. Article 30 of the People’s Security Enforcement Law stipulates that the People’s Security Agency shall check for and handle violations of

travel law and disorderly street wandering behavior. Article 57 of the law states that violators may be directly fined by security agents. These provisions are not intended to punish defections directly, but are utilized to prevent people from moving towards the border regions. Article 185 of the Administrative Penalty Law stipulates that anyone violating the border exit/entry law shall receive a warning, a serious warning, be subject to confiscation, or subject to three months or less of unpaid labor or reeducational labor. Article 194 prescribes that those who violate travel orders and engage in illegal exit/entry of restricted areas shall also receive a warning, a serious warning, fines, or three months or less of unpaid labor or reeducational labor, while in serious cases, they shall be subject to three months or more of unpaid labor, labor education, demotion, dismissal or firing from their jobs.

(2) Reality of Punishment

(A) Interrogation and Transfer

North Koreans caught in China are deported to military units along the border, then to the SSD of the repatriation area for basic and personal identity checks. They will then be sent back to their hometowns. Depending on the case, deportees are sent to their hometown agencies via the border region labor training camps (*rodongdanryundae*) or to provincial holding centers (*jipkyulso*), or sometimes they are sent directly to their hometown agencies (MPS). The punishment procedure after repatriation differs by the

initial detention facility to which deportees are sent. If the initial detention facility is at or near the detainee's hometown, the level of punishment is determined more quickly. However, if the detainee's hometown is far away from the SSD in the border region, the period of detention is extended because the MPS officers from the detainee's hometown have to travel to the border area detention facility in person to sign the defector out and also because of the risk of flight during transfer, securing of means of transfer and lack of means to contact the families, etc.

Those repatriated are investigated at a first-level detention facility for punishment. The SSD detention centers in repatriation areas are mostly in Onsung, Musan County, and Hoeryeong, North Hamgyeong Province, Sinuiju, North Pyeongan Province, and Hyesan, Yanggang Province. Here the repatriated people are detained after undergoing pocket searches, unclothed searches, and health examination (for AIDS). Although men and women are known to be detained separately, there are cases where they are not due to the number of people repatriated. It is testified that repatriated North Koreans use all means possible to hide the money earned in China from the inspectors during body searches. Article 37 of the Law for the Protection of Women's Rights prohibits any inspection of female bodies. However, it is said that inspectors thoroughly examine the detainees, including their uteri, order people to take off their clothes and make them squat down and stand up repeatedly, even feeding them to examine their feces.

In the early years of this practice, inspectors would confiscate all items brought from China, but it is identified that they return all personal items and possessions to the detainees upon their release from some point. Many defectors use the money they made in China to reduce the terms of their penalties in the process of interrogation or to survive inside the labor training camps (*rodongdanryundae*). In a very rare case, a woman was able to persuade an SSD agent to accompany her to the border region, where she received financial help from the man she lived with in China who responded favorably to her telephone call for help. There are also cases where the defector bribed the “law enforcement workers” to adjust the contents of their interrogation documents and therefore avoid punishment.

The border region SSD verifies personal data, home address, time and frequency of river-crossing, activities after the river-crossing (contact with South Koreans or Christians, any travel to South Korea, connections with human trafficking, possession or watching of pornography or South Korean videos, etc.). After these interrogations, the deportees are sent either to the MPS detention center or to the provincial holding centers (*jipkyulso*) in the border areas.

Under North Korean criminal procedures, there should be a preliminary examination where prosecutors establish the facts of any crime and indict or exonerate the suspect. In the preliminary examination, prosecutors ask repatriated people to describe their activities in China in detail and try to get information through

other repatriated people. During this phase, investigators will use beatings and abusive language to persuade people to report on the activities of other repatriated people in China. The preliminary examination should be concluded within 2 months. Criminal cases subject to labor training punishment must be completed within ten days (Article 150 of the Criminal Procedure Law). In complicated cases for which a preliminary examination requires more than ten days, the preliminary examination may be extended to up to five months, but for cases subject to labor training punishment, this period can be extended by up to 5 days (Article 151). Even if arrested and detained for defecting, minors are usually released without criminal penalty or turned over to “Group 515.”⁵¹⁷ In cases of illegal border crossing, the testimony of the suspect and other witnesses, along with the personal possessions of the suspect, serve as important criminal evidence. Two witnesses must be present during the collection of criminal evidence and physical exams, and witnesses for women shall be women (Article 198 of Criminal Procedure Law).

(B) Detention/Imprisonment and Stays of Execution for Pregnant Female Defectors

Pregnant women undergoing preliminary examination shall not

⁵¹⁷ North Korean defector ○○○ was released without prison term in 2006 as he or she was a minor in 2006 after being forcibly repatriated. NKHR2011000003 2010-03-16.

be detained within the period three months before and seven months after childbirth (Article 430 of the Criminal Procedure Law, Article 38 of the Law for the Protection of Women's Rights). However, there have been interrogations of pregnant women under detention within this period and forced abortions have been conducted. As the international community increased criticism of cases where abortions were forced on forcibly-repatriated women, and in cases of childbirth, where babies have been left to die, it is identified that North Korea has allowed childbirth in some regions, and then hands the babies over to their Chinese fathers. In cases where the defector is more than 7 months pregnant, it is reported that sometimes the pregnant defectors are released to give birth and then are imprisoned again after childbirth.⁵¹⁸ However, testimonies of forced abortion and babies being left to die after birth continue. As can be seen in <Table V-5>, it is identified that abortions or miscarriages from beatings at detention facilities also continue. There are also testimonies that abortions have not been forced on women in the last stage of pregnancy, and when abortions were forced, the women were excused from forced labor for a week after or put to lighter work, such as at restaurants.⁵¹⁹

⁵¹⁸- NKHR2014000001 2014-02-18.

⁵¹⁹- NKHR2012000198 2012-09-25.

Table V-5 Testimonies on Violation of Human Rights of Forcibly-Repatriated Pregnant Women

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In October 2011, a fellow female prisoner (36 years old) had a miscarriage at a labor training camp (<i>rodongdanryundae</i>) in Onsung, North Hamgyeong Province, after an MPS officer beat her for being pregnant with a Chinese baby. | NKHR2012000073 2012-05-08 |
| In October 2011, a fellow female prisoner (26 years old) in a provincial holding center (<i>jipkyulso</i>) in North Pyeongan Province, had a forced abortion by a medical officer at a hospital in an MPS city/county branch because she was pregnant with a Chinese baby. | NKHR2012000198 2012-09-25 |
| In November 20, in a holding center (<i>jipkyulso</i>) in Yanggang Province, a fellow female prisoner had a miscarriage as she was beaten by guards for being pregnant with a Chinese baby. | NKHR2012000174 2012-09-04 |
| In 2012, at a holding center (<i>jipkyulso</i>) in an unidentified region, a fellow prisoner was beaten to induce miscarriage because she was pregnant with a Chinese baby. | NKHR2014000113 2014-08-12 |
| In July 2012, a fellow prisoner underwent an abortion in a hospital at an unidentified detention facility in Hyesan, Yanggang Province because she was pregnant with a Chinese baby. | NKHR2014000167 2014-10-07 |
| In November 2012, a fellow prisoner underwent an abortion in a hospital at a detention center of an MPS city/county branch in Hyesan, Yanggang Province, because the baby was Chinese. | NKHR2012000090 2013-04-30 |
| In May 2013, a fellow prisoner stated that it was hard for her to work while pregnant, and had a miscarriage after being put to forced labor anyway at a labor training camp (<i>rodongdanryundae</i>) in Gilju County, North Hamgyeong Province. | NKHR2012000218 2013-11-26 |

Even after final sentencing, the court can stay or stop the execution of a sentence on seriously ill or pregnant women three months before or seven months after childbirth, who are sentenced to correctional labor punishment, labor training punishment or unpaid labor punishment (Article 18, paragraph 1 of the Judgment and Decisions Law). According to interviews with North Korean

defectors, sentenced executions would be stayed if the inmate was suffering from terminal illness and was assessed to be near death (from tuberculosis, dehydration, or infirmity) or from a communicable disease, and measures are taken so that the MPS officers of the resident area can transport them to their original residence area. However, sentenced executions of pregnant women who are not in the period of three months before and seven months after child birth are not suspended. Rather, there were cases of inducing miscarriage through beatings or abortion through injection of abortive medicine. Moreover, any newborns are deliberately abandoned so they die through the actions taken directly by MPS officers to make it impossible for the mothers to take care of them, while other inmates would also abandon the babies in exchange for early release. In rare cases, inmates were allowed to give birth, with their correctional labor punishment implemented six months later.⁵²⁰

(C) Imposition of Punishment

As the punishment of defectors has been significantly strengthened after Kim Jong-un came to power,⁵²¹ it is identified that they are sentenced more to correctional labor punishment than to labor training camps (*rodongdanryundae*) or receive labor training punishment.⁵²² There are testimonies that until 2013, those who

⁵²⁰- NKHR2014000001 2014-02-18; NKHR2014000054 2014-05-20.

⁵²¹- NKHR2012000155 2012-07-31.

were repatriated to North Korea for the first time were sentenced to around 6 months at labor training camps (*rodongdanryundae*) while those repatriated for the second time were sentenced to correctional labor punishment. However, since 2014, all defectors are sentenced to correctional labor punishment regardless of the number of times they have been repatriated.⁵²³ The term of correctional labor punishment is three to five years, with the term varying according to the number of defections and the length of stay in China.⁵²⁴ However, it is said that for cases of simple defection, one could be sentenced to labor training punishment through bribery.⁵²⁵ Most of the people sentenced to correctional labor punishment for charges of illegal border-crossing are imprisoned at Jeongeori *kyohwaso* in North Hamgyeong Province and Gaecheon *kyohwaso* in South Pyeongan Province.⁵²⁶ It is found that around 70 percent of convicted prisoners at Jeongeori *kyohwaso* are imprisoned for charges of illegal border-crossing.⁵²⁷ Those who attempt to escape to South Korea are identified to be punished as political criminals.⁵²⁸

522_ NKHR2012000151 2012-07-24.

523_ NKHR2015000092 2015-05-12; NKHR2015000084 2015-04-21.

524_ NKHR2015000023 2015-01-27; NKHR2015000035 2015-02-10; NKHR2015000080 2015-04-21.

525_ NKHR2015000031 2015-02-10.

526_ Dong-ho Han et al., 『Prison Camps in North Korea (*kyohwaso*)』, pp. 15-17.

527_ Ibid., p. 14.

528_ NKHR2015000031 2015-02-10.

Table V-6 Testimonies on Punishment for Defectors

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The testifier was repatriated from China in 2011 and sentenced to one year of labor training punishment and was imprisoned at a labor training camp (<i>rodongdanryundae</i>) in Wonsan, Gangwon Province in June 2012. He or she was released thanks to the term reductions (one month) given in commemoration of the birthday of Kim Jong-un. | NKHR2014000005 2014-02-18 |
| The testifier was sentenced to one year of correctional labor punishment on February 16, 2011 and was imprisoned at Jeongeori <i>kyohwaso</i> in Hoeryeong, North Hamgyeong Province. | NKHR2012000264 2012-12-04 |
| The testifier was imprisoned after being sentenced to ten months of labor training punishment in Hyesan, Yanggang Province in July 2012. While the term of imprisonment at MPS city/county branch detention center was counted in execution of the sentence, the term at an SSD detention center was not. | NKHR2013000044 2013-03-05 |
| In November 2012, the testifier was sentenced to six months at the labor training camp (<i>rodongdanryundae</i>) in Hoeryeong, North Hamgyeong Province, but escaped one month after imprisonment and re-defected. | NKHR2013000107 2013-06-11 |
| The testifier was arrested while illegally crossing the river in Daehongdan County, Yanggang Province in October 2013, and was imprisoned for two months at a labor training camp (<i>rodongdanryundae</i>). | NKHR2014000141 2014-09-02 |
| The testifier was repatriated from China and imprisoned at a holding center (<i>jipkyulso</i>) in Yanggang Province in November 2013. While the testifier was imprisoned, he or she was released on bail for illness and re-defected after two months. | NKHR2014000074 2014-06-17 |
| In August 2013, the testifier returned voluntarily to Daehongdan County, Yanggang Province, and turned himself or herself in. He or she was sentenced to two months at a labor training camp (<i>rodongdanryundae</i>). | NKHR2015000045 2015-02-24 |
| In 2013, the testifier was sentenced in Dancheon, South Hamgyeong Province, to three years of correctional labor punishment for charges of illegal border-crossing but was released in one year and six months through bribery. | NKHR2015000092 2015-05-12 |
| In 2014, a woman was sentenced to three years of correctional labor punishment and was released after serving the term in Hyesan, Yanggang Province. | NKHR2015000072 2015-04-07 |

(D) Punishment of Defectors' Families

Since Kim Jong-un came to power, surveillance of the families of defectors has tightened, with reinforced punishment for defection. However, it seems that families of defectors are not deported unless it is confirmed that the family member actually went to South Korea.⁵²⁹ If the majority of a family defected, the remaining family members would be sentenced to labor training punishment for “use of a mobile phone”, etc.⁵³⁰ Moreover, when it is confirmed that there is contact with families in South Korea such as through phone calls, the remaining family members are forcibly deported.⁵³¹ There are also cases where any family members of a forcibly-repatriated defector would be discharged from military service on account of the “crime of poor family environment.”⁵³² There are also cases where defector families are punished for receiving remittances from abroad.⁵³³

In December 2012, Kim Jong-un issued instructions to “bring back defectors and give them stable living conditions.” Ever since, SSD agents began lectures at *inminban* on the importance of embracing the returning defectors and worked on persuading

⁵²⁹_ NKHR2013000036 2013-02-19; NKHR2013000033 2013-02-19; NKHR2013000039 2013-03-05; NKHR2013000121 2013-06-25; NKHR2013000117 2013-06-25; NKHR2013000123 2013-06-25; NKHR2013000180 2013-10-01.

⁵³⁰_ NKHR2013000104 2013-05-28.

⁵³¹_ NKHR2013000179 2013-10-01.

⁵³²_ NKHR2013000098 2013-05-14.

⁵³³_ NKHR2013000218 2013-11-26.

the families of defectors to bring their family members back to North Korea.⁵³⁴ It is found that deportation of defector families have decreased since 2012, with SSD informers and MPS city/county branch informers conducting surveillance on them instead.⁵³⁵ Since 2013, there have been threats to forcibly deport defector families, but it is identified that deportation has not actually been carried out considering the concern that the remaining members of these families may also choose to escape and of the potential that local residents may strongly resist the deportation as there is a large number of affected families in the border region.⁵³⁶ The authorities also refrain from deportations as this action in itself draws attention to the fact that defections have occurred.⁵³⁷ A correctional labor punishment imposed on family members of defectors negatively affects their family backgrounds. Those who are serving in the military are forcibly discharged,⁵³⁸ and when defection is discovered, the relatives are deprived of their positions.⁵³⁹

534_ NKHR2013000127 2013-07-19.

535_ NKHR2015000031 2015-02-10; NKHR2015000167 2015-12-01.

536_ NKHR2014000050 2014-05-13.

537_ NKHR2015000130 2015-09-22.

538_ NKHR2015000072 2015-04-07.

539_ NKHR2014000141 2015-10-06.

Table V-7 Testimonies on Punishment of Defector Families

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In the spring of 2011, the third eldest brother, his wife and his eldest daughter and her husband were caught attempting to escape to South Korea in Hyesan, Yanggang Province, and the whole family of four people was deported to a remote village in Kimhyongjik County, Yanggang Province. | NKHR2015000133 2015-09-22 |
| As the second defection of ○○○ was discovered in Hyesan, Yanggang Province in 2011, her mother and older sister were deported to Unheung-li, Hyesan. However through bribery, they moved back to where they used to live while only registered as being in Unheung-li. | NKHR2015000134 2015-09-22 |
| In 2012, the house of a man in the neighborhood of the testifier in Hyesan, Yanggang Province, was confiscated due to illegal border-crossing of a family member. | NKHR2013000006 2013-01-08 |
| In February 2012, after the testifier was repatriated after defection from Onsung, North Hamgyeong Province, all of the testifier's family was forcibly deported after the testifier received a criminal penalty (correctional labor punishment). | NKHR2014000048 2014-05-13 |
| In July 2012, the testifier's brother-in-law, a platoon leader, was forcibly discharged due to defection of the testifier's uncle in Pyeongseong, South Pyeongan Province. | NKHR2013000153 2013-08-20 |
| In July 2013, a family (two males who were neighbors of the testifier) were sentenced to 3 months at a labor training camp due to illegal border-crossing in Musan County, North Hamgyeong Province. | NKHR2014000205 2014-12-02 |
| In June 2014, as there was a missing person among the family of the testifier, who is from Hyesan, Yanggang Province, and the testifier's younger brother is under surveillance. | NKHR2014000209 2014-12-16 |
| The testifier, who was a military office and lived in Hyesan, Yanggang Province in 2014, was discharged due to defection of the testifier's sister. | NKHR2015000072 2015-04-07 |

D. Human Trafficking

International laws and national laws prohibit human trafficking, stressing its inhumane nature. Moreover, a substantial number of

human rights organizations engage in surveillance of human trafficking, launching international campaigns to root it out. According to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organized Crime in 2000 (hereinafter, the Protocol on Human Trafficking), states that human trafficking means “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of” exploitation. ““In the provision, the meaning of exploitation is very important and includes “the exploitation of prostitution of others or other forms of sexual exploitation, forced labor and services, slavery or practices similar to slavery, servitude or removal of organs.” The main difference between human trafficking and human smuggling is that traffickers continue to exploit people on an on-going basis after the illegal border crossing has concluded.⁵⁴⁰

(1) Organized Human Trafficking

As the number of border crossings increased, organized rings of

⁵⁴⁰ Norma Kang Muico, “An Absence of Choice: The Sexual Exploitation of North Korean Women in China,” (Anti-Slavery International, 2005), p. 3.

human traffickers began to appear to make money by handing North Korean defectors on to others. There were many incidents in which these ring members sought to capture North Koreans found around train stations or marketplaces and then sell them. This type of human trafficking went through several stages and involved many people. There were people who lured women across the river and people who received women on the Chinese side. There were brokers involved in the deals while hiding the women at certain places, and the cost of transaction increased at every stage. Organized human traffickers employed violent means to kidnap North Korean women, regardless of their marital status, and sold them for profit. As these organized human traffickers became more involved, the practice of selling North Koreans spread to inner areas of China's three northeastern provinces. In most cases, transactions were to trade North Korean women, but North Korean men were also traded to remote areas of China where there was a dire need for manpower.

As more human trafficking incidents and cases of human rights violations were reported, the Chinese authorities launched a massive roundup campaign targeting human trafficking rings. Subsequently, most organized human trafficking rings have disappeared. However, as North Koreans stay in China for longer periods of time, some illegal North Korean residents become involved in trafficking of fellow North Koreans. For example, some North Korean women living with a Korean-Chinese or a

Chinese man engaged in human trafficking introduce or trade other North Korean women to Chinese men or an entertainment establishment for a fee. The brokers, who include Korean-Chinese, trade the female defectors to Chinese men, telling each woman that she can contact him again if she does not like or has difficulties with the man or the work. If the female defector contacts the broker, he/she is moved to another area for a fee.

Human trafficking is illegal in China, and if detected, those involved are fined. Since those who transfer the women usually receive money for their services, others around them keep their distance when they learn of their human trafficking activities. It was reported that the border patrol battalions conducted intensive investigations on North Korean defectors arrested in China, focusing on human trafficking and the narcotics trade.

(2) Human Rights of Women Victims

As China industrialized, many women in the rural areas began to move to cities or foreign countries such as South Korea to make more money. In turn, the demand for marriage partners or women simply for sexual act increased. Due to such demand for North Korean women in China, North Korean women who cross borders are often traded as live-in partners for Chinese men. Some North Korean women are aware of this before being sold, but most are unaware until the transaction has been completed. In most cases, they are taken to Chinese men. Even if they know that they are

destined to be sold to Chinese men, some North Korean women ask for help in river-crossing to cover the cost of crossing the border.⁵⁴¹ In the process of moving from the border region to the inner regions, Chinese brokers sometimes sexually assaulted these women.⁵⁴²

When a North Korean woman is forcibly married to a Chinese man, the marriage sometimes lasts for a long period. However, if the marriage encounters troubles due to sexual abuse, violence, gambling or drinking of the husband, the woman will often try to run away to another region or will be forcibly deported to North Korea, and the relationship would end. When a North Korean woman becomes pregnant after living with a Chinese man, it is usually the Chinese man who decides whether or not to have the fetus aborted. If the man living with the North Korean woman wants to continue the marriage, he is likely to keep the child, so will try to obtain a resident permit (*hokou*) so she can gain legal status. This requires that he has significant financial wherewithal as the cost of buying a resident permit (*hokou*) is substantial.⁵⁴³ Even in forced marriages, it is identified that a husband desiring to continue the relationship with the North Korean woman usually assumes various expenses, such as for the river-crossing, not only

⁵⁴¹ NKHR2014000066 2014-06-03.

⁵⁴² NKHR2011000003 2010-03-16. She was pregnant from a broker who raped her while on her way to South Korea.

⁵⁴³ NKHR2011000067 2011-03-15. The testifier paid 2000 Chinese yuan to obtain a resident permit (*hokou*) around 2000.

for the woman but also for her family members. Even if a North Korean woman voluntarily decides to “live” with a Chinese man after she illegally crosses the border, her life is no different from a forced marriage. Unable to speak Chinese, it is impossible for her to work at any public place, such as a restaurant, and they realize that there is no choice but to have a *de facto* relationship with a Chinese man to avoid security checks. Therefore, they often choose to live with Chinese men for a relatively safer stay.

As North Korean women remain in China for an extended period of time, they gradually learn simple Chinese expressions and adjust to life in China, which may lead to a reduction in the ratio of forced marriages. Even if the women are forced into a marriage, it seems that they find ways to escape the situation. However, if a child is born, a high rate of the mothers stay in their forced marriages, and this is also true for those in forced marriages with Han Chinese men, when there is a child. Therefore, it is found that many Chinese men push their spouses to have children, so they can more likely maintain the relationship. However, as their stay in China is prolonged, it is identified that many North Korean women choose to move to another location in China or a third country even if they give birth to a child in China. Also, if a local man suggests they live together, the North Korean woman increasingly accepts the proposal, depending on the conditions. There are a substantial number of testimonies that North Korean women have restarted “live-in” relationships with Korean-Chinese

or South Korean men they befriend as they work in local restaurants etc. Moreover, in some cases, they actively ask their partners for monetary compensation, including remittances to their families back in North Korea or to cover their expenses for the border crossing. In such *de facto* relationships, if they are forcibly repatriated to North Korea, the North Korean women are likely to defect again and look for a male companion. If a repatriated woman has given birth to a child in China, she is more likely to re-defect.

Many North Korean women sold in China are forced to provide sexual services at karaoke bars and adult entertainment establishments.⁵⁴⁴ There are cases where, in order to prevent them from fleeing, the restaurant owners withhold their pay, stating they are saving money for them. It is also identified that there is an increasing number of organizations operating pornographic computer chatting businesses in China, using female North Korean defectors.⁵⁴⁵ There are also cases where they are involved in telephone scams (voice phishing) that target South Korea.⁵⁴⁶ With the recent increase in demand for human trafficking in China, cases are increasing where Chinese smugglers are also involved in human trafficking.⁵⁴⁷ On the other side, it has become

⁵⁴⁴_ NKHR2011000030 2011-01-04; NKHR2014000183 2014-11-04.

⁵⁴⁵_ NKHR2012000148 2012-07-17; NKHR2013000138 2013-07-23; NKHR2015000125 2015-09-08

⁵⁴⁶_ NKHR2011000029 2011-01-18.

more difficult to find human trafficking partners in North Korea as the crackdown against them has strengthened. While human trafficking is still active in Hoeryeong and Musan County, North Hamgyeong Province, it has decreased substantially in Onsung due to the strength of the crackdown.⁵⁴⁸

(3) Punishment for Human Trafficking in North Korea

As the international community has expressed its concerns regarding human trafficking of North Korean women, North Korea has launched a strong campaign to crack down on and punish those engaged in such practices. Individuals who sold North Korean women in China have been publicly executed, and stern warnings have been issued against any and all human trafficking activity. It is identified that public executions are carried out in certain cases of human trafficking of a certain scale or larger, for dealing in narcotics or smuggling antiques along the border regions. Public executions for human trafficking take place mostly in areas where border traffic is most frequent, such as Musan, Hoeryeong, Cheongjin, and Onsung, North Hamgyeong Province. The severity of punishment for human trafficking varies according to the scale and number of times involved in human trafficking, and the punishment has become stronger recently due to awareness of its

⁵⁴⁷_ NKHR2015000170 2015-12-01.

⁵⁴⁸_ NKHR2015000171 2015-12-01.

harmful effects. There are testimonies that people trafficking 1~3 persons shall be subject to 10 years or more of correctional labor punishment, people trafficking 4~6 people shall be subject to unlimited-term correctional labor punishment, while people trafficking 7 or more persons shall be subject to the death penalty.⁵⁴⁹

Table V-8 Testimonies of Punishment for Human Trafficking

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In April 2012, an uncle (in his 40s) of the testifier was sentenced to 2 years of correctional labor punishment in Musan County, North Hamgyeong Province. | NKHR2014000205 2014-12-02 |
| In 2013, ○○ Kim was arrested on the spot for human trafficking in Samsu County, Yanggang Province, and sentenced to correctional labor punishment, and passed away while imprisoned in Gaecheon <i>kyohwaso</i> . | NKHR2015000030 2015-02-10 |
| In March 2013, the platoon leader of a Gangan-dong patrol unit and three other people were arrested for human trafficking in Hoeryeong, North Hamgyeong Province. The platoon leader turned himself or herself in, and reported the other three people who then received correctional labor punishment. | NKHR2015000167 2015-12-01 |
| In March 2013, Park ○○ was caught in Changbai County, China for trafficking 2 female second cousins in Yanggang Province and was repatriated to North Korea. He or she stayed in a labor training camp (<i>rodongdanryundaë</i>) for one month at MPS provincial bureau holding centers (<i>jipkyulso</i>) in Yanggang Province. | NKHR2015000121 2015-09-08 |
| When the testifier was imprisoned at the SSD detention center in Kimjongsuk (Sinpa) County, Yanggang Province, in 2014, a woman in her 50s and 2 men were there on charges of trafficking 13 persons. The testifier was not aware of the punishment they received after that time. | NKHR2014000203 2014-12-02 |
| In November 2014, 7 women were sentenced to 15 years of correctional labor punishment in Hyesan, Yanggang Province. | NKHR2015000110 2015-06-02 |

549_ NKHR2015000179 2015-12-15.

E. Evaluation

The right to family unification is infringed upon in defection as defectors have to be separated from their families. Moreover, the use of guns in border control and river-crossing in border regions during the defection process goes against the right to life (Article 6 of the ICCPR) and the right to liberty and security of person (Article 9 of the ICCPR). Above all, the forced repatriation of defectors involves many human rights issues. It cannot be said that North Korea's punishment of acts involving violation of border regulations through its Immigration Law and Criminal Law is illegal in itself as the terms of entering and exiting a country is at the discretion of that country. However, after repatriation, there is serious infringement on the right to not be tortured or receive inhumane treatment (Article 7 of the ICCPR) and the right to humane treatment in detention (Article 10 of the ICCPR) during the investigation and trial processes at the North Korean holding centers (*jipkyulso*), detention centers, labor training camps (*rodongdanryundae*) and prison camps (*kyohwaso*). Those who attempt to go to South Korea or contact Christians in China are publicly executed or imprisoned at political prison camps (*kwanliso*), and this constitutes a violation of the right to life (Article 6 of the ICCPR) and the right to a fair trial (Article 14 of the ICCPR). The abortions forced on female defectors who get pregnant in China and the trafficking of North Korean women

also constitute violations of the right to not receive inhumane treatment (Article 7 of the ICCPR) and the right to liberty and security of person (Article 9 of the ICCPR).

Since around the beginning of the Kim Jong-un regime, border control and crackdowns on defection have continuously strengthened. Consequently, there is concern that the infringement on the human rights of the North Korean people who are caught defecting or forcibly repatriated may become more serious. It is assessed that the success rate of re-defection has decreased dramatically. To resolve the defector issue, the North Korean regime needs to ultimately change, and the North Korean judicial, trial and correctional systems improved to comply with international standards. Moreover, it should be communicated to China that the forced repatriation of defectors is unjust and provisions prohibiting forced repatriation in Article 33 of the Convention Relating to the Status of Refugees and Article 3 of the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment should be continuously invoked. There is an increasing number of North Korean workers leaving their designated workplaces in Russia. As a response to this, Russia and North Korea are strengthening mutual judicial assistance on criminal matters. The international community should increase its diplomatic efforts to prevent infringement of human rights while paying attention to the reality of North Korean defectors.

4

Overseas Workers

A. Overview of the Dispatch of North Korean Workers Overseas

(1) Destination Countries and Scale

It is not possible to identify accurate information on the destination countries and the scale of overseas dispatch of workers from North Korea. The Asan Institute for Policy Studies published research that there are 52,000~53,000 North Korean workers dispatched to 16 countries⁵⁵⁰ as of January 2013.⁵⁵¹ Specifically, it is identified that there are around 20,000 in Russia, 19,000 in China, 1,300~2,000 in Mongolia and 12,000~13,000 in

⁵⁵⁰- Algeria, Angola, China, Equatorial Guinea, Ethiopia, Kuwait, Libya, Malaysia, Mongolia, Myanmar, Nigeria, Oman, Poland, Qatar, Russia and the UAE.

⁵⁵¹- Chang-hoon Shin, Myeong-hyeon Go, "The report of the Commission of Inquiry on Human Rights in North Korea of the UN and North Korean Human Rights after the report" (Seoul: The Asan Institute for Policy Studies 2014), p. 30. The research of the Asan Institute for Policy Studies was also cited in the recent report of the US Congressional Research Service in July 2015. Emma Chanlett-Avery et al., "North Korea: U.S. Relations, Nuclear Diplomacy, and Internal Situation", CRS Report (July 2015), pp. 23-24.

other countries. In the field research of the reality of North Korean workers, focusing on those in the Maritime Province of Siberia, it is estimated that the number of North Korean workers dispatched to Russia had already exceeded 30,000 in 2013.⁵⁵² It actually seems that the number of North Korean workers dispatched overseas has expanded in recent years. A North Korean defector, ○○○, testified that there was an instruction to send 10,000 persons a year to increase Party funds, and workers were sent to 27 countries.⁵⁵³ In addition, although there are multiple reports on overseas workers from North Korea,⁵⁵⁴ it is difficult to accurately identify the number of dispatched workers and destination countries as most of the reports combine figures from piecemeal reports.⁵⁵⁵

In the KINU surveys from 2013 to 2015, there were specific testimonies of overseas North Korean workers dispatched to

⁵⁵²- Aelia Lee, Chang-ho Lee, 『Reality and Human Rights of North Korean Workers in the Maritime Province of Siberia』, KINU Tongilnachimban 15-05 (Seoul: KINU, 2015.11.), p. 29. (In Korean)

⁵⁵³- NKHR2014000112 2014-08-12.

⁵⁵⁴- North Korea Strategy Center-Korea Policy Research Center, "The Conditions of North Korean Overseas Labor" (2012.12.), Database Center for North Korean Human Rights, "Current Status and Reality of Overseas North Korean Workers," (January 2015), Seung-joo Lee, Yeo-sang Yoon, "North Korea Outside of North Korea - Current Status and Reality of Human Rights of Overseas North Korean Workers in Poland and Mongolia," (December 23, 2015), PSCORE, "Multinational Abuse and Exploitation -Overseas North Korean Workers" (2015), Saeme Kim & James Burt, "The Will of the State: North Korean Forced Labour", EAHRNK Research Paper (September 2015).

⁵⁵⁵- Seok-jin Kim, 『Trend and Outlook of North Korea's Earning of Foreign Currency』, KINU Tongilnachimban 15-05 (Seoul: KINU, 2015.10.) (In Korean)

Qatar, the UAE, Kuwait, Libya, Russia and China, and it was found that they mostly worked in logging and construction. Gender, age, physical examinations, class (soldier or civilian) and whether bribes were paid influence the decision on the destination countries. It is said that young people are mostly dispatched to the Middle East where the climate is hot, and those who are older are dispatched to Mongolia or Russia.⁵⁵⁶ It is said that only civilians (mostly those who belong to social organizations) are dispatched, and never soldiers.⁵⁵⁷ There were also testimonies of women observed who had been dispatched to Middle Eastern countries as nurses or doctors.⁵⁵⁸ Other testimonies were that the State recruited workers for restaurants in China, and that unmarried women, mostly younger than 23, are selected according to their family background, beauty and physique, and are dispatched for three years after six months of training.⁵⁵⁹ Testimonies also included information that 12 residents of Hoeryeong, North Hamgyeong Province, were dispatched to China to work in restaurants or to work in sewing in April 2015.⁵⁶⁰

⁵⁵⁶_ NKHR2013000196 2013-10-29.

⁵⁵⁷_ NKHR2013000196 2013-10-29.

⁵⁵⁸_ NKHR2013000206 2013-11-12.

⁵⁵⁹_ NKHR2015000164 2015-12-01.

⁵⁶⁰_ NKHR2015000172 2015-12-01.

(2) Classes of Dispatched Workers and Dispatching Organizations

Workers that North Korea sends overseas can be divided into two categories that reflect their class. Some are soldiers while some are civilians who were sent through enterprises or social organizations. North Korean defector ○○○, who worked at the construction site of a royal palace in the UAE from December 2012 to August 2013, testified that when he or she was dispatched that around 1,000 soldiers from No. 7 Bureau only were dispatched overseas.⁵⁶¹ Other than No. 7 Bureau, a variety of other government agencies dispatch workers overseas, including the Forestry Management Bureau under the Ministry of Forestry, the Ministry of Urban Management, the Ministry of Trade, the Overseas Construction Bureau and the Trade Management Bureau under the Ministry of Light Industry.⁵⁶² North Korean defector ○○○, who was dispatched to Russia from June 2006 to 2010 as a logger, testified that the Forestry Management Bureau of Yanggang Province selected workers to dispatch to Russia every year.⁵⁶³

⁵⁶¹_ NKHR2013000196 2013-10-29.

⁵⁶²_ As such, the Overseas Construction Bureau of each Ministry used to be in charge of overseas dispatch until 2009 when each bureau was integrated into the Chosun Overseas Construction Control Bureau. Aelia Lee, Chang-ho Lee 『Reality and Human Rights of North Korean Workers in the Maritime Province of Siberia』, pp. 56-57. (In Korean)

⁵⁶³_ NKHR2014000063 2014-06-03.

North Korean workers dispatched overseas work for enterprises belong to the North Korean authority. North Korean defector ○○○, who was dispatched to a Russian construction site to work for Botonggang Corporation in 1998, testified that when he or she was dispatched to Russia, there were around ten companies that dispatched workers to Russia, including Daedonggang Corporation, Neungra Corporation, Cheolsan Corporation, and Soonbong Corporation. His testimony also included that around 120~150 workers belong to each company, and that around 250 workers belong to Neungra Corporation which was an international trading company.⁵⁶⁴ North Korean defector ○○○, who was dispatched as a construction worker to Sakhalin, Russia, from 2006 to August 2013, testified that there were 5 companies there where North Koreans work as of August 2013, with around 2,000~3,000 workers.⁵⁶⁵

North Korean enterprises enter other countries mostly in the form of supplying labor to local companies. Therefore, workers are not directly employed by local companies through individual contracts. Instead, the enterprises (mostly international trading companies) they belong to sign labor supply contracts with local companies. For construction, subcontracts aimed at completion of a construction project are signed, and work is performed under the

⁵⁶⁴_ NKHR2015000158 2015-11-17.

⁵⁶⁵_ NKHR2015000001 2015-01-13.

management and control of North Korean enterprises, instead of the local companies. Meanwhile, besides local companies, sometimes a state or local government signs a contract with a North Korean enterprise.⁵⁶⁶

(3) Selection Process and Requirements for Dispatch

The selection process for dispatch consists of document and physical examinations and interviews. There are 6 stages of screening process for soldiers being dispatched overseas. Once applications are filled out, they are examined by the Brigade Senior Officers Section and then the General Bureau Senior Officers Section, which is followed by physical examinations and SSD interviews and interviews with the central Party before selection.⁵⁶⁷ When selection is made at the provincial level, individuals file applications with enterprises that dispatch workers overseas, and the decision is made through conversation with the Construction Management Bureau and the Provincial Party Senior Officers Section (No. 2).⁵⁶⁸ Physical examinations include a blood test, oral examination, ophthalmologic treatment and X-rays, etc.,⁵⁶⁹ and for those dispatched to hot regions like the Middle

⁵⁶⁶ Aelia Lee, Chang-ho Lee, "Reality and Human Rights of North Korean Workers in the Maritime Province of Siberia.", p. 57. (In Korean)

⁵⁶⁷ NKHR2013000196 2013-10-29.

⁵⁶⁸ NKHR2013000170 2013-09-17.

⁵⁶⁹ NKHR2013000196 2013-10-29.

East, physical examinations influence the chances for selection.⁵⁷⁰

In general, one needs to have a good family background (*songbun*) to be dispatched overseas.⁵⁷¹ Family all the way to third cousins are included in the family background check,⁵⁷² and the family background of the wives' side is also examined for married people.⁵⁷³ One also needs to be a Party member to be dispatched overseas.⁵⁷⁴ Although there were also testimonies that one does not need to be a Party member,⁵⁷⁵ most testifiers said that Party members are most often selected.⁵⁷⁶ Actually, every defector interviewed by KINU who had also worked overseas was a Party member, except for one soldier who had been dispatched. Moreover, in many cases, their workplaces prior to dispatch had been in Pyongyang. Based on this, it is identified that those who are middle class or above in North Korea, in terms of class or financial capabilities, are given the opportunity to be dispatched abroad.

To work overseas, one must not have relatives in a third country.⁵⁷⁷ There were cases where people applying for overseas

⁵⁷⁰_ NKHR2014000219 2014-12-30.

⁵⁷¹_ There are also testimonies that those who were dispatched as loggers in the 1980s were dispatched because of unfavorable family background. NKHR2014000122 2014-08-12.

⁵⁷²_ NKHR2013000196 2013-10-29.

⁵⁷³_ NHKR2014000020 2014-03-18.

⁵⁷⁴_ NKHR2014000112 2014-08-12.

⁵⁷⁵_ NKHR2013000196 2013-10-29.

⁵⁷⁶_ NKHR2014000080 2014-07-01.

dispatch were not selected as they had relatives in China.⁵⁷⁸ Moreover, it is said that to be selected, one should have family members (children) in North Korea to prevent flight.⁵⁷⁹ Meanwhile, those who are discharged military officers or who worked for the Bureau of Protective Force could not be dispatched due to flight concerns.⁵⁸⁰ Those who worked for the central Party or the SSD, and as special forces snipers, light infantrymen, workers for construction of vacation houses in 7 cheong-gu, anti-South Korea and anti-Japan spies are also excluded.⁵⁸¹

All testimony on overseas workers included statements that bribery was essential in the selection process, and they actually paid a substantial amount in bribes. Moreover, as one needs to give bribes to many levels of people, sometimes such efforts take more than a year. North Korean defector ○○○, who was dispatched to Kuwait from 2006 to 2008, testified that he or she paid 1.5 million North Korean won (before the currency reform) in bribes, and that such “business” takes at least one year as one needs to give bribes to each organization including the enterprise manager and the Physical Examination Office in Pyongyang, etc.⁵⁸² North Korean

577_ NKHR2014000063 2014-06-03.

578_ NKHR2013000170 2013-09-17; NKHR2013000195 2013-10-29.

579_ NKHR2013000231 2013-12-24; NKHR2015000158 2015-11-17 and many others.

580_ NKHR2013000170 2013-09-17.

581_ NKHR2014000112 2014-08-12.

582_ NKHR2015000144 2015-10-06.

defector ○○○, who was dispatched as a logger to Russia from June 2006 to 2010, also testified that he or she gave bribes several times in the process of selection as an overseas worker. The testifier said that he or she gave 100~200 US dollars to the agent in charge in the Forestry Management Bureau, 100 dollars in the physical examination, and another 100 dollars to be dispatched to a favorable workplace in Russia.⁵⁸³

The situation is the same for soldiers who are dispatched. North Korean defector ○○○, who worked at the construction site of a royal palace in the UAE for No. 7 Bureau from December 2012 to August 2013, testified that he or she gave 300 US dollars to the brigade senior officer and agents, and 50 dollars to the section head in charge during the physical examination to be dispatched overseas.⁵⁸⁴ Sometimes, the destination is decided by the amount of bribe. As most people prefer dispatch to Russia than to hot regions like the Middle East, it is said that the value of bribes required for dispatch to Russia is the highest. North Korean defector ○○○ said that he or she prepared for three years to be dispatched overseas, moving from one enterprise to another, also testifying that he or she was dispatched to St. Petersburg as a construction worker by investing a total of about 1,000 US dollars in bribes.⁵⁸⁵

⁵⁸³_ NKHR2014000063 2014-06-03.

⁵⁸⁴_ NKHR2013000196 2013-10-29.

⁵⁸⁵_ NKHR2014000112 2014-08-12.

(4) Period of Dispatch and Re-dispatching

It was found that the period of dispatch is mostly three to five years. Basically, the term of validity of the general North Korean passport issued to those dispatched overseas is five years, and workers are required to renew their passports by returning to North Korea. However, it is sometimes possible to renew passports locally.⁵⁸⁶ While dispatch to China without a visa is possible, visas are required for Russia. The period of the Russian visa issued to North Korean workers is mostly one year and it is said that workers renew their visas every year or, in many cases, stay in Russia without renewing them.⁵⁸⁷ It is said that those dispatched to countries in the Middle East receive three-year work visas, and in some cases, the workers go to the Middle East with three years as the basic period and extend their stay locally.⁵⁸⁸ Meanwhile, those dispatched based on such skills as the ability to operate heavy equipment (cranes) are sometimes dispatched for more than 10 years.⁵⁸⁹

There are also many cases where the workers are re-dispatched after returning to North Korea and it is said that this is due to the trust that they will not leave the workplace and have the financial

586_ NKHR2015000001 2015-01-13.

587_ NKHR2015000158 2015-11-17.

588_ NKHR2013000206 2013-11-12.

589_ NKHR2014000103 2014-07-29.

wherewithal to pay bribes. One testifier said that to be re-dispatched to Russia after returning to North Korea upon expiry of the term of stay, one needed to pay around 1,000 US dollars in bribes.⁵⁹⁰ Meanwhile, as senior officials also know that workers who are dispatched overseas two times or more hold dollars, they sometimes ask directly for money during the selection process.⁵⁹¹ One needs to stay in North Korea for three years in general before re-dispatch, but some workers are re-dispatched after one year.⁵⁹²

B. Human Rights Situation of Overseas North Korean Workers

(1) The State-Level Labor Supply Plan and Dispatch

Every individual has the right to work, allowing him/her to live in dignity. The right to work contributes at the same time to the survival of the individual and to that of his/her family, is essential to realizing other human rights, and forms an inseparable and inherent part of human dignity.⁵⁹³ Article 6, paragraph 1 of the ICESCR stipulates that State Parties shall “recognize the right to

⁵⁹⁰_ NKHR2015000001 2015-01-13.

⁵⁹¹_ NKHR2015000145 2015-10-06.

⁵⁹²_ NKHR2015000179 2015-12-15.

⁵⁹³_ UN CESCR, General Comment No. 18 (2005), paragraph 1.

work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.” As a State Party to the ICESCR, North Korea has the duty to protect the rights prescribed in the Covenant. However, as labor is assigned in principle, according to the State labor supply plan in North Korea, the freedom to choose jobs is inherently restricted.⁵⁹⁴ Even for overseas workers who voluntarily apply for dispatch, the freedom to choose their jobs can be partially restricted. In general, overseas North Korean workers are dispatched by manner of individual transfers to enterprises that dispatch workers overseas or by applying directly for dispatch. However, in deciding the destination, personal preferences are not reflected. While reasonable standards including physical examinations and climate conditions are sometimes considered, it seems that bribery is the decisive factor in such decisions. North Korean defector ○○○ testified that the country of dispatch can be decided according to the size of bribe, with Russia being the most expensive, and Kuwait being the least due to the dire living conditions.⁵⁹⁵ Moreover, the prevalent bribery and corruption in the selection procedures for overseas workers deprive people from fair opportunity to seek a livelihood by working overseas. Moreover,

⁵⁹⁴ Seong-jae Yoo, “Studies on the North Korean Socialist Labor Law”, 2009 Report on Studies of the Legislation of South and North Korea (II), p. 4. (In Korean)

⁵⁹⁵ NKHR2014000112 2014-08-12.

the qualifications based on *songbun* (family background) and Party membership, etc., in the selection process violate the right to equality, which prohibits all kinds of discrimination based on social background, birth, property or class, etc. and it is identified that the freedom to choose jobs is not guaranteed in practical terms due to such requirements. Moreover, factors considered in the selection criteria to prevent flight by the dispatched workers, such as the existence of close family members in North Korea, etc., can also serve as obstacles to choosing jobs with fair opportunity guaranteed according to one's abilities.

(2) Excessive Imposition of Payments and Wage Exploitation

It is identified that overseas North Korean workers work longer hours for less pay than other workers.⁵⁹⁶ North Korean defector ○○○ testified that he or she realized that wages and treatment were different from other workers' about one month after he or she was dispatched overseas. The testifier said that while workers from other countries rested when temperatures peaked, North Korean workers continued working, and worked around 16 hours a day. However, they were paid less and he or she started to have questions and complaints, and eventually decided to leave the

⁵⁹⁶_ NKHR2015000001 2015-01-13.

workplace.⁵⁹⁷ North Korean defector ○○○, who was dispatched to St. Petersburg, Russia, testified that although the site he worked at was where North Koreans were paid the most, they received, in actuality, only 1,000~1,500 US dollars a year which was equivalent to the monthly wage of the average Russian worker.⁵⁹⁸

Meanwhile, North Korean workers overseas are required to pay a substantial part of their wages to the Party as a planned quota and loyalty money, etc. When a local company signs a contract with a North Korean enterprise that supplies labor, that North Korean enterprise pays the North Korean workers what remains of their wages after deducting payments submitted to the North Korean authorities, tax and social security fees. North Korean defector ○○○ testified that overseas North Korean workers are paid very little because even from the remaining amount, accommodations, meals, Loyal Foreign Currency Payments (which is a certain amount paid as an expression of loyalty to the Party), convenient services fees and publication fees, etc. are also deducted.⁵⁹⁹ There are also testimonies of individual workers receiving their wages directly. Even in such cases, however, they must submit a substantial part of the received wages as loyalty payments, Party payments and as part of the State planned quota.

⁵⁹⁷_ NKHR2013000196 2013-10-29.

⁵⁹⁸_ NKHR2014000202 2014-12-02.

⁵⁹⁹_ NKHR2014000136 2014-09-02.

North Korean defector ○○○, who worked at a construction site on Sakhalin Island from 2006 to August 2013, testified that he earned 60,000~ 70,000 rubles a month and submitted 25,000 of them to the State until 2013. This is equivalent to 700~800 US dollars, and after the testifier fled, it is said that the amount required to be submitted every month was raised to 30,000 rubles.⁶⁰⁰ North Korean defector ○○○, who was dispatched as a construction worker to the UAE from December 2012 to August 2013, testified that he was paid 400~500 US dollars per month, including labor payment and commuting expenses and after deducting the amount submitted to the North Korean authorities, he had around 100~200 US dollars per month. However, even the remaining amount was paid to an account (UAE Capital), and he never directly received cash.⁶⁰¹ As such, it seems that there are cases where payment is made to the personal accounts of North Korean workers. However, it is identified that such personal accounts are also managed by the North Korean enterprises.

⁶⁰⁰- NKHR2015000001 2015-01-13.

⁶⁰¹- NKHR2013000196 2013-10-29.

Table V-9 Testimonies on Wage Exploitation
(Ratio of Monthly Salary and Amount Submitted)

| Testimonies | Testifier ID |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| North Korean defector ○○○, who was dispatched to Russia from 2004 to 2007, testified that 80% of the wage is taken by the State directly, and he or she received only 20%. | NKHR2014000168 2014-10-07 |
| North Korean defector ○○○, who was dispatched to Kuwait from 2006 to 2008, testified that while the Kuwaiti company paid salaries, 60% was taken by the State and only 40% was given to the workers. | NKHR2014000144 2015-10-06 |
| North Korean defector ○○○, who was dispatched to Qatar from 2007 to August 2013, testified that only 10% of the wages was given. | NKHR2013000167 2013-09-17 |
| North Korean defector ○○○, who was dispatched to Russia in 2013, testified that the monthly salary was around 1,500 US dollars, from which 950 went to the company head, the head of the working group, the Party secretary and towards the State Party fund. | NKHR2014000112 2014-08-12 |

Overseas North Korean workers receive ideology education that they are being dispatched to earn money for the Party, not for personal wealth.⁶⁰² North Korean workers dispatched overseas understand that a combined amount is deducted from wages as part of the “planned quota” without knowledge about specific amounts including company operating costs and taxes, etc.⁶⁰³ However, not all of the money deducted for the State planned fund is sent to the North Korean authority. Instead, most is taken by middle managers and officials, etc. North Korean defector ○

602_ NKHR2014000112 2014-08-12.

603_ Aelia Lee , Chang-ho Lee, 『Reality and Human Rights of North Korean Workers in the Maritime Province of Siberia』, pp. 62~70. (In Korean)

○○ testified that a greater part of the wages go to middle officials than to the State.⁶⁰⁴

(3) Excessive Working Hours

It is found that overseas North Korean workers work long hours without reasonable limitations on working hours. At construction sites, North Korean enterprises sign subcontracts aimed at completion of a construction project, and it is the North Korean enterprise, not the local company, that directly manages the work sites of North Korean workers who belong to the enterprises in most cases. In these cases, work frequently proceeds at an excessive pace, in violation of local labor regulations. North Korean defector ○○, who worked at the construction site of a university from 1998 to 2003 in Russia, testified that while Russian law regulated that work hours should be from 9 am to 5 pm, such regulations were not applied to North Korean workers, who worked at *Daebang* from 5 am to midnight.⁶⁰⁵ North Korean defector ○○○, who worked for a North Korean enterprise that had a contract with a Russian company, testified that he or she had to work while there was daylight, without pre-decided working hours, and sometimes worked until 3 or 4 am on “white nights.”⁶⁰⁶ It is

⁶⁰⁴_ NKHR2015000158 2015-11-17.

⁶⁰⁵_ NKHR2015000158 2015-11-17.

⁶⁰⁶_ NKHR2014000202 2014-12-02.

also identified that North Korean workers mostly work beyond the legal hours in other regions.

Table V-10 Testimonies on Work Hours

| Testimonies | Testifier ID |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The testifier was dispatched to a construction site in Kuwait from 2006 to 2008. He or she worked from 5 am to noon, had lunch and rested until 4 pm, then worked again from 4 pm to 7 pm. | NKHR2015000144 2015-10-06 |
| The testifier was dispatched to the construction site of a royal palace in the UAE from December 2012 to August 2013. While workers from other countries rested when the temperature peaked, North Korean workers continued working, and worked around 16 hours a day. | NKHR2013000196 2013-10-29 |
| The testifier was dispatched as a construction worker to St. Petersburg, Russia in 2013, and worked for 15-16 hours a day. | NKHR2014000112 2014-08-12 |

Meanwhile, North Korean workers sometimes face situations where they need to do “personal contract work” on top of the basic working hours to have the required amount to be paid to the State, and this infringes upon the basic rights of workers to safe and healthy working conditions. North Korean defector ○○○, who was dispatched to Kuwait from 2006 to 2008, testified that although the company paid workers salaries, it was difficult to have enough to make the required amount to be paid to the State of 900 US dollars per month even if he or she worked very hard. The testifier said that he or she could work freely outside and earn additional money and after two days of this outside full time work

he was able to pay the rest of the required amount to be paid to the State with this money earned through private contracts.⁶⁰⁷

(4) Management and Control by the North Korean Authorities

Workers dispatched from North Korea live under management of the North Korean management company that signed a contract with a local company. The local North Korean companies provide workers with interpreting services and accommodations. Overseas North Korean workers live in groups in areas close to work sites, and their living conditions are mostly identified to be poor. North Korean defector ○○○, who was dispatched to St. Petersburg, Russia in 2013, testified that containers and bedding are provided for sleeping, with the container divided into three sections with about 10 people in one section. The testifier said that the sanitary conditions were very poor with bathrooms used by hundreds of people, and he or she could not wash clothes or take any breaks.⁶⁰⁸

The North Korean authorities also operate a centralized and controlled regime at overseas workplaces. Overseas North Korean workers are under surveillance by SSD managers or by the local North Korean-related enterprise to which they belong and can be punished or forcibly repatriated for “deviant” behaviors. North

⁶⁰⁷_ NKHR2015000144 2015-10-06.

⁶⁰⁸_ NKHR2014000112 2014-08-12.

Korean defector ○○○, who was dispatched to Russia from 1998 to 2003, testified that when he complained that the manager was continuously raising the planned fund submitted to the State (from 100 US dollars to 180 US dollars in five months), he or she had to participate in daily-life re-education (*saeng-hwal-chong-hwa*) and learning sessions, while the manager tried to forcibly repatriate him or her on the grounds that he had complained.⁶⁰⁹ The acts of listening to South Korean radio or watching South Korean TV were punished the most severely.⁶¹⁰ North Korean defector ○○○, who was dispatched to Sakhalin Island, Russia from 2006 to 2013, testified that while the workers might be punished when caught watching South Korean TV, as the goal of the dispatched SSD staff was also to earn money, the agents have the workers fill out self-criticism forms and ask for bribes.⁶¹¹ Overseas North Korean workers who live in groups must participate in sessions held in the dormitories of the companies to which they belong.⁶¹² It is said that there are two to three inspections of worker possessions each week, and they are not allowed to carry mobile phones.⁶¹³ When going outside, they need to move in groups of three or more.⁶¹⁴

609_ NKHR2015000158 2015-11-17.

610_ NKHR2015000068 2015-04-07.

611_ NKHR2015000001 2015-01-13.

612_ Aelia Lee , Chang-ho Lee, 『Reality and Human Rights of North Korean Workers in the Maritime Province of Siberia』, p. 35. (In Korean)

613_ NKHR2013000196 2013-10-29.

614_ NKHR2015000001 2015-01-13.

North Korean defector ○○○, who was dispatched as a soldier to the construction site of a royal palace in the UAE, testified that he or she had to receive the approval of the head of the workplace and Vice secretary of the County People’s committee to go outside, and could not go outside alone.⁶¹⁵ North Korean workers are prohibited from contacting outside people, with only the on-site manager and interpreters having the right to do so.⁶¹⁶

(5) Risk of Being Subject to Forced Labor

Article 8, paragraph 3 of the ICCPR prohibits forced labor, which refers to “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”⁶¹⁷ The “penalty” in the provision includes deprivation of rights or privileges and is not limited to criminal penalties.⁶¹⁸ It is necessary to examine several contexts to decide whether the labor of overseas North Korean workers constitutes “forced labor.” In terms of whether the labor is voluntary, which is the primary standard in establishing whether labor is forced, it is hard to regard the labor of overseas

⁶¹⁵_ NKHR2013000196 2013-10-29.

⁶¹⁶_ Aelia Lee , Chang-ho Lee, 『Reality and Human Rights of North Korean Workers in the Maritime Province of Siberia』, p. 35. (In Korean)

⁶¹⁷_ Convention Concerning Forced or Compulsory Labour, 1930 (No. 29), Article 2, paragraph 1 and paragraph 2.

⁶¹⁸_ Sarah Joseph & Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary*, 3rd ed. (Oxford: Oxford University Press 2013), p. 324.

North Korean workers as labor that is not voluntarily provided, and forced under the threats of punishment. Most workers moved to other enterprises to be dispatched overseas or applied for overseas dispatch directly, and it is testified that they gave bribes to be selected. Given such contexts, they were not forced into overseas dispatch and then into work after being dispatched. However, the International Labour Organization (ILO) views that even such voluntary dispatch and work can also be regarded as “forced labor” because of several factors in the later processes including debt bondage, withholding of wages, retention of identity documents and abuse of vulnerability, etc.⁶¹⁹

As described above, overseas North Korean workers live in groups with external contact prohibited, and their identity documents (including passports, etc.) are retained by the manager dispatched from the North Korean authorities. When dispatched to the Middle East, it is testified that all migrant workers are required to carry their passports when going outside the work site, and they received their passports and go outside once a month. But since a worker fled a workplace in Qatar in May 2013, workers dispatched

⁶¹⁹. ILO Indicators of Forced Labour, Special Action Programme to Combat Forced Labour (2012). The ILO presented eleven indicators of forced labor that include not only labor that is forced under coercion or the threat of penalty, which is derived from the definition of forced labor, but also other indicators that can be regarded as potentially involving forced labor. These include 1) abuse of vulnerability, 2) deception, 3) restriction of movement, 4) isolation, 5) physical and sexual violence, 6) intimidation and threats, 7) retention of identity documents, 8) withholding of wages, 9) debt bondage, 10) abusive working and living conditions, and 11) excessive overtime.

to the UAE have been unable to receive their passports.⁶²⁰ Moreover, most overseas North Korean workers start their overseas life with debts from flight costs and visa commissions, etc. They must work for several months to repay the costs involved in their dispatch after they arrive. North Korean defector ○○○, who was dispatched as a construction worker to St. Petersburg, Russia in 2013, testified that he or she was paid around 1,500 US dollars per month, from which 950 dollars were taken by the company head, the head of the working group and the Party secretary, as well as for the State Party fund. For the first year, he remained unpaid to cover the cost of airfare, housing, and other expenses.⁶²¹ These debts can lead to forced labor. As such, the control of life by the manager from the North Korean authorities, retention of identity documents and the automatically-incurring debt from being dispatched, are factors that put workers, even though they voluntarily applied to be dispatched overseas, in the situation where they have no choice but to work against their will.

C. Evaluation

In the KINU surveys from 2013 to 2015, there were specific testimonies of overseas North Korean workers dispatched to

⁶²⁰- NKHR2013000196 2013-10-29.

⁶²¹- NKHR2014000112 2014-08-12.

Qatar, the UAE, Kuwait, Libya, Russia and China, and it was found that they mostly work in logging and construction. Through their testimonies, one can divide human rights violations of overseas North Korean workers into violations that occurred in the territory of North Korea and those that occurred outside. For those that occur in the territory of North Korea, there is potential for infringement of the right to choose jobs (Article 6, paragraph 1 of the ICESCR) in the process of worker dispatch and the right to equality (Article 26 of the ICCPR) due to dispatch location being decided through bribery and discrimination regarding social class, etc. As a State party to both Covenants, North Korea must ensure all individuals within its territory have those rights. For those that take place outside of North Korea's territory, some should be resolved by North Korea based on its obligations as a State party, while others that are issues in the destination countries that accepted overseas North Korean workers as migrant workers, should be resolved by those destination countries. First, under the precondition that the North Korean authorities manage, in practical terms, overseas workers through managers including SSD agents, dispatched to enforce group living conditions and to limit liberty, carries the potential of infringement on the right to privacy (Article 17 of the ICCPR). Moreover, this control of life, retention of identity documents and automatic incursion of debt through the process of dispatch, indicate that even though workers voluntarily applied to be dispatched overseas, they face compulsory

or forced labor (Article 8, paragraph 3 of the ICCPR) in continuing to work. Regarding this issue, there may be questions about extra-territorial application of the ICCPR. However, the UN Human Rights Committee views that the Covenant is applicable to those within the power or effective control of a State party even if not-situated within the territory of the state party.⁶²² In such cases, North Korea has the duty to respect and ensure the rights of individuals stipulated in the Covenant as a State party to the ICCPR. Meanwhile, with regard to the prohibition against forced labor in Article 8, paragraph 3 of the ICCPR, the ILO has declared that this is a fundamental principle that all ILO member countries need to comply with.⁶²³ Although North Korea is currently not a member of the ILO, most of the countries that accept overseas North Korean workers are ILO members, and Russia, in particular, has ratified all the key conventions on the prohibition against forced labor (No. 29 and No. 105). Therefore, these destination countries have the obligation to take action when it suspects that the situation of overseas North Korean workers constitutes forced labor. Meanwhile, overseas North Korean workers can receive legal protection through the labor laws of the destination countries as migrant workers in those countries. The basic rights of overseas North Korean workers, including the right

⁶²²_ UN HRC, General Comment No. 31 (2004), para 10.

⁶²³_ ILO Declaration on Fundamental Principles and Rights at Work, 37 I.L.M. 133 (1998); CIT/1998/PR20A.

to work in a safe environment, are not guaranteed, and the local companies that use the labor supplied by the North Korean enterprises have the responsibility to establish an environment that is safe for the workers they directly or indirectly hire, and to enjoy their other labor rights. These destination countries have the responsibility to ensure that the basic human rights of migrant workers within their borders are respected, protected and realized.

5

Separated Families, Abductees and Korean War POWs

The issues surrounding separated families, abductees and Korean War POWs are among the humanitarian issues in international humanitarian laws. At the same time, they are human rights issues on which international human rights laws apply. We will now examine the issues surrounding separated families, abductees and Korean War POWs as human rights issues, and their current status.

A. Separated Families

(1) Current Status

“Separated families” refers to family members who are living separately in South and North Korea, including relatives up to third cousins and current or former spouses. Many Korean families have been forced to live separately since General Douglas MacArthur,

Supreme Commander of the Allied Powers, issued General Order No. 2 on September 2, 1945, which divided the Korean Peninsula in half along the 38th Parallel Northern Latitude and American and Soviet Forces moved in to occupy South and North Korea, respectively. As the two sides agreed on a cease-fire for the Korean War in July 1953, establishing the Military Demarcation Line on the Korean Peninsula, the history of family separation continues today. There are various causes for this family separation, including this division of the Korean Peninsula, voluntary defection to the South or North, abduction or joining the Korean Voluntary Army (KVA) during the Korean War, repatriation to the North from Japan, the failure or inability to return after the armistice, being kidnapped to North Korea and defection from North Korea. According to a population and housing census conducted in 1955 by Statistics Korea (South Korea), a total of 735,501 North Koreans have come to South Korea (283,313 before the Korean War and 452,188 after the war). Moreover, in surveys also conducted by Statistics Korea (South Korea), a total of 418,000 persons said in 1990 that they had been born in North Korea, 403,000 persons in 1995 and 355,000 in 2000.⁶²⁴ In the survey conducted in 2005, the number was 161,605.⁶²⁵ The

⁶²⁴. Korean Red Cross, 『60 Years of Reunions of Separated Families』 (Seoul: Korean Red Cross, 2005), pp. 6~7. (In Korean)

⁶²⁵. Korean Statistical Information Service, "Population Census," <<http://kosis.kr>> (Search Date: 2012.12.19.).

reason the number of North Korea-born persons decreased dramatically after 2000 is because many of them died of old age.

The Ministry of Unification and the Korean Red Cross, along with the Committee of Five North Korean Provinces, jointly established and operate an Integrated Information System for Separated Families. As of the end of December 2015, there were a total of 130,808 registered members of “separated families,” with 65,674 surviving and 65,134 deceased. Every year, the separated family population grows older. As of the end of 2015, 82.6% of the surviving members are 70 years old or older. In 2013, the proportion of those aged 80 or above exceeded 50% of the surviving separated family members for the first time. As of the end of 2015, this has increased to about 57%.

Table V-11 Registered Separated Family Members

| Year | Registered (persons) | Survivors (persons) | Deceased (persons) |
|------|----------------------|---------------------|--------------------|
| 2008 | 127,343 | 88,417 | 38,926 |
| 2009 | 128,028 | 85,905 | 42,123 |
| 2010 | 128,461 | 82,477 | 45,984 |
| 2011 | 128,668 | 78,892 | 49,996 |
| 2012 | 128,779 | 74,836 | 53,943 |
| 2013 | 129,264 | 71,480 | 57,784 |
| 2014 | 129,616 | 68,264 | 61,352 |
| 2015 | 130,808 | 65,674 | 65,134 |

Source: Separated Families Division, Ministry of Unification (as of December 31, 2015)

Table V-12 Surviving Members of Separated Families

| Category | 90 years or older | 80~89 years old | 70~79 years old | 60~69 years old | 59 years or younger | Total |
|----------|-------------------|-----------------|-----------------|-----------------|---------------------|--------|
| Persons | 9,071 | 28,381 | 16,807 | 6,382 | 5,043 | 65,674 |
| Percent | 13.8 | 43.2 | 25.6 | 9.7 | 7.7 | 100 |

Source: Separated Families Division, Ministry of Unification (as of December 31, 2015)

Table V-13 Surviving Members of Separated Families: Those Aged 80 or Above

| Year | 2010 | 2011 | 2012 | 2013 | 2014 | 2015. |
|-----------------------------|--------|--------|--------|--------|--------|--------|
| Survivors (persons) | 82,477 | 78,892 | 74,836 | 71,480 | 68,264 | 65,674 |
| 80 years or older (persons) | 32,957 | 37,524 | 34,225 | 37,769 | 37,717 | 37,442 |
| Percent | 40.0 | 47.6 | 45.7 | 52.8 | 55.3 | 57.0 |

Source: Separated Families Division, Ministry of Unification (as of December 31, 2015)

Table V-14 Deceased Members of Separated Families

| Category | 90 years old or older | 80~89 years old | 70~79 years old | 60~69 years old | 59 years old or younger | Total |
|----------|-----------------------|-----------------|-----------------|-----------------|-------------------------|--------|
| Persons | 37,619 | 22,706 | 4,139 | 557 | 113 | 65,134 |
| Percent | 57.7 | 34.8 | 6.4 | 0.9 | 0.2 | 100 |

Source: Separated Families Division, Ministry of Unification (as of December 31, 2015)

(2) Human Rights Issues

(A) Infringement on the Right to Family Unity

As separated families are living without the knowledge of whether their family members are alive or dead, without the

ability to exchange letters or freedom to meet their family members. In other words, their right to family unity in international humanitarian laws is infringed upon. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, (Geneva Convention (IV)) specifically protects family rights.⁶²⁶

Table V-15 Provisions on Family Rights in Geneva Convention (IV)

| | |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Article 27, paragraph 1 | Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs (The rest is omitted) |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

At the time of the Korean War, South and North Korea were not parties to Geneva Convention (IV). South Korea signed the Convention on August 16, 1966, and North Korea signed the Convention on August 27, 1957. Soon after the outbreak of the Korean War, the President of the International Committee of the Red Cross (ICRC) stated that both South and North Korea are entitled to the benefits of the Convention even if they are not signatories. On July 5, 1950, South Korean President Syng-man Rhee pledged that his government would observe all provisions of the Geneva Convention. On July 13, 1950, North Korea also sent an official cable to the UN Secretary General accepting the

⁶²⁶ International Committee of the Red Cross, "Geneva Convention Relative to the Protection of Civilian Persons in Time of War," (August 12, 1949).

proposition of the ICRC. Consequently, Geneva Convention (IV) has had a legally binding effect on both South and North Korea since the Korean War.⁶²⁷

Moreover, the right of separated family members to family unity, recognized by international human rights laws, is infringed upon. Among family rights, the right of a family to live together is “the right to family unity” or “the right to family reunification”. The UDHR and other international human rights treaties stipulate that men and women of full age have the right to marry and build a family, and the family is entitled to protection by the State.⁶²⁸ Moreover, a family expands when a couple have children, and Article 9 of the CRC stipulates that a child shall not be separated from his/her parents against his/her will. The right to family unity derives from the right to marry and build a family, and the right of the child to not be separated from his/her parents.

Family rights and the right to family unity are stipulated in the Constitution of both South and North Korea. The Constitution of the Republic of Korea stipulates, “Marriage and family life shall be entered into and sustained on the basis of individual dignity and

⁶²⁷- Sung-ho Je, “ A study on Kidnapping Civilians on Time of War in International Humanitarian Law Perspective Especially Focused on North Korea Abduction of South Koreans During the “June 25 Korean War”,” Seoul International Law Study , No. 18, Vol. 1 (Seoul International Law Institute, 2011), p. 20. (In Korean)

⁶²⁸- Article 16, paragraph 3 of the UDHR; Article 17 and 23 of the ICCPR; Article 5 (d) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination; Article 12 of the ECPHRRF (European Convention); and Article 17, paragraph 2 of the ACHR (American Convention)

equality of sexes, and the State shall do everything in its power to achieve that goal” (Article 36, paragraph 1). The North Korean Constitution stipulates, “marriage and family shall be protected by the State. The State shall take deep interest in consolidating the family as the basic unit of social life” (Article 78).

To realize the right to family unity, the Government of the Republic of Korea has made efforts to resolve the issues surrounding separated families through inter-Korean Red Cross meetings and ministerial meetings, etc. As of 2015, there has been confirmation of the survival or death in 7,970 cases (57,567 persons), 679 cases of letter exchanges (679 persons), 331 reunion meetings in South Korea (2,700 persons), 3,854 reunion meetings in North Korea (17,228 persons) and 557 on-screen meetings (3,748 persons).

Table V-16 Exchanges between Separated Families at the State Level

(Unit: Cases/(Persons))

| Year/ Category | Confirmation of Survival/Death | Letters Exchanged | Reunion Meetings in South Korea | Reunion Meetings in North Korea | On-screen Meetings |
|-------------------|--------------------------------------|----------------------|------------------------------------------|------------------------------------------|-----------------------|
| 1985 ~ 2002 | 1,862 (12,005) | 671 (671) | 331 (2,700) | 735 (2,817) | - |
| 2003 | 963 (7,091) | 8 (8) | - | 598 (2,691) | - |
| 2004 | 681 (5,007) | - | - | 400 (1,926) | - |
| 2005 | 962 (6,957) | - | - | 397 (1,811) | 199 (1,323) |
| 2006 | 1,069 (8,314) | - | - | 594 (2,683) | 80 (553) |
| 2007 | 1,196 (9,121) | - | - | 388 (1,741) | 278 (1,872) |
| 2008 | - | - | - | - | - |
| 2009 | 302 (2,399) | - | - | 195 (888) | - |
| 2010 | 302 (2,176) | - | - | 191 (886) | - |
| '11~'12 | - | - | - | - | - |
| 2013 | 316 (2,342) | - | - | - | - |
| 2014 | - | - | - | 170 (813) | - |
| 2015 | 317 (2,155) | - | - | 186 (972) | - |
| Total | 7,970 (57,567) | 679 (679) | 331 (2,700) | 3,854 (17,228) | 557 (3,748) |

Source: Separated Families Division, Ministry of Unification (as of December 31, 2015)

In view of the urgency of the separated family issue, the South Korean government has been filming a series of “video letters”

from South Korean families to be delivered to their family members in North Korea on a later date when the inter-Korean exchanges re-open or even after the death of these individuals. From August 6 to September 28, 2012, the South Korean government has identified a total of 16,823 individuals who wished to participate in this video project. In 2012, 815 video messages from South Korean members of separated families were produced, followed by 2,007 in 2013, and 1,202 in 2014. The government plans to deliver these messages to the North through further consultations between the two Koreas.⁶²⁹

In addition to government-level exchanges, the South Korean Government has extended support for separated family exchanges at the civilian level. From February 2009, in an effort to promote these civilian level exchanges, the government has increased the amount given in individual grants for the expenses related to the reunion project from 800,000 to 1 million Korean won for confirmation of survival or death, from 1.8 to 3 million Korean won in the event of a personal reunion for separated family members, and from 400,000 to 500,000 Korean won for continued contact after confirmation of status. However, the number of separated family contacts at the civilian level has decreased every year.

⁶²⁹ Ministry of Unification, 『2015 Unification White Paper』 (Seoul: Ministry of Unification, 2015), p. 112. (In Korean)

Table V-17 Separated Family Exchanges at the Civilian Level

(Unit: Cases)

| Year/ Category | Confirmation of Survival/Death | Letters Exchanged | Personal Meetings |
|-------------------|-----------------------------------|-------------------|-------------------|
| 1990 | 35 | 44 | 6 |
| 1991 | 127 | 193 | 11 |
| 1992 | 132 | 462 | 19 |
| 1993 | 221 | 948 | 12 |
| 1994 | 135 | 584 | 11 |
| 1995 | 104 | 571 | 17 |
| 1996 | 96 | 473 | 18 |
| 1997 | 164 | 772 | 61 |
| 1998 | 377 | 469 | 109 |
| 1999 | 481 | 637 | 200 |
| 2000 | 447 | 984 | 152 |
| 2001 | 208 | 579 | 170 |
| 2002 | 198 | 935 | 208 |
| 2003 | 388 | 961 | 283 |
| 2004 | 209 | 776 | 188 |
| 2005 | 276 | 843 | 95 |
| 2006 | 69 | 449 | 54 |
| 2007 | 74 | 413 | 55 |
| 2008 | 50 | 228 | 36 |
| 2009 | 35 | 61 | 23 |
| 2010 | 16 | 15 | 7 |
| 2011 | 3 | 21 | 4 |
| 2012 | 6 | 16 | 3 |
| 2013 | 9 | 22 | 3 |
| 2014 | 6 | 11 | 5 |
| 2015 | 4 | 5 | 1 |
| Total | 3,870 | 11,472 | 1,751 |

Source: Separated Families Division, Ministry of Unification (as of December 31, 2015)

(B) Social Discrimination Against Families of Those Who Fled to South Korea

Separated family members left behind in North Korea are socially discriminated against. In particular, it is identified that they cannot gain Party membership or join the military, and are discriminated against in college admissions and marriage. However, people's perceptions sometimes change towards persons who had someone in the family that fled to South Korea during the Korean War, provided that he or she worked hard. People with negative opinions often viewed such people positively if they were diligent.⁶³⁰ For example, North Korean defector ○○○ testified that while his grandfather's brothers had fled to South Korea during the Korean War and his grandfather had been discriminated against in terms of Party membership and education, such discrimination was not really a serious issue anymore.⁶³¹

Discrimination based on the social class of families of those who fled to South Korea may constitute a violation of the ICCPR and the ICESCR. Article 2, paragraph 1 of the ICCPR and Article 2, paragraph 2 of the ICESCR prohibit any kind of discrimination.

⁶³⁰- NKHR2010000072 2010-10-19.

⁶³¹- NKHR2012000046 2012-03-23.

Table V-18 Testimonies of Discrimination Against Separated Families in North Korea

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| In July 1997, the testifier's son was discriminated against during college admission, in terms of Party membership and senior official positions, because a member of his family had fled to South Korea. During the 1990s, several Party instructions were issued emphasizing personal capabilities rather than family background, so he had some hope, but the instructions were not observed. | NKHR2011000126 2011-05-31 |
| The testifier's husband was denied Party membership, and had to get a "dishonorable discharge" because his aunt fled to South Korea. | NKHR2011000112 2011-05-17 |
| North Koreans regarded families of those who had fled to South Korea during the Korean War as "families of reactionaries." It was impossible for these children to gain Party membership or be admitted into colleges. | NKHR2012000062 2012-04-17 |
| The testifier's father was a Party member, but he could not become an SSD agent or join Party organizations, and the family was deported from Pyongyang when he or she was in elementary school. This was because his or her great-grandfather had fled to the South during the Korean War. | NKHR2013000127 2013-07-09 |
| The testifier's brother could not join the Party or become a senior officer because his grandfather went missing during the Korean War. | NKHR2014000088 2014-07-15 |
| The testifier's father was discriminated against in obtaining Party membership and senior officer positions since his grandfather's brother had fled to South Korea. | NKHR2014000099 2014-07-29 |
| The testifier's father could not obtain Party membership as his or her grandfather had defected to South Korea. | NKHR2014000150 2014-09-23 |
| The testifier could not join the military because his or her father had fled to South Korea during an overseas business trip in 1994. | NKHR2014000160 2014-10-07 |
| The testifier was discriminated against in promotion as his grandfather had defected to South Korea during the Korean War. | NKHR2014000196 2014-12-02 |

(3) Investigation of the Current Situation

On March 25, 2009, South Korea enacted the Act on Confirmation of Life or Death and Promotion of Exchanges of Inter-Korean Separated Families (hereinafter the Inter-Korean Separated Families Act). This Act went into force September 26, 2009, and stipulates that a survey be conducted to identify the current status and levels of exchange between the separated families (Article 6, paragraph 1). Accordingly, the Ministry of Unification and the Korean Red Cross conducted an extensive joint survey on all survivors of the registered 128,000 persons (as of March 2011, 81,800 were surviving) through the Matrix Corporation.

The Inter-Korean Separated Families Act requires revision and implementation of the basic plan for promotion of inter-Korean separated family exchanges every three years (Article 5, paragraph 1). Accordingly on July 30, 2012, the government revised and released its Basic Plan for the Promotion of Separated Family Exchanges.

The Inter-Korean Separated Families Act was partially revised on May 22, 2013. The revisions included a new section on DNA testing to confirm family relationship between separated family members (Article 8, paragraph 2).

(4) Special Cases in Family Relationships of Separated Families

The Act on Special Cases Concerning Family Relationships, Inheritance, etc. between Residents in South and North Korea (hereinafter the Inter-Korean Family Special Cases Act) was enacted on February 10, 2012. This law stipulates exceptions to regulations on marriage and inheritance property with regard to human rights of the North Korean people. It stipulates that when bigamy occurs because a couple was separated by the border between South and North Korea, and consequently married another person, the later marriage cannot be revoked. However, exceptions are recognized when there is agreement from both spouses in the later marriage to revoke it (Article 6 and 7). Moreover, the law stipulates that North Koreans who acquired inherited or bequeathed property in South Korea shall appoint a South Korean estate administrator to be responsible for management of the North Korean's property in South Korea to effectively protect and manage it and to limit the loss to North Korea of property in South Korea owned by North Koreans (Article 13). If a North Korean who owns property in South Korea intends to bring the property in South Korea to North Korea to use directly or manage property, he or she shall obtain permission therefor from the South Korean Minister of Justice (Article 19).

B. Abductees

(1) Current Status

(A) South Koreans Abducted during the Korean War

The exact number of South Koreans abducted by North Korea during the Korean War is unclear at this time. The seven lists of abducted persons identified thus far show significant differences. It is possible to make only a partial estimation on the number of abducted persons based on a list of abducted Seoul citizens by the Statistics Bureau of South Korea's Ministry of Public Information (2,438) in 1950, a list of the Family Association for the Korean War Abducted Persons published (2,514) in 1951, a list from the South Korean government on abducted persons during the Korean War published in October 1952 (82,959), the 1953 Statistical Almanac (84,532), a list of abducted persons by the Police Headquarters of the Ministry of Internal Affairs (17,940) in 1954, the Missing Civilians List compiled by the Korean Red Cross in 1956 (7,034) and the Missing Civilians List compiled by the Ministry of Defense in 1963 (11,700). It is easier to confirm an abduction when the same names appear on different lists, but there are many others who are not listed on any of them, and there are even some cases where the same person appears on a list of South Koreans abducted by North Korea and a list of defectors to the North (1952, Ministry of Public Information).

Table V-19 Number of South Koreans Abducted during the Korean War⁶³²

| Category | Compiled by | Year | Number of Abductees | Existence of the list |
|-----------------------------------------------------------------|----------------------------------------------------------------------|------|---------------------|-----------------------|
| List of victims from Seoul | Statistical Bureau, Ministry of Public Information | 1950 | 2,438 | ○ |
| List of persons abducted during the Korean War | Statistical Bureau, Ministry of Public Information | 1952 | 82,959 | ○ |
| Number of persons abducted during the Korean War | Police Headquarters of the Ministry of Internal Affairs | 1952 | (126,325) | × |
| List of persons abducted during the Korean War | Statistical Bureau, Ministry of Public Information | 1953 | (84,532) | × |
| List of persons abducted due to circumstances of the Korean War | Police Headquarters of the Ministry of Internal Affairs | 1954 | 17,940 | ○ |
| List of citizens registered as missing | Korean Red Cross /Statistical Office, Ministry of Public Information | 1956 | 7,034 | ○ |
| List of missing citizens | Ministry of Defense | 1963 | 11,700 | Vol. 1 ○ Vol. 2 × |

Based on the lists available thus far, the Association of Families of Korean War Abducted Persons has analyzed a list of 96,013 persons. The age distribution at the time of abduction can be seen in <Table V-20> below. An overwhelming majority (98.1%) of them were male.

⁶³² The website of the Committee on Fact-Finding of Korean War Abductions and Restoration of the Reputation of the Victim, "Information Board - Current Status of South Koreans Abducted during the Korean War." <http://www.abductions625.go.kr/report/2012_report02.asp>.

Table V-20 Age Distribution of South Koreans Abducted during the Korean War⁶³³

| Age | Number of Persons | Percent |
|-------------------------|-------------------|---------|
| 10 years old or younger | 338 | 0.4 |
| 11~15 years old | 376 | 0.4 |
| 16~20 years old | 20,409 | 21.2 |
| 21~30 years old | 51,436 | 53.6 |
| 31~40 years old | 14,773 | 15.4 |
| 41~50 years old | 5,456 | 5.7 |
| 51~60 years old | 1,675 | 1.7 |
| 61 years or older | 746 | 0.8 |
| Age Unknown | 804 | 0.8 |
| Total | 96,013 | 100 |

It has not been officially confirmed whether anyone forcibly abducted to the North during the Korean War has returned to South Korea. Although the number of South Koreans abducted during the Korean War is very large, none of them have been able to return on their own. There seem to be several reasons for this: First, a large number of these abductees were killed as they did not cooperate with the North; some of them also lost their lives in the process of wartime mobilization (e.g. military service and labor). Second, since the onset of the food shortage, a large number of North Koreans came to South Korea, but none of the

⁶³³ Korean War Abductees Research Institute, 『Source Book on Abduction to North Korea during the Korean War 2』 (Seoul: Korean War Abductees Research Institute, 2009). (In Korean)

wartime abductees returned to the South, perhaps because most of them are in their senior years, or they may have chosen not to reveal to their North Korean family that they had been forcibly abducted during the war.

(B) Post-War Abductees

A total of 3,835 persons have been abducted to North Korea since the cease-fire that ended the Korean War. Some of them have been held against their will in North Korea as a result of their usefulness, physical condition, and educational background.⁶³⁴ A total of 3,310 of them (86.5 percent) returned to South Korea after being held for six months to a year. Nine of them defected from North Korea and returned to South Korea after 2000. As of the end of 2015, one of those 9 returning abductees had passed away, leaving eight currently living. Also as of the end of 2015, the total number of abducted South Koreans still detained in North Korea is estimated to be 516 individuals.

⁶³⁴ ○○ Lee who returned to South Korea after abduction to North Korea, testified that the 27 men in the crews of boats Bongsan No. 21 and No. 22 were transferred from Haeju to Pyongyang. They were interrogated to ascertain whether or not they were spies. In the process, they picked seven healthy and educated (10-years of education or higher) individuals, and gave them special training in Cheongjin. The North released the rest of the crew back to South Korea.

Table V-21 Current Status of Post-War Abductees (estimated)

(Unit: persons)

| Category | Total | Fisher- men | Staff of Korean Airlines | Soldiers / Policemen | Others | | |
|--------------------------|-------------|----------------|--------------------------------|-------------------------|----------|----------|---|
| | | | | | Domestic | Overseas | |
| Abducted to North Korea | 3,835 | 3,729 | 50 | 30 | 6 | 20 | |
| Returned | Repatriated | 3,310 | 3,263 | 39 | - | - | 8 |
| | Defected | 9 | 9 | - | - | - | - |
| Remaining in North Korea | 516 | 457 | 11 | 30 | 6 | 12 | |

Source: Separated Families Division, Ministry of Unification (As of December 31, 2015).

Table V-22 Number of Detained Abductees by Year

(Unit: persons)

| Year | Number of Persons Abducted | Cumulative Total | Year | Number of Persons Abducted | Cumulative Total |
|------|----------------------------------|---------------------|------|----------------------------------|---------------------|
| 1955 | 10 | 10 | 1973 | 8 | 429 |
| 1957 | 2 | 12 | 1974 | 30 | 459 |
| 1958 | 23 | 35 | 1975 | 28 | 487 |
| 1962 | 4 | 39 | 1977 | 4 | 491 |
| 1964 | 16 | 55 | 1978 | 4 | 495 |
| 1965 | 20 | 75 | 1980 | 1 | 496 |
| 1966 | 19 | 94 | 1985 | 3 | 499 |
| 1967 | 52 | 146 | 1987 | 13 | 512 |
| 1968 | 133 | 279 | 1992 | 1 | 513 |
| 1969 | 20 | 299 | 1995 | 1 | 514 |
| 1970 | 36 | 335 | 1999 | 1 | 515 |
| 1971 | 20 | 355 | 2000 | 1 | 516 |
| 1972 | 66 | 421 | | | |

Source: Separated Families Division, Ministry of Unification (As of December 31, 2015).

Table V-23 Current Status of Abducted Persons Who Have Returned to South Korea

| Name | Date of Abduction | Occupation | Date of Return |
|---------|-------------------|-----------------------------------------|--------------------|
| ○○ Lee | April 29, 1970 | Crew, the Bongsan No. 22 (fishing boat) | July 26, 2000 |
| ○○ Jin | April 12, 1967 | Crew, the Cheondaeh No. 11 | October 30, 2001 |
| ○○ Kim | November 24, 1973 | Chief engineer, the Daeyounggho | June 23, 2003 |
| ○○ Go | August 17, 1975 | Crew, the Chunwanggho | July 12, 2005 |
| ○○ Choi | August 17, 1975 | Crew, the Cheonwanggho | January 16, 2007 |
| ○○ Lee | August 17, 1975 | Crew, the Cheonwanggho | September 10, 2007 |
| ○○ Yoon | July 2, 1968 | Crew, the Geumyunggho | January 9, 2008 |
| ○○ Yoon | August 17, 1975 | Crew, the Cheonnwanggho | February 26, 2009 |
| ○○ Jeon | December 28, 1972 | Crew, the Odaeyang No. 61 | September 5, 2013 |

Source: Separated Families Division, Ministry of Unification (As of December 31, 2015).

(2) Human Rights Issues

(A) Infringement on the Right to Family Unity

As with separated families, abductees also suffer in relation to family unity, letter exchanges, and personal meetings, etc. In this regard, abductees and Korean War POWs are sometimes categorized as special separated families.

North Korea treats the reunion of separated families and

Korean War POWs and abducted South Koreans separately. North Korea has never acknowledged the existence of South Korean abductees and POWs, which the South has consistently raised, seeking to avoid these issues from being separately highlighted. In February and August of 2012, South Korea proposed a working-level inter-Korean Red Cross meeting at which it planned to discuss both separated families, POWs, and abducted South Koreans, but North Korea refused to discuss these issues.⁶³⁵ In August 2013, during the working-level Red Cross meetings on the reunion of separated families, South Korea also raised the issue of POWs and abducted South Koreans. However, they were excluded from the final Inter-Korean Red Cross Working-level Agreement adopted on August 23, 2013. At the 19th reunion for separated families held in February 2014 at Mountain Kumgang resorts, the only confirmation received was that two of the South Koreans abducted during the Korean War, whose whereabouts were requested by the South, were dead. In the 20th reunion for separated families held in October 2015, Geon-mok Jeong, who was abducted in the Odaeyangho (a South Korean trawler) incident in 1972, met his mother living in South Korea.⁶³⁶

⁶³⁵ Ministry of Unification, 『2013 Unification White Paper』 (Seoul: Ministry of Unification 2013), p. 135. (In Korean)

⁶³⁶ 『Yonhap News Agency』, October 24, 2015.

(B) Forced Transfers and detention

The abduction of civilians during the Korean War by North Korea constitutes a serious violation of Article 29 of Geneva Convention (IV), which prohibits forced transfer of civilians. Even then, this prohibition was the norm that had been established as a customary part of international laws.⁶³⁷ Moreover, Geneva Convention (IV), on protection of civilians during wars, prohibits detention of civilians in principle (Article 79).

Table V-24 Provisions on Forced Transfer and Detention in Geneva Convention (IV)

| Testimonies | Testifier ID |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Article 49 | Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive (the rest is omitted) |
| Article 79 | The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78. |

(C) Enforced Disappearances

The abduction of civilians by the North Korean authorities is closely related to enforced disappearances. The latter is also serious in that it violates many human rights at the same time. In

⁶³⁷ Min-jeong Jeong, "Analysis of the Issues of Abductees and Korean War POWs from the Perspective of International Laws," Center for North Korean Human Rights Studies, "Abduction and Enforced Disappearances by North Korea," (Seoul: KINU, 2015), p. 93. (In Korean)

other words, carrying out of enforced disappearances in itself infringe upon the right of individuals to be protected from enforced disappearances. Moreover, the act of enforced disappearance violates diverse civil, political, economic, social and cultural rights due to the possibility of inhumane treatment, including torture, and deprivation of the right to health and education, etc.⁶³⁸

North Korea has abducted nationals of other countries in an organized way as part of State policy and has not repatriated them since 1950. The COI estimates that based on the definition of the Declaration on the Protection of All Persons from Enforced or Involuntary Disappearance, the victims of enforced disappearances number far over 200,000 persons, including children.⁶³⁹ The majority of the enforced disappearances were carried out to secure labor and technology for the North Korean authorities, and some victims were deployed for espionage and terror activities. Women abducted in Europe, the Middle East and Asia were forcibly married to men from other countries.⁶⁴⁰

North Korea denies these enforced disappearances. The “Korean Air Abductees’ Families Committee” (hereinafter the “Families Committee”) filed, with the UN HRC’s Working Group

⁶³⁸_ OHCHR, Enforced or Involuntary Disappearance, Fact Sheet No. 6/Rev.3.(2009); Requoted by Gu-yeon Jeong, “Emergence and Spread of the Concept of Enforced Disappearances,” the Center for North Korean Human Rights Studies, 『Abduction and Enforced Disappearances by North Korea』, p. 7.

⁶³⁹_ COI report, paragraph 64.

⁶⁴⁰_ COI report, paragraph 67.

on Enforced or Involuntary Disappearance (hereinafter WGEID), cases of abductees who have not returned⁶⁴¹ including Won Hwang (June 17, 2010), Dong-gi Lee (October 8, 2010), and Jeong-woong Choi (November 8, 2010). The Families Committee also filed letters requesting confirmation of life or death and repatriation of “the 11 abductees from KAL who have not returned” with the Chosun Red Cross and head of the United Front Department on March 10, 2011. Upon request of the Families Committee, the Ministry of Unification sought to send the letters through Panmunjeom on the 30th of the same month, but they were refused by North Korea.⁶⁴² Regarding this filing of the cases by the Families Committee, North Korea responded that “the cases of three people who have not returned do not constitute enforced disappearances” and “there is not a single case which constitutes enforced or involuntary disappearances and none are interned against their will.” Moreover, North Korea asserted in the Working Group on Enforced or Involuntary Disappearances meeting held in Geneva, Switzerland that “This is part of a scheme to fight with North Korea, and driven by hostile power”,

⁶⁴¹-In 1969, when an airplane operated by Korean Air was hijacked, 50 persons (4 flight assistants and 46 passengers) were abducted. North Korea returned only 39 passengers on February 14, 1970 but did not return 11 others (4 flight attendants and 7 passengers).

⁶⁴²-In-cheol Hwang, “The Past and Present Tragedy of Korean Air Abductees’ Families,” Citizens’ Alliance for North Korean Human Rights etc., 『The 11th International Conference on North Korean Human Rights and Refugees』 (November 23, 2011). (In Korean)

responding that "It is impossible to confirm life or death" to the request for repatriation sent through the International Committee of the Red Cross in April 2011, and the request for confirmation of life or death by the South Korean government in June 2006.⁶⁴³

The UN HRC held a panel discussion on North Korean human rights on September 21, 2015. In the discussion, the UN HRC listened to the testimonies of a son of a Japanese abductee (Koichiro Iizuka). According to the testifier, North Korea admitted to abducting the mother of the testifier in the bilateral summit between North Korea and Japan in 2002, and that the testifier's mother had passed away in a traffic accident. The panel discussion on North Korean human rights in September 2015 was the first panel discussion that the UN HRC had held on a certain country.⁶⁴⁴

Among the forcibly disappeared people are some who voluntarily moved to North Korea and others who were abducted through physical force or persuasion with false information. In both cases, their rights to leave North Korea were infringed upon. Moreover, they were deprived of the right to freely move within North Korea and the right to not receive brutal, inhumane or degrading treatment. All who were forcibly disappeared, are managed under strict surveillance and are refused opportunities for education or

⁶⁴³- 『Yonhap News Agency』, September 18, 2012.

⁶⁴⁴- International Service for Human Rights (ISHR), The UN HRC's Panel on North Korea and the Way Forward (2015. 9. 28).

jobs.⁶⁴⁵ In the 2014 resolutions on North Korean Human Rights adopted after publication of the COI report, the UN HRC criticized the organized abduction, refusal to repatriate and enforced disappearances by North Korea,⁶⁴⁶ and urged the North Korean authorities to immediately allow such people to return home.⁶⁴⁷ In the 2015 Resolutions on North Korean Human Rights by the UN HRC, the international community's concern over enforced disappearances continued.⁶⁴⁸

(D) Use of Abductees by the North Korean Authorities

Some of the abducted South Koreans are used in broadcasts to South Korea or in espionage training. Two Korean Airlines flight attendants, Kyung-Hee Sung and Kyung-sook Chung, have been used in broadcasts to South Korea, while other detainees are used as instructors for North Korean espionage agents sent to the South. According to the testimonies of defectors who came to South Korea in 1993, about 20 unidentified abductees from South Korea are working as spy instructors at the “Enter to Revolutionize South Korea” located in the Yongseong District of Pyongyang. This center replicates parts of South Korea and is designed to teach and train graduates of the Kim Jong-il Political Military

⁶⁴⁵_ COI report, paragraph 68.

⁶⁴⁶_ UN Doc. A/HRC/RES/25/25, paragraph 2(f).

⁶⁴⁷_ UN Doc. A/HRC/RES/25/25, paragraph 3(f).

⁶⁴⁸_ UN Doc. A/HRC/RES/28/22, paragraph 1(f), 2(f).

College (renamed in 1992) on how to adjust to life in South Korea. The center is under the direct control of the Operations Division in Building No. 3 of the Central Party, which is responsible for training espionage agents to infiltrate the South. In addition, North Korea is training some of the abductees in anti-South Korea operations. According to the testimonies of formerly kidnapped fisherman ○○○, who defected from North Korea in June of 2000, some of his colleagues were also engaged in anti-South Korea operations after undergoing a period of special training. ○○○ himself admitted to having some espionage training.⁶⁴⁹

The remainder of the abducted, whom North Korea presumably did not find useful, are likely to be detained in various political prison camps (*kwanliso*). Some of these abducted individuals from South Korea detained in political prison camps (*kwanliso*) can be identified from the Amnesty International (AI) special report, entitled “New Information on Political Prisoners in North Korea” published in 1994 by AI. In it, the names of abducted individuals, who seemed to be detained in the now defunct prison camp at Seungho-ri until 1990, are included. In January 1999, South Korea’s National Security Planning Agency also reported that 22 abducted South Korean individuals, including Jae-hwan Lee, were detained in a political prison camp (*kwanliso*).

⁶⁴⁹– North Korean defector ○○○, January 7, 2004, interviewed in Seoul.

(3) Truth of Abduction during the Korean War and Restoring the Honor of Abductees

In April 2004 and again in July 2008, the National Human Rights Commission of Korea called for studies and special legislation for abductee relief and compensation. On March 26, 2010, South Korea enacted the Act on Discovering the Truth of Abduction during the Korean War and Restoring the Honor of Victims. On December 13, 2010, the Committee on the Act on Discovering the Truth of Abduction during the Korean War and Restoring Honor of Victims (hereinafter the “Committee”) was officially launched.

The Committee has decided to establish working committees in all provinces and cities to handle the registration and investigation of the stories of Korean War abduction victims, and from January 3, 2011, these committees, as well as Korean embassies abroad, began to receive cases from Korean War abduction victims. A total of 5,505 cases were received, while 1,034 were reported in 2011, 1,623 in 2012, 1,453 in 2013, 829 in 2014 and 556 in 2015. The committee has made decisions on 4,927 cases, considering 4,423 of them as legitimate cases of abduction, rejecting 118, and deeming 386 cases as impossible to determine, etc.⁶⁵⁰

⁶⁵⁰ Ministry of Unification, 『2015 Unification White Paper』 (Seoul: Ministry of Unification, 2015), pp. 116~117. (In Korean)

Table V-25

Decisions on Status of Cases as Abductions or Not

(Unit: cases)

| Decision as Abductions | Decision as Non-Abduction | Impossible to Determine | Total |
|------------------------|---------------------------|-------------------------|-------------|
| 4,423 cases | 118 cases | 386 cases | 4,927 cases |

Source: The Secretariat of the Committee on Fact-Finding of Korean War Abductions and Restoration of the Reputation of Victims (As of December 31, 2015).

(4) Grants and Assistance for Post-War Abducted Victims to North Korea

On April 27, 2007, the Act on the Compensation and Assistance for Victims Abducted to North Korea since Conclusion of the Armistice Agreement (hereinafter referred to as the “Post-War Abduction Victims Act”) was enacted. Accordingly, when an abductee returns home, he/she will receive a government grant for re-settlement, and his family is also entitled to assistance and compensation from the government. In accordance with Article 6 of the Act, the Committee on Compensation and Assistance for Victims Abducted to North Korea (hereinafter referred to as “the Committee”) was formed on November 30, 2007 to review and determine the amount of grants and the scope of assistance and compensation. The Committee received a total of 452 requests up to December 2015. Through 47 meetings, the Committee recognized 428 cases and granted around 14.8 billion won in consolation payments, etc.

Table V-26 Application and Receipt of Consolation Payments for Returning Abductees

(Unit : cases)

| Category | 2008 | 2009 | 2010 | 2013 | 2015 | Total |
|--------------------------------|------|------|------|------|------|-------|
| Consolation Payment | 232 | 99 | 97 | 0 | 1 | 429 |
| Settlement and Housing Support | 7 | 1 | 0 | 1 | 0 | 9 |
| Compensation | 0 | 8 | 4 | 1 | 0 | 13 |
| Total | 239 | 108 | 101 | 2 | 1 | 451 |

Source: Separated Families Division, Ministry of Unification (As of December 31, 2015).

Table V-27 Decisions on Consolation Payments, etc. for Returning Abductees

| Category | Number of Applications | Cases of Disbursement | Amount (1 million Korean won) |
|--------------------------------|------------------------|-----------------------|-------------------------------|
| Consolation Payment | 429 | 417 | 12,958 |
| Settlement and Housing Support | 9 | 9 | 1,773 |
| Compensation | 13 | 2 | 68 |
| Total | 451 | 428 | 14,799 |

Source: Separated Families Division, Ministry of Unification (As of December 31, 2015).

Table V-28 Meetings of the Committee on Compensation and Assistance for People Abducted to North Korea

| Category | 2007 | 2008 | 2009 | 2010 | 2011 | 2013 | 2014 | 2015 | Total |
|--------------------|------|------|------|------|------|------|------|------|-------|
| Number of meetings | 1 | 11 | 11 | 11 | 6 | 2 | 2 | 3 | 47 |

Source: Separated Families Division, Ministry of Unification (As of December 31, 2015).

C. Korean War POWs

(A) Current Status

The term “Korean Armed Forces prisoners” refers to those members of the South Korean Armed Forces detained in enemy countries, unable to return to South Korea. The UN Command at the time of the armistice following the Korean War estimated 82,000 members of the Korean Armed Forces were missing, but only 8,343 POWs were returned during prisoner exchanges between April 1953 and January 1954. Accordingly, it is estimated that many more South Koreans remain detained in North Korea.⁶⁵¹

The Ministry of Defense estimates that there were around 500 Korean War POWs living in North Korea as of the end of 2014, based on testimonies of returning Korean War POWs and defectors.⁶⁵² All Korean POWs who have not returned were classified as Killed in Action based on the Military Personnel Management Act that requires all persons Missing in Action (hereinafter referred to as MIAs) be re-classified as Killed In Action after a certain period has elapsed, so that their families may benefit from compensation and consolation payments. Since the late Lt. Chang-ho Cho, a former Korean War POW, returned

⁶⁵¹– Ministry of Defense of the Republic of Korea, 『2012 Defense White Paper』 (Seoul: Ministry of Defense 2012), p. 134.

⁶⁵²– Ministry of Unification, 『2015 Unification White Paper』, p. 113. (In Korean)

to South Korea in 1994, few other POWs have returned. As of December 2014, a total of 80 Korean War POWs have returned home to South Korea, and have 430 members of their families surviving. An absolute majority of these former POWs returning home came from North Hamgyeong Province, as they had been forcibly assigned to work at coal mines there.

Since 2011, there have been no former POWs returning home to South Korea, seemingly because the patrols and surveillance along the border regions have strengthened since Kim Jong-un came to power, and the POWs themselves are growing old, which makes it physically difficult for them to try to cross borders on their own.

Table V-29 Status of Returning Korean War POWs by Year

(Unit: persons)

| Year | Returning POWs | Cumulative Total | Year | Returning POWs | Cumulative Total |
|------|----------------|------------------|-----------|----------------|------------------|
| 1994 | 1 | 1 | 2005 | 11 | 59 |
| 1997 | 1 | 2 | 2006 | 7 | 66 |
| 1998 | 4 | 6 | 2007 | 4 | 70 |
| 1999 | 2 | 8 | 2008 | 6 | 76 |
| 2000 | 9 | 17 | 2009 | 3 | 79 |
| 2001 | 6 | 23 | 2010 | 1 | 80 |
| 2002 | 6 | 29 | 2011~2015 | - | 80 |
| 2003 | 5 | 34 | Total | 80 | |
| 2004 | 14 | 48 | | | |

Source: Ministry of Defense (As of December 31, 2015)

Table V-30 Origin of POWs in North Korea (including the deceased)

| Province | North Hamgyeong Province | South Hamgyeong Province | South Pyeongan Province | North Pyeongan Province | Yanggang Province | Jagang Province | North Hwanghae Province | South Hwanghae Province | Gangwon Province | Total |
|-------------------|--------------------------|--------------------------|-------------------------|-------------------------|-------------------|-----------------|-------------------------|-------------------------|------------------|-------|
| Number of persons | 60 | 9 | 0 | 3 | 4 | 1 | 1 | 1 | 1 | 80 |
| Percent | 75.0 | 11.3 | 0.0 | 3.8 | 5.0 | 1.3 | 1.3 | 1.3 | 1.3 | 100 |

Source: Ministry of Defense (As of December 31, 2015)

(2) Human Rights Issues

(A) Infringement on the Right to Family Unity

The human rights of Korean War POWs are infringed upon, as is the case for separated families and abductees, with regard to family unity, letter exchanges and personal meetings, etc. From the time when prisoner exchanges took place after the War to the 1960s, the United Nations Command at Military Armistice Commission meetings repeatedly demanded return of the remaining South Korean POWs to South Korea. However, North Korea insisted that they had returned “all” South Korean POWs to the Neutral Nations Supervisory Commission, and that no South Korean POWs were forcibly detained in North Korea. North Korea’s position on this issue remains unchanged.⁶⁵³

Korean War POW reunions should be carried out quickly for humanitarian reasons and realization of the right to family unity.

⁶⁵³ Ministry of Defense of the Republic of Korea, 『2012 Defense White Paper』, p. 134.

As of the end of 2015, 41 of the 80 returning Korean War POWs had passed away. All surviving returning Korean War POWs are 80 years old or more, with 6 of them age 90 or older.

Table V-31 Status of Surviving POWs by Age

| Age (years) | 82 | 83 | 84 | 85 | 86 | 87 | 88 | 89 | 90 | 91 | 92 | Total |
|-------------------|-----|------|------|------|------|------|-----|-----|-----|-----|-----|-------|
| Number of persons | 2 | 5 | 6 | 5 | 6 | 4 | 2 | 3 | 2 | 3 | 1 | 39 |
| Percent | 5.1 | 12.8 | 15.4 | 12.8 | 15.4 | 10.3 | 5.1 | 7.7 | 5.1 | 7.7 | 2.6 | 100 |

Source: Ministry of Defense (As of December 31, 2015)

Table V-32 Age of POWs at the Time of Death

| Age (years) | 70 or younger | 71~75 | 76~80 | 81~85 | 86 or older | Total |
|-------------------|---------------|-------|-------|-------|-------------|-------|
| Number of persons | 1 | 4 | 11 | 20 | 5 | 41 |
| Percent | 2.4 | 9.7 | 26.9 | 48.8 | 12.1 | 100 |

Source: Ministry of Defense (As of December 31, 2015)

(B) Forcible detention

The Geneva Convention Relating to the Treatment of Prisoners of War of August 12, 1949⁶⁵⁴(Geneva Convention (III)) stipulates that prisoners of war must be released or returned without delay after the cessation of hostilities (Article 118). North Korea joined

654- International Committee of the Red Cross, "Geneva Convention Relating to the Treatment of Prisoners of War," (August 12, 1949).

the Geneva Convention on August 27, 1957. Its denial of the existence of Korean War POWs and refusal to repatriate them violates Article 119 of Geneva Convention (III), which stipulates the release and return of prisoners of war. Even in customary international law, immediate release and return of prisoners of war is regarded as the duty of all states.⁶⁵⁵ This was an established norm at that time.⁶⁵⁶

(C) Forced Labor

According to the testimonies of defectors and returned POWs, many POWs were forced to join the KPA during the War and after the War between 1954 and 1956. During this time, they were group-assigned to coal mines, factories, and farm villages to participate in rehabilitation projects. According to a U.S. Department of Defense document declassified on April 12, 2007, A Report on the Transfer of Korean War POWs to the Soviet Region,⁶⁵⁷ several thousand South Korean POWs were transferred to Okhotsk and other Soviet Far Eastern ports between November

⁶⁵⁵ International Committee of the Red Cross, *Customary International Humanitarian Law*, Vol. 1 (Cambridge: Cambridge Univ. Press, 2005), p. 451; Quoted by Beom-seok Baek, "Enforced Disappearances by North Korea and the Crime against Humanity," the Center for North Korean Human Rights Studies, 『Abduction and Enforced Disappearances by North Korea』, p. 63.

⁶⁵⁶ COI report of the detailed findings, paragraph 1143, footnote 1626.

⁶⁵⁷ This report was written by the U.S. and Russia 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.

1951 and April 1952. They were then detained in Kholima Detention Center near Yakutsk.⁶⁵⁸ 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 due to the difficult road and airfield construction work to which they were assigned. With regard to this issue, the Ministry of National Defense in South Korea announced on December 18, 2007 that it was unable to confirm or discover any evidence concerning the transfer of South Korean soldiers (POWs) into the Russian Far Eastern Province, even though it had conducted extensive interviews with the Pentagon personnel who wrote the report, the son of former Soviet Union general officer Seong-ho Kang who claimed that the South Korean POWs were transferred to the Soviet Union, around 10 Korean Russian veterans who had participated in the Korean War, former POWs who returned to South Korea, and over 100 North Korean defectors in Russia, and visited Russian military labs, etc.

Most Korean War POWs are believed to have been assigned to coal mines in North and South Hamgyeong Provinces. At the time, North Korea was in great need of manpower at their coal mines, and ordinary North Koreans were reluctant to work in them. It was also easy to control and conduct surveillance on those living in coal mine communities. North Korean defectors

⁶⁵⁸ 『Yonhap News Agency』, April 13, 2007.

testified that many South Korean POWs were assigned to work and live at coal mines that included Sanghwa Coal Mine in Onsung County, North Hamgyeong Province (Hwa-sik Ahn, Kwang-yoon Woo, ○○ Jang, Seung-ro Hong, In-kong Park, Sang-jin kim, Sang-won Shin, ○○ Choi, Sam-sik Ok, Myong-jo Bae, Bu-jae Baek, Won-mo Chung, and Bok-man Lee),⁶⁵⁹ Musan Coal Mine (Gap-do Lee, Young-ho Kang, and Hee-keun Lee),⁶⁶⁰ and Hakpo Coal Mine in Sechon County, Hoeryeong (Yong-yeon Jang, Tae-in Ryu, ○○ Oh, Jeung-ho Lee, and Soo-hwan Jeong). The POWs assigned to work as miners had to work 12-hour shifts with up to 1,100~1,200 of them assigned to coal mines in North Hamgyeong Province.⁶⁶¹

After the Korean War, Korean War POWs were apparently detained in No. 25 *kwanliso* in Cheongjin. This *kwanliso* was used as a POW camp, and later transformed into a political prison camp (*kwanliso*).⁶⁶² Korean War POWs were given People's registration cards and released to society from political prison camps (*kwanliso*) in June 1956, but most were assigned to coal mines in their previous political prison camp.

The forced labor of Korean War POWs violates both international humanitarian laws and international human rights laws. First of

⁶⁵⁹_ NKHR2008000021 2008-09-23.

⁶⁶⁰_ NKHR2008000016 2008-09-02.

⁶⁶¹_ 『The Chosun Ilbo』, April 30, 2013.

⁶⁶²_ North Korean defector ○○○, September 27, 2012, interviewed in Seoul.

all, it violates Articles 13, 51 and 52 of Geneva Convention (III), which stipulates that prisoners of war must at all times be humanely treated (Article 13), and that they must be granted suitable working conditions (Article 51). Moreover, Geneva Convention (III) prohibits labor that is dangerous or harmful to the health of a prisoner of war (Article 52). The forced labor of Korean War POWs also violates Article 8, paragraph 3 of the ICCPR, which stipulates the prohibition against forced labor, and Article 10, paragraph 1 of the ICCPR, which stipulates humane treatment to everyone deprived of liberty.

Table V-33 Provisions on Forced Labor in Geneva Convention (III)

| | |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Article 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. (The rest is omitted) |
| Article 51 | Prisoners of war must be granted suitable working conditions, regarding accommodation, food, clothing and equipment. These conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work. (The rest is omitted) |
| Article 52 | Unless it is voluntary, no prisoner of war may be employed on labor unhealthy or dangerous in nature. (The rest is omitted) |

(D) Social Discrimination against Korean War POWs and Their Families

Korean War POWs and their families face social discrimination in North Korea. It seems that they are constantly subjected to oppression and discrimination, in terms of their choice of jobs and

residence, because of their background as former POWs. Since their personal background was certain to impact the lives of their children, many POWs chose not to tell their children about their past. Notwithstanding that fact, the children of former POWs are discriminated against in their careers, as well as in Party membership, and college admission. A defector testified that North Koreans called the Korean War POWs “puppet soldiers” (captured soldiers).⁶⁶³

North Korean defector ○○○ 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.⁶⁶⁴ However, there are also testimonies that former Korean War POWs could become Party members, and it is found that their daily social lives were not very different from ordinary North Korean people. Social discrimination against Korean War POWs and their families or relatives may constitute violation of the ICCPR (Article 2, paragraph 1) and the ICESCR (Article 2, paragraph 2) which stipulate that discrimination is prohibited.

⁶⁶³_ NKHR2008000011 2008-08-12.

⁶⁶⁴_ NKHR2011000044 2011-02-08.

Table V-34 Discrimination against Korean War POWs and their Families

| Testimonies | Testifier ID |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| The testifier's father was denied Party membership because grandfathers on both his or her mother and father's side were POWs. Daily life, however, was similar to all ordinary North Koreans. | NKHR2011000176 2011-08-02 |
| The testifier's father was a returned POW in North Korea, so he was not allowed Party membership on suspicion that he might have received some secret instructions from South Korea. Later on, he was allowed Party membership after instructions were given that said, "Don't look into the past; look at the present." | NKHR2011000178 2011-08-02 |
| The testifier's uncle faced discrimination in job assignments on the grounds that his grandfather was a Korean War POW from South Korea. | NKHR2014000093 2014-07-15 |
| The testifier's nephew was accepted into the No. 5 Department, but this was cancelled on the grounds that his grandfather was an exchanged POW. | NKHR2014000168 2014-10-07 |

(3) Treatment and Support for Korean War POWs

The South Korean Government has set standards and detailed rules about treatment of and assistance for former POWs who have returned, and on January 29, 1999, enacted The Act on Treatment of the Republic of Korea Armed Forces Prisoners of War. It also enacted The Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War on March 24, 2006 in an effort to help resettle and assist returned POWs and their families. Based on the Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War and the Enforcement Decree to this Act, all returned POWs receive back

pay, pensions, resettlement grants and housing assistance, based on their days served from the date they were taken prisoner, to the day they retired from active duty after returning to South Korea. If a POW died in North Korea, where he had been detained, his spouse or children, upon return to South Korea, receive special grants for POW families in addition to normal settlement assistance other North Korean defectors receive upon entry into South Korea.

The Ministry of Defense revised the Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War on December 31, 2008, and inserted a new section allowing “social adjustment education” for the returning POWs (Article 6-2). Since late 2008, the Ministry of Defense has conducted special reorientation programs for the returning POWs so they can quickly adjust to life in South Korea. They also receive professional education and psychiatric assistance offered by civilian organizations to gain the necessary skills and knowledge for their new lives.⁶⁶⁵

The Act on Repatriation, Treatment of the Republic of Korea Armed Forces Prisoners of War as revised on March 22, 2013, improved the assistance and support for POWs and their families. It also includes articles with the following names, that cover the provisions given in their titles: Protection of ROKAF Prisoners of War and Family Members of ROKAF Prisoners of War from

⁶⁶⁵ Ministry of Defense of the Republic of Korea, 『2012 Defense White Paper』, p. 136.

Places of Detention (Article 5-2); Support of Employment for Family Members of Prisoners of War from Places of Detention (Article 15-3); Support for Admission to Ancient Palaces, etc. (Article 15-4); and Preferential Treatment for ROKAF Prisoners of War (Article 15-5).

Table V-35 Residence of Returning POWs (including deceased)

| Region | Seoul | Incheon | Gyeonggi | Gangwon | Daejeon | S. Chungcheong | N. Chungcheong | Daegu | N. Gyeongsang |
|---------|-------|---------|----------|---------|---------|----------------|----------------|-------|---------------|
| Persons | 21 | 1 | 20 | 5 | 2 | 0 | 1 | 4 | 6 |
| Percent | 26.3 | 1.3 | 25.0 | 6.3 | 2.5 | 0.0 | 1.3 | 5.0 | 7.5 |

| Region | Busan | Ulsan | S. Gyeongsang | Gwangju | S. Jeolla | N. Jeolla | Jeju | Total |
|---------|-------|-------|---------------|---------|-----------|-----------|------|-------|
| Persons | 5 | 2 | 6 | 1 | 4 | 2 | 0 | 80 |
| Percent | 6.3 | 2.5 | 7.5 | 1.3 | 5.0 | 2.5 | 0.0 | 100 |

Source: Ministry of Defense (As of December 31, 2015)

Table V-36 Residence of Surviving POWs

| Region | Seoul | Incheon | Gyeonggi | Gangwon | Daejeon | S. Chungcheong | N. Chungcheong | Daegu | N. Gyeongsang |
|---------|-------|---------|----------|---------|---------|----------------|----------------|-------|---------------|
| Persons | 13 | 1 | 12 | 3 | 0 | 0 | 1 | 2 | 0 |
| Percent | 33.2 | 2.6 | 30.8 | 7.7 | 0.0 | 0.0 | 2.6 | 5.1 | 0.0 |

| Region | Busan | Ulsan | S. Gyeongsang | Gwangju | S. Jeolla | N. Jeolla | Jeju | Total |
|---------|-------|-------|---------------|---------|-----------|-----------|------|-------|
| Persons | 1 | 2 | 1 | 0 | 3 | 0 | 0 | 39 |
| Percent | 2.6 | 5.1 | 2.6 | 0.0 | 7.7 | 0.0 | 0.0 | 100 |

Source: Ministry of Defense (As of December 31, 2015)

D. Evaluation

The issues of separated families, abductees, and Korean War POWs are humanitarian issues where international humanitarian laws apply and at the same time, have the characteristics of human rights issues where international human rights laws apply. As for separated families, their family rights are stipulated in international humanitarian laws (Article 27 of Geneva Convention (IV)). Moreover, the right to family unity of separated families, abductees and Korean War POWs, i.e. the right to not be subjected to arbitrary or unlawful interference (Article 17 of the ICCPR) and the right to form a family and be protected by society and the state (Article 23 of the ICCPR), are infringed upon.

South Korea and North Korea held a reunion for separated families in October 2015 at Mt. Geumgang. At this event, a South Korean fisherman abducted to North Korea was able to meet his mother. However, the two Koreas are not making significant progress in resolving the issues of separated families, abductees and Korean War POWs. To realize the right to family unity for these people, there is a need to confirm the survival or death of these groups, and a need for regular reunions and expansion of the size of those reunions.

The abduction of civilians during the Korean War and their detention by North Korea constitutes violation of Article 49 and 79 of Geneva Convention (IV), which prohibits forced transfer

and detention of civilians. Moreover, North Korea's denial of the existence of Korean War POWs and its refusal to repatriate violate Article 118 of Geneva Convention (III), which stipulates the release and return of POWs. Furthermore, the forced labor of Korean War POWs violates the right to humane treatment (Article 13), the right to appropriate work conditions (Article 51) and the right to not be used for labor that is harmful to health or dangerous (Article 52) in Geneva Convention (III), the right to not be forced into labor (Article 8), and the right to receive humane treatment when deprived of liberty (Article 10) in the ICCPR. The social discrimination against families of those who fled to South Korea, Korean War POWs and their families, may violate Article 2 of the ICESCR and Article 2 of the ICCPR, which stipulate that discrimination is prohibited. Meanwhile, it is identified that there is a substantial number of victims of enforced disappearances among these abductees.

In the 2015 survey, there were few testimonies on the specific realities and human rights violations of families of those who fled to South Korea, or abductees and Korean War POWs and their families. To make progress in resolving the issues for these people, they should be handled separate to the political situation between South Korea and North Korea.

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Human Rights in North Korea

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