

大韓辯護士協會

## Korean Bar Association

January 23, 2017

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### **The NGO Report of the Korean Bar Association for the 68<sup>th</sup> session of CEDAW Pre-Sessional Working Group**

Dear Distinguished Representatives,

Korean Bar Association("KBA") hereby submits this report on the women's human rights in the Democratic People's Republic of Korea("DPRK") to the UN Committee on the Elimination of All Forms of Discrimination Against Women (6/10 March 2017). This submission can be posted on the CEDAW website for public information purposes.

#### **Foreword**

1. The DPRK ratified the Convention on the Elimination of All Forms of Discrimination against Women (Convention) on February 27, 2001 and submitted its initial state report on implementing the Convention in September 2002. It delayed its periodic reports continuously and submitted a combined report of the second, third, and fourth periodic state reports in April 2016.

This alternative report is to study how faithfully the DPRK's periodic report have been made and what is the alternative way to improve North Korean women's human rights.

#### **Definition of Discrimination and Obligations to Eliminate Discrimination Against Women**

2. In the Periodic Report on the Implementation of the Convention, covering the period of 2002-2015, the DPRK stated regarding the Law on the Protection and Promotion of the Rights of Women("LPPRW") which was enacted on December 22, 2010 as follows;

The adoption of the LPPRW created conditions for conducting awareness-raising campaigns on the Convention in a more effective manner. As a result, their understanding of the concept of gender equality went beyond the common sense level to reach a good awareness of the definition of discrimination against women and the requirements as set forth in the Convention, which then became criteria of their day-to-day work. With the adoption of this Law, the legal basis for the enjoyment by women of their rights set forth in the Law has been further consolidated, protection and promotion of their rights become legal obligations of the institutions, enterprises, organizations, officials and individuals, and the social climate of respecting and prioritizing women has been further fostered.

However, the Law consists mostly of declarative, abstract provisions, and it lacks specific procedures to vindicate women's rights, limiting its effectiveness. For instance, despite the recommendation of the Committee on the Elimination of Discrimination against Women, the Law lacks remedies and protection for women who are victims of domestic violence, and specifies no penalties for perpetrators. 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 still significant. Furthermore, according to the 2016 Survey of the KBA (2016 Survey of the KBA) which was conducted to write the 2016 KBA White Paper on Feb. 2016, on the 102 North Koreans who defected the DPRK after Jan. 1, 2013(after the enactment of the Law), 77 persons (80.2%) replied that they did not know the fact that the LPPRW was enacted in the DPRK.

As such, the authorities concerned of the DPRK should, first of all, make complete collections of laws and regulations related to women's human rights including the LLPRW and disseminate them throughout the country so that every women could have access to the concerned laws.

3. The DPRK states in the Periodic Report that the National Committee for Implementing International Human Rights Treaties (the National Committee) was formed in April 2015 and set it as the main objective of its activities to ensure that the requirements of the Law on the Protection and Promotion of the Rights of Women and the Convention are integrated into the State policy and the implementation thereof. The National Committee carries out periodic surveys of women's status and situation at institutions, enterprises and organizations and makes remedial recommendations to the Presidium of the SPA, the Cabinet, law enforcement organs and other related bodies. It also engages in the dissemination of the Convention and the Concluding Comments and the preparation of periodic reports to be submitted to the treaty bodies.

However, it is unclear how the National Committee is constituted. In order for the National Committee to achieve its goals, it must be composed of many human rights-related persons including women with actual desires and strong will to enhance the well-being and the statuses of women in the DPRK.

## **Temporary special measures**

4. The DPRK states in the Periodic Report that State institutions were required to ensure the proportion of women officials at or above 20-25% and the proportion of women department (or division) directors at 10% or above. A Table for Proportion of Male and Female Workers by Occupation was formulated to serve as guidelines for assigning right jobs to right women in consideration of their wishes, gender, age and ability. For instance, it was encouraged to assign more female workers to the jobs of file clerks and telephone operators than male workers.

However, considering that men are obligated to serve in the military for more than 10 years, 20-25% of the proportion of female officials still seems like an oddly unequal number.

5. The DPRK states in the Periodic Report that Standards of Job Assignment by Economic Sectors were also laid down in consideration of women's physical constitution and characteristics. For instance, it was required that 100 % of the telephone operators, telegraphists, electric communications persons, postal matters inspectors and international postal matter handlers in the telecommunications sector, and nurses, practical nurses and dry nurses in the health sector, 90 % of hairdressers, laundry handlers and tailors in the welfare service sector, 100 % of netmakers and 70% of fresh water fish farmers in the fisheries sector, 70% of pit maintenance persons and 60 % of pit electric car operators in the coal-mining sector, and 40% of electric motor operators should be female workers.

However, designating specific numbers like above can be counter-intuitive and too artificial in promoting equality. This exacerbates article 5, 53 of the Convention. This requirement is administered under a completely prejudiced mindset as certain jobs are considered here as "more fit for women." All of the jobs stated above could also be equally suitable for male workers.

6. The DPRK states in the Periodic Report that child care and medical treatment facilities like nurseries, kindergartens and children's wards were set up so that working women could be free from worries about their children; women's office rooms and workplaces were well-furnished to ensure that they work in a cultured and hygienic environment; nurseries and kindergartens across the country were renovated on modern lines and paediatric hospitals established in all provinces; welfare facilities providing a variety of services were set up to afford convenience to women's everyday life and relieve them of household chores. All these contributed towards active participation of women in public life.

However, there are no proofs about above measures which were taken to ensure sufficient working conditions to women in a responsible manner. 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 Korea Institute for National Unification("KINU") surveys between 2010 and 2015 show that 93.9% of

the respondents believed “women” were responsible for housework while 78.9% felt “wives” should take responsibility for housework even when they are financially supporting their families. Therefore, in order to reduce the proportion of workloads for housewives, it is important to educate the citizens via public education and home nurturing the idea that the husband has equal responsibility in housework as the housewife. This must be continually educated across the ages.

### **Elimination of stereotypes and violence against women**

7. The DPRK states in the Periodic Report that with regard to eliminating traditional and stereotyped beliefs and attitudes towards the responsibilities and roles of men and women, Women’s Union contributed to enhanced awareness by women of their important mission in society and family, particularly in child upbringing, and to the increased recognition by the general public of the important roles of women and changed views and attitudes towards them.

However, the belief that child upbringing is an important mission for women is just the stereotyped perception that the CEDAW is trying to eliminate. The DPRK’s statement can be misleading as child upbringing should be a mission for both parents not just the women. Article 5(b) of the CEDAW states that “parties shall take all appropriate measures to ensure [...] the *common responsibility of men and women in the upbringing and development of their child...*” The DPRK’s approach to emphasize the ‘important role of women’ in child upbringing is counterintuitive from the approach taken by the CEDAW. Further, education of awareness on how the husband has equal responsibility in child upbringing should be clearly endowed upon the public officials.

Also, 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. KINU Survey results from 2011 to 2015 indicate that 81.2% of those surveyed believed domestic violence was “common” (including 27.4% who choose “very common”).<sup>1</sup> However, there are no legal provisions stipulating penalties for domestic violence in North Korea’s Laws including Criminal Law. The legislation of special laws on stipulating penalties for the perpetrator and swift rescue for the victims of domestic violence is necessary.

### **Sexual exploitation of women**

8. The DPRK states in the Periodic Report that with regard to para 42 of the Concluding Comments, the Criminal Law defines prostitution as a crime and provides that whoever commits prostitution shall, in serious cases, be subject to reform through labour of not more than 5 years (art. 249). The LPPRW

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<sup>1</sup> KINU 2016 WHITE PAPER ON HUMAN RIGHTS IN NORTH KOREA, pp. 350.

provides that whoever commits prostitution, or arranges for, forces or lures a woman into committing such act shall be subject to punishment in accordance with the Criminal Law (art. 40).

However, how can luring be an offense? This statement seems controversial. It may be translated as viewing women as more fragile, less rational, or even less intelligent and more vulnerable. According to Article 1 of the United Nations Universal Declaration of Human Rights, “all human beings are born free and equal in dignity and rights.” Further, Article 5(a) of the CEDAW states that “parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to *achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes....*” According to these consensuses, degrading the intellect of women as “more easily lured” is inappropriate and against equal dignity of women.

9. The DPRK also states in the Periodic Report that during the reporting period, abduction and trafficking of our citizens were persistently committed under the manipulation of the south Korean authorities hell-bent on tarnishing the image of the DPRK. Some of the victims returned home, exposing to the whole world the anti-DPRK plots and crime against humanity committed by the south Korean authorities. However, there are still a lot of women in south Korea lured thereto by human smugglers, wishing to return home in vain. For instance, as reported by the foreign media in 2015, a woman who was lured to south Korea during her visit to her relatives abroad has been trying for years to return home but the south Korean authorities denied her departure from the country.

However, if the DPRK is talking about the tens of thousands of North Korean refugees and defectors in the Republic of Korea, it is clearly not the case. They fled for freedom. The DPRK's allegation contradicts those refugees' testimonies in the ROK. Human trafficking of North Korean women takes several different forms including forced abduction, enticement through go-betweens and brokers, and volunteering by women themselves to support their families. Human trafficking continues today in the Sino-North Korean border regions.

### **Participation in political and public life**

10. The DPRK states as follows;

All women in the DPRK take part in political and public life on an equal footing with men. There are no legal or institutional impediments to the exercising by women of their socio-political rights and their advancement. Women are fully guaranteed the right to vote and to be elected for organs of State power at all levels, from the county People's Assembly to the Supreme People's Assembly, on the principle of universal, equal and direct suffrage by secret ballot. Election of deputies to the Supreme People's Assembly and the local people's assemblies are held every 5 and 4 years respectively, in which 99.99 % of the voters participated. Women accounted for 20.2% and 27% of the deputies

elected for the 13th Supreme People's Assembly in 2014 and local people's assemblies in 2015 respectively. Women's participation in government is guaranteed by law and in practice.

However, the 2016 Survey of the KBA shows that North Korean residents do not vote with their own will and accordingly, do not exercise their political rights: "Even if there is a formal election, we have only one candidate to vote and thus, have no choice" (ID 021, 2016); "the election campaign is nothing but a perfunctory event with propaganda" (ID 002, 2016); "it is nothing more than stopgap measures" (ID 010, 2016); "it is implemented under careful watch, regardless of the people's will" (ID 021, 2016); "we have an election but it is a forced one. If there is a photo of a candidate, all must vote. The authorities tell us for whom to vote" [ID 070, 2016]. Moreover, female deputies seem to hold positions that are merely symbolic and they do not have the authority to supervise or criticize state affairs. This indicates that their political influence is less than the number of seats they hold would suggest. The right to political participation is one of the most important civic rights in a democratic system. But the 99.99% participation rate only mean that the freedom to not participate is not guaranteed by the citizens.

## **Employment**

11. The DPRK states as follows;

To work is the right of citizens in the DPRK, as well as their obligation and honour. All women are guaranteed their rights to work, to labour protection and to social security in accordance with the Socialist Constitution, the Socialist Labour Law, the Law on the Protection and Promotion of the Rights of Women, the Labour Protection Law, the Social Security Law and other related laws. The Socialist Constitution provides that "Citizens have the right to work. All able-bodied citizens are entitled to choose occupations in accordance with their wishes and skills and provided with suitable jobs and working conditions. Citizens shall work according to their abilities and be paid in accordance with the quantity and quality of their work" (art. 70). In addition to this, many labour-related laws have specific provisions concerning women's working conditions, equal pay for equal work and occupations and sectors unfit for women. In the DPRK it is the responsibility, as well as obligation of the State to realize people's rights to work by providing them with suitable jobs according to their wishes and skills.

The fact that women make up 47.8% of the workforce shows that women accounting for half of the population take an active part in public activities without being subjected to any discriminations and with their rights to work according to their wishes and abilities fully guaranteed.

It is against the Law and Regulations to make women do work too arduous, harmful or dangerous for their physiological characteristics, and to work nursing and pregnant women on night shifts, overtime and on holidays.

However, despite of the article 70 of the DPRK Constitution and many other labour-related laws having specific provisions concerning women's equal working conditions, in practice, citizens including women are assigned their place of residence largely based on where they are assigned to work by the state. The Workers' Party of Korea has full and exclusive control over all job assignments for the people. People are assigned their jobs in groups to work in factories, mines and construction facilities as the Party deems necessary. By law, people are also not allowed to move from their assigned residence to another residence without government permission. Article 149 of the Criminal Law provides that anyone who hands over, receives or lends a dwelling place owned by the state for money or goods shall be punished by short-term labour for less than two years. In the determination of one's place of work and residence by the state, one's *songbun* social classification plays a key role.<sup>2</sup>

Besides, an NGO report from Oct. 5, 2016 showed that the DPRK has been mobilizing an army of slave workers for state-run construction projects nationwide. The finding adds to a series of revelations on North Koreans who are forcibly sent abroad to earn hard currency in order to prop up the cash-strapped regime.

The 81-page report, titled "Sweatshop, North Korea," was based on testimony from 18 North Korean defectors in South Korea, including four former workers on the construction projects. An estimated number of 200,000 to 400,000 construction workers toil more than eight hours a day under extreme conditions for 10 years although they receive hardly any wages. Many of them, both men and women, are physically weak and came from lower-class families. They were forcibly taken to toil when they were in their senior years at middle school. Calling them "storm troopers," the report said their life resembles that of the military.

"This is one of the odd systems of exploiting labor," it said. "It can be called a modern caste system." A former "storm trooper" in South Korea testified that the workers had to stay up from 5 a.m. to 10 p.m. to build railways, roads, power plants, apartments and others. "We often stayed up through midnight during the times of speedy battle," he said, referring to period when the tyrannical state rushed them to finish construction projects in preparation for important events, such as the seventh congress of the ruling Workers' Party in May.

The workers starved all the time because they were given poor meals despite their long working hours and that their monthly salaries were too low to buy nutritious meals. The workers usually worked in a group of 10 and the women were also forced to fulfill physically-demanding jobs as much as men. "Everyone was given an equal amount of work regardless of their gender. Beatings and safety hazards were commonly seen," a defector said. The dictatorial regime has been pocketing cash from employees at other workplaces in return for ensuring their positions there, according to the report. Housewives and students are tasked with turning in cash, collecting waste paper or other goods that can be exchanged for money. It is estimated that North Korean authorities have been pocketing cash

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<sup>2</sup> Report of the detailed findings of COI(2014), pp. 100-102.

worth \$975 million from the households across the country. “The international community should pay attention to enslavement of North Koreans at both home and abroad and take measures accordingly,” the report said.<sup>3</sup>

As such, the authorities concerned of the DPRK should immediately investigate/research on the actual condition of “storm troopers” and make improvement plan, especially for the women.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chang Woo, Ha' in a cursive style.

CHANG WOO, HA  
President  
Korean Bar Association

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<sup>3</sup> [yistory@ktimes.com](mailto:yistory@ktimes.com)