

FIDH- International Federation for Human Rights



NKDB - Database Center for North Korean Human Rights



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## **DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (DPRK)**

### **Public and secret executions (Article 6: Right to life; Article 9: Right to liberty and security)**

DPRK authorities use public executions as a means to instill fear and control the population. The DPRK has claimed that the death penalty is only imposed for “an extremely heinous and grave act.”<sup>1</sup> The interpretation of heinous and grave acts refers to acts that are considered to be dangerous to the credibility of one person - i.e. Kim Jong Un. Additionally, 16 out of 23 articles of the Addendum to the DPRK’s Criminal Law stipulate that an execution can be applied as punishment if a crime is “extremely grave.” However, the law does not provide any specific definition of an “extremely grave” crime. The International Covenant on Civil and Political Rights (ICCPR) prohibits any arbitrary deprivation of life of persons and dictates that criminal law should be based on clear definitions of crimes in order to protect persons from being punished as a result of an arbitrary interpretation of the law. However, the DPRK continues to provide ambiguous or no definitions of crimes, especially when they result in the deprivation of a person’s life. This runs counter to the ICCPR and shows a serious lack of respect for the fundamental right to life of individuals.

The NKDB Unified Human Rights Database has recorded 1,479 cases of public executions that took place between 2000 and 2020. The death penalty is imposed for economic or political crimes - offenses that do not meet the threshold of the “most serious crimes” under Article 6 of the ICCPR. For example, capital crimes include: human trafficking; narcotic drug distribution; the distribution of pornographic content; and disobeying an order given by the Supreme Leader. In October 2020, a

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<sup>1</sup> Human Rights Council, 19<sup>th</sup> session, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21- Democratic People’s Republic of Korea*, 30 January 2014; UN Doc A/HRC/WG.6/19/PRK/1, para. 30.

fishing fleet captain was executed in front of 100 boat captains and fisheries executives for secretly listening to broadcasts by *Radio Free Asia* and other foreign media outlets while at sea.<sup>2</sup>

Another serious violation of the ICCPR is the DPRK's ongoing use of extrajudicial killings. DPRK authorities continue to secretly execute people without a trial at detention facilities. The NKDB Unified Human Rights Database has recorded 443 cases of secret executions that took place between 2000 and 2020. Secret executions are mostly held in interrogation or detention facilities run by the State Security Department and the People's Security Department for political crimes, including attempting to defect to the Republic of Korea, and religious activities. The fact that secret executions are held inside detention facilities during interrogation indicates that a sentence was not rendered by a court.

### Questions

- What are the rules and procedures followed by the authorities to impose the death penalty and to carry out executions?
- Please provide disaggregated statistics on death sentences and executions, including the number of persons sentenced to death/executed, disaggregated by gender, age, and profession, year, region, and offense.
- Please clarify the definition of "grave acts" for which death sentences are normally imposed.

### **Right to liberty, fair trial, detention conditions, and prohibition of torture (ICCPR Article 7: Torture or to cruel, inhuman or degrading treatment or punishment; Article 9: Arbitrary arrest or detention; Article 10: Treatment of persons deprived of their liberty; Article 14: Equality before the courts)**

Despite the government's claim that defense counsels play an important role in ensuring a fair trial, they, in fact, play a distorted role in the DPRK. Generally, DPRK citizens have had little to no education about their right to legal counsel and have a limited understanding about the actual role of a lawyer. NKDB's research through interviews with DPRK defectors have revealed that lawyers in the DPRK are not regarded as professionals who advocate for the accused through effective representation, but rather as people who bring harm to the defendants.<sup>3</sup> In the DPRK, lawyers are not independent from the executive and are considered to be workers of the Workers' Party of Korea, whose duty is to advance the Party's policies rather than the interests of the accused. Because, judges, prosecutors, and lawyers are all loyal servants to the Party, there are concerns over the lack of independence of the judiciary and safeguards for the accused.

The Criminal Procedure Law of the DPRK guarantees a person's right to due process regarding arrest and detention, which includes: investigation; preliminary interrogation and indictment; attorney's assistance; fair trial; and appeal. However, DPRK authorities continue to exercise unrestrained power to deprive its citizens of their fundamental right to liberty at various stages of the justice process. Article 180 of the Criminal Procedure Law ensures that a person should not be arrested without being provided with an arrest warrant. In a survey conducted by NKDB in 2017, 75% of respondents answered that an arrest warrant was not provided at the time of the arrest and that law enforcement officials arrested suspects first, and then forced confessions during interrogations.<sup>4</sup>

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<sup>2</sup> Radio Free Asia, *North Korea Executes Fishing Fleet Captain for Listening to RFA*, 17 December 2020.

<sup>3</sup> Database Center for North Korean Human Rights, *The UN Universal Periodic Review and the DPRK: Monitoring of North Korea's Implementation of Its Recommendations*, 2017.

<sup>4</sup> *Ibid.*

DPRK law enforcement officials continue to use unlawful means of interrogation in a systematic and habitual manner. Under the ICCPR, persons who are criminally charged should not be compelled to testify against themselves or to confess guilt. However, 83% of NKDB's interviewees answered that people are forced to admit to their alleged crimes during interrogation through beatings and torture.<sup>5</sup>

Detainees are vulnerable to harsh treatment by officers in the State Security Department and the People's Security Department. Numerous testimonies indicate that detainees suffer from harsh beatings and various forms of torture caused by State Security Department and People's Security Department officers in detention facilities.<sup>6</sup> In recent years, testimonies from DPRK defectors have shown that there have been fewer beatings in the detention facilities. A number of testimonies indicated that some changes occurred due to the constant demands for improvement of detainees' rights made by the international community. Nevertheless, it is important to point out that there is insufficient awareness of human rights among law enforcement officials and thus torture has become a routine method of interrogation used to coerce suspects into confessions. Methods of torture include sleep deprivation or being forced to maintain one position for a prolonged period of time. The NKDB Unified Human Rights Database has recorded 4,100 cases of torture that took place within all detention facilities (State Security Department and People's Security Department interrogation facilities, prisons, political prison camps, labor training camps and police holding camps) in the country between 2000 and 2020.

#### Questions

- What steps has the government taken to train law enforcement officials in the State Security Department and People's Security Department on human rights and the treatment of prisoners?
- What actions have the authorities taken to ensure that detention conditions comply with international standards?
- What steps has the government taken to ensure the independence and impartiality of judges and lawyers?

#### **Forced labor (ICCPR Article 8)**

The Global Slavery Index 2018 estimated that there were more than 2.6 million people living in modern slavery conditions in the DPRK, with one in 10 people victim to forced labor.<sup>7</sup> Though the government states that all work earns an income, in reality most DPRK citizens are not paid for their work other than through food rations, which are also not given regularly. With the collapse of the public distribution system during the mid-1990s famine, most workplaces only exist, but have no production. As a result, few people are able to depend on the state to sustain their lives. As the majority of companies fail to provide remuneration for labor services provided by workers, many people have turned to "illegal economic activities," to sustain themselves. In order to be able to conduct these activities, people register as "8/3 workers," in which they would pay a steep monthly fee to be registered at a workplace to avoid punishment. If citizens do not pay to be registered and do not attend a workplace for more than 15 consecutive days, then they faced punishment - the most common of which is being sent to a labor training camp.

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<sup>5</sup> *Ibid.*

<sup>6</sup> Database Center for North Korean Human Rights, *2020 White Paper on North Korean Human Rights*, 2020.

<sup>7</sup> Walk Free Foundation, *The Global Slavery Index 2018*.

This form of forced labor is not only seen in official workplaces but also emerges in “mobilizations”- routine state-sanctioned campaigns in which both children and adults must partake in unpaid communal labor in agriculture, road building, and construction. Labor mobilizations are often called “battles” in which citizens are sent to work for 70 to 100 consecutive days without a day off.

In the DPRK, detainees who have received labor training sentences or labor prison sentences and detainees in temporary detention facilities, such as police holding camps or labor training camps are all subject to forced labor. These facilities intentionally implement forced labor to inflict physical suffering as a means of ideological re-education. In almost all police holding camps and labor training camps, people who await their sentences are coerced into various types of labor or work in construction sites from dawn until late at night, regardless of the season. Detainees get injured easily or fall ill from working long hours under dangerous conditions. Some of them, particularly the elderly, often die due to injuries or disease.

The DPRK has continuously refused to join the International Labor Organization (ILO). The DPRK government’s unwillingness to join the agency that sets international labor standards and considers the fight against forced labor to be one of its main issues reflects the DPRK authorities’ attitude towards labor within the country.

#### Questions

- Please clarify how labor practices for individuals in detention facilities comply with the prohibition of forced labor under Article 8 of the ICCPR.
- What type of treatment is available for detainees who are injured from working in detention facilities?

#### **Freedom of movement (Article 12)**

The right to freedom of movement within the DPRK is systematically restricted for DPRK citizens, as travel permits must be issued in order for them to travel from one province to another. Individuals are expected to provide proof of purpose for their travels, with permission from their work unit in order to be able to travel to another province.

With the rise of private entrepreneurship, individuals are now able to bribe government officials and receive the appropriate documents needed to travel to their destination quicker than without a bribe payment. This has led to a great deal of corruption and has had a ripple effect on other human rights violations. For example, officials have taken advantage of these procedures, leaving women vulnerable to sexual abuse and exploitation. As it is often women who are engaged in trade, they will travel to purchase and sell goods from one province to another. As a result, officials will demand bribes not just in the form of monetary compensation, but also sexual abuse and violence.

The government continuously punishes those who travel within and out of the country. Penalties depend on the level of movement, such as a bribe to government officials for travelling without a travel permit between provinces, and can be as serious as being sent to labor training camps for travelling to China for work without a permit.

As of 2020, a total of 33,718 DPRK citizens have resettled in the Republic of Korea. In 2019, 1,047 DPRK citizens resettled in the Republic of Korea, a 64% decrease from the 2,914 who had resettled in 2009. Research has shown that security along the DPRK-China border has tightened significantly after Kim Jong Un came to power, making it more difficult to defect. Interviewees who lived in

provinces such as South Hamgyong and Pyongyang stated that while it was usually possible to receive travel permits anywhere as long as a bribe is given, it has become increasingly difficult, and sometimes impossible, to travel to the border regions of North Hamgyong or Yanggang Provinces due to the crackdowns to prevent defections.

The government strictly prohibits its citizens from leaving the country. As a result, citizens usually have no other choice but to illegally cross the border, mostly into China. Those who have illegally travelled to China are considered to be political criminals and face severe punishments, including torture, inhumane treatment, and imprisonment. In 2012, the DPRK amended its Criminal Procedure Law to include that capital punishment can be imposed as a statutory punishment for crimes against the state, including leaving the country, a fundamental right that is guaranteed under the ICCPR. Those who are suspected to have crossed the border with the goal of going to the Republic of Korea receive stricter punishments.

In 2016, Heo Yeong-hui, a DPRK defector, paid a broker to bring her husband, Choi Seong-ga, and son, Choi Gyeong-hak, out of the country. However, upon being caught by the Chinese authorities, her husband and son were repatriated to the DPRK. Their whereabouts are currently unknown.<sup>8</sup> Men, family members, and those who travel in groups have a higher chance of being suspected of attempting to defect from the country and are unable to decrease their punishment through bribes. Those caught en route to the Republic of Korea are given harsher punishments and sent to political prison camps. The most severe punishments are given to the brokers who help DPRK citizens to cross the border. DPRK authorities paint brokers as perpetrators of human trafficking who are subject to public and secret executions in an attempt to deter citizens from leaving the country.

In response to the COVID-19 pandemic, DPRK authorities have tightened security along the border with China and have established and enforced a policy that allows its soldiers to shoot at intruders along the border. On September 22, 2020, the DPRK military fatally shot a Republic of Korea official as he swam into DPRK waters despite the fact that he was not exhibiting any imminent threat.<sup>9</sup>

### Questions

- What concrete steps are being taken to ensure that citizens are free to travel between provinces?
- Please explain how restrictions on the right to freedom of movement, including the right to leave the DPRK, are consistent under Article 12 of the ICCPR.
- What is the current status and whereabouts of Choi Seong-ga and Choi Gyeong-hak?

### **Right to freedom of religion or belief (Article 18)**

Despite the DPRK's claims, it is clear that in reality the right to freedom of religion or belief is neither respected nor protected. Legal provisions for ensuring the religious freedom of DPRK citizens exist in national legislation. However, the mere existence of religious facilities and the organization of "model" religious rites do not amount to respecting the right to freedom of religion or belief. Based on the cult of personality and idolization of the Supreme Leader, all ideas and forms of culture, including those of religious nature, that pose a threat to the government are rejected. Religion is perceived as a key threat to the government's survival and thus religious activities are treated as anti-national and anti-state actions that constitute political crimes.

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<sup>8</sup> Washington Post, *A North Korean defector paid smugglers to get her family out. China sent them back*, 27 June 2018.

<sup>9</sup> Yonhap News Agency, *N. Korea shoots S. Korean official to death at sea, burns his body: defense ministry*, 24 September 2020.

The most serious human rights violations occur not only when individuals are suspected to be involved in religious activities within the DPRK but even when DPRK citizens have contacts with religious groups in China. Through surveys with defectors who arrived in the Republic of Korea between 2007 and December 2019 and other sources, NKDB has recorded 1,411 cases that amounted, or were directly related to, violations of the right to freedom of religion or belief by the DPRK authorities, including 126 killings and 94 disappearances. Individuals who have been found to have contacts with religious persons in China or attempting to bring religious items into the country, may be subject to severe punishment upon interrogation. The most lenient punishment appears to be a sentence in a labor training camp, while the most severe is detention in a political prison camp. In January 2015, Canadian Pastor Lim Hyeon-soo was arrested and sentenced to a life of hard labor on charges of using religion to undermine the government.

#### Questions

- What steps does the government envision to provide independent religious organizations with unhindered access to all parts of the country?
- What measures has the government taken to ensure access to religious facilities?

#### **Right to freedom of opinion and expression (Article 19)**

In the DPRK, all media and publications are strictly state-run and state-controlled. Internet is only available to a small fraction of the elites, international radio signals are jammed, and freestanding radio signals are illegal. The control of all information in the DPRK is crucial for the government's efforts to maintain the *status quo* and oppress its people. DPRK citizens who have left the country have reported that all issues that are dealt with by domestic media are state propaganda and that even social issues are not dealt with. Interviewees stated that even if an issue was not considered to be political or about Kim Jong Un, it could be construed as leading indirectly back to the leadership and considered to be a form of criticism of the government.

Despite the government's censorship, DPRK citizens have been able to access outside information through information dissemination efforts by organizations based outside of the country. Through accessing foreign information and media in the form of radio, music, videos, and many others, DPRK citizens are able to gain insight into their own rights and have more objective views of the world, including their lives. NKDB's interviewees recalled that this enlightenment of information outside of the official narrative and expansion of knowledge have also been burdensome and difficult in a country where freedom of expression is severely oppressed. Individuals have to censor themselves to ensure that they do not use any South Korean slang that they have picked up through smuggled videos or express any opinions they may be critical of the DPRK government. However, in another act to suppress DPRK citizens' right to access information, on June 4 2020, Kim Yo-jong (the sister of Supreme Leader Kim Jong Un) issued a statement demanding that Republic of Korea-based activists stop sending leaflets into the DPRK.<sup>10</sup>

#### Questions

- What plans does the government have to amend or repeal legislation that prescribes punishment for the exercise of the right to freedom of opinion and expression?

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<sup>10</sup> KCNA Watch, *Kim Yo Jong Rebukes S. Korean Authorities for Conniving at Anti-DPRK Hostile Act of "Defectors from North,"* 4 June 2020

- What measures does the government envision to allow all people to be able access foreign media sources?

### **Discrimination based on family background (Articles 24, 25, and 26)**

The DPRK maintains its unique songbun [caste] system.<sup>11</sup> Discrimination based on one's songbun affects the lives of children in many ways, ranging from unequal access to learning during early childhood, to the chance of being admitted to certain universities or being able to hold certain job positions. In a research survey conducted by NKDB in 2017 among 100 DPRK defectors, interviewees testified that one's songbun and the economic status of one's parents were the two most crucial factors in university admissions. Their testimonies correspond with the NKDB's survey result, in which 87% of the respondents said that the government had taken no concrete measures against discrimination based on one's songbun and the consideration of economic and social status of parents with regard to university admission decisions. Students who have the academic ability to go to top universities, such as Pyongyang's Kim Il Sung University, are unable to do so if one of their family members was a returnee from Japan or fought for the Republic of Korea during the Korean War.

DPRK citizens also face discrimination on the basis of social status and family background in judicial proceedings. Families and relatives of a person who received instructions from Kim Il Sung, which is regarded as a privilege and honor, as well as State Security Department officials, are protected by the Workers' Party of Korea. Such protection is extended to people whose family members are pilots, Kim Jong Il's personal bodyguards, and descendants of Kim Il Sung's followers during the anti-Japan movement, or revolutionary activists.

### **Questions**

- What steps has the government taken to ensure that all children are guaranteed equal opportunities to education regardless of their family background?
- What measures has the government taken to ensure that those who have family ties with public officials do not enjoy impunity for abuses?

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<sup>11</sup> The songbun system is one through which the state categorizes citizens of the DPRK into classes based on their perceived political allegiance to the government, ascertained by reference to family background and particular actions taken by family members. Based on this assessment, citizens fall into three broad classes: core, wavering, and hostile. Decisions about residency, occupation, access to food, health care, education and other services are contingent on songbun. While the official songbun structure was quite elaborate and changed over time, its main feature has been the unchallengeable nature of the designation that is inherited mainly through the paternal line. See: Human Rights Council, 25<sup>th</sup> session, *Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea*, 7 January 2014; UN Docs A/HRC/25/CRP.1; para. 117.