

May 17, 2018

The Honorable Donald J. Trump President of the United States The White House 1600 Pennsylvania Avenue, NW Washington, D.C. 20500

Dear Mr. President,

We are foreign policy experts, religious leaders, and human rights and religious freedom advocates from across the political, ideological, and religious spectrum in America. We write to request that you incorporate human rights in general, and religious freedom in particular, into America's summit strategy in dealing with Kim Jong Un and the North Korean regime.

We recognize that the goal of your efforts is the denuclearization of North Korea, an outcome that would benefit all of humanity. The stunning reach of that goal creates other opportunities to benefit humanity. We urge you to seize those opportunities as well as this one.

We applaud and support your efforts to secure the release of American citizens. We also implore you to recognize that there are tens of thousands of other men, women, and even children—most of them North Korean citizens and many of them Christians—being brutalized by Kim and his regime. For decades, North Korea has been in effect a national torture chamber. There is nowhere on earth more dangerous for dissenters of conscience, especially those who believe in God.

Attached to this letter are photographs of North Korean citizens and others who are consigned to a living hell on earth. Their plights are amply documented in many reports, including the following, which we also attach to this letter:

Report of the UN Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea

The 2016 State Department Report on International Religious Freedom – DPRK

Report of Christian Solidarity Worldwide on North Korea.

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Particular Requests for Kim Jong Un

Mr. President, we recommend for your consideration the following elements which could be included in any agreement:

- 1. As a good-will gesture, the immediate release of substantial numbers of prisoners of conscience. We undertake to work with U.S. officials to develop a list of such prisoners to be handed to Kim.
- 2. Within one month of any agreement, access to all prisons by the International Red Cross and the members of the UN Commission of Inquiry.
- 3. The setting of quotas for voluntary emigration of released prisoners and their families, and for other applicants, to be administered and overseen by the UN High Commissioner for Refugees.
- 4. Agreement that the U.S. Ambassador for International Religious Freedom, the UN Special Rapporteur on Freedom of Religion or Belief, and the UN Special Rapporteur for Human Rights in North Korea may visit North Korea within three months of the agreement and have free access to any part of the country.

We firmly believe, Mr. President, that these actions can help reduce a 21st century humanitarian catastrophe that is steadily worsening. You have the opportunity to pair this worthy goal with that of denuclearizing one of history's most dangerous regimes, making the achievements even more historic. We urge you to take it.

Respectfully,

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Title and organization for identification purposes only

CC: Vice President Mike Pence, Secretary Mike Pompeo, National Security Advisor John Bolton, Senator Bob Corker, Senator Bob Menendez, Ambassador Sam Brownback



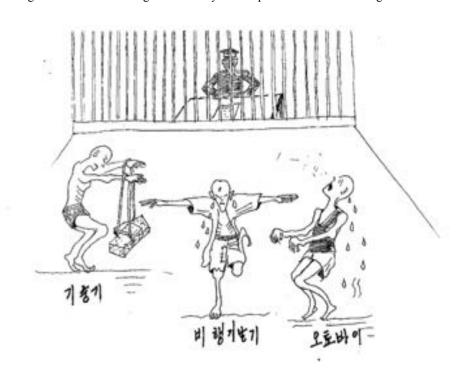
South Korean Christian Yoo Dae-sung holds photos of what he says are starving North Korean children at a rally in Seoul criticising the infringement of human rights in North Korea December 9, 2009. REUTERS/Choi Bu-Seok/Files https://www.reuters.com/article/idINIndia-55558820110314



"Ex-guard at North Korean concentration camp reveals horrific treatment of prisoners with some beheaded and babies buried alive" https://www.mirror.co.uk/news/world-news/ex-guard-north-korean-concentration-10328731



Pigeon Torture - Drawing submitted by former prisoner Mr Kim Kwang-il



Scale, Aeroplane and Motorcycle Torture – Drawing submitted by former prisoner Mr Kim Kwang-il

Sketches drawn by Mr. Kim Kwang-II, a 48-year-old defector from North Korea who spent almost three years in a North Korean gulag for smuggling pine nuts across the border.

Source: "Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea" (Feb. 7, 2014). https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/108/71/PDF/G1410871.pdf?OpenElement

United Nations A/HRC/25/63



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Human Rights Council

Twenty-fifth session

Agenda item 4

Human rights situations that require the Council's attention

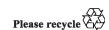
Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea^{*}

Summary

The present report contains the main findings and recommendations of the commission of inquiry on human rights in the Democratic People's Republic of Korea.**

GE.14-10866







^{*} The annexes to the present report are circulated as received, in the language of submission only.

** For detailed findings of the commission of inquiry, see document A/HRC/25/CRP.1.

A/HRC/25/63

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I. Introduction

- 1. In its resolution 22/13, adopted on 21 March 2013, the Human Rights Council established the commission of inquiry on human rights in the Democratic People's Republic of Korea. In resolution 22/13, the Council mandated the commission to investigate the systematic, widespread and grave violations of human rights in the State, with a view to ensuring full accountability, in particular, for violations that may amount to crimes against humanity.
- 2. On 7 May 2013, the President of the Human Rights Council announced the appointment of Michael Kirby (Australia) and Sonja Biserko (Serbia), who joined the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Marzuki Darusman (Indonesia) to serve as the members of the commission of inquiry. Mr. Kirby was designated to serve as Chair. The commission implemented the mandate entrusted by the States Members of the Human Rights Council, bearing in mind the decision of the Council to transmit the reports of the commission to all relevant bodies of the United Nations and to the Secretary-General for appropriate action.

II. Mandate and methodology¹

- 3. The mandate of the commission of inquiry is described in paragraph 5 of Human Rights Council resolution 22/13, in which the Council made specific reference to paragraph 31 of the 2013 report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea.² Reading the two paragraphs together, the commission determined that it had been mandated to investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea including, in particular, the following nine specific substantive areas:
 - Violations of the right to food
 - The full range of violations associated with prison camps
 - · Torture and inhuman treatment
 - Arbitrary arrest and detention
 - Discrimination, in particular in the systemic denial and violation of basic human rights and fundamental freedoms
 - Violations of the freedom of expression
 - Violations of the right to life
 - Violations of the freedom of movement
 - Enforced disappearances, including in the form of abductions of nationals of other States
- 4. The above list is not exhaustive. Where appropriate, the commission also investigated violations intrinsically linked to one of the nine areas.

¹ For further information on the interpretation of the mandate and the Commission's methods of work, see A/HRC/25/CRP.1, sect. II.

² A/HRC/22/57.

- 5. The mandate further indicates that the inquiry should pursue three interlinked objectives:
 - (a) Further investigating and documenting human rights violations;
 - (b) Collecting and documenting victim and perpetrator accounts;
 - (c) Ensuring accountability.
- 6. The commission paid specific attention to gender-based violations, particularly violence against women, and the impact of violations on particular groups, including women and children.
- 7. Paragraph 5 of Council resolution 22/13 does not limit the temporal scope for the commission's inquiry to a particular period within the existence of the Democratic People's Republic of Korea.
- 8. With regard to its geographic scope, the commission interpreted its mandate to include violations committed on the territory of the Democratic People's Republic of Korea, as well as those violations that involve extraterritorial action originating from the State, such as abductions from other countries. The commission also considered violations that causally enable, or are the immediate consequence of, violations in the Democratic People's Republic of Korea, and made findings regarding the extent to which other States carry relevant responsibility.

A. Non-cooperation by the Democratic People's Republic of Korea

- 9. In its resolution 22/13, the Human Rights Council urged the Government of the Democratic People's Republic of Korea to cooperate fully with the commission's investigation, to permit the commission's members unrestricted access to visit the country and to provide them with all information necessary to enable them to fulfil their mandate. Immediately after the adoption of resolution 22/13, the Democratic People's Republic of Korea publicly stated that it would "totally reject and disregard" it. In a letter dated 10 May 2013, it informed the President of the Human Rights Council that it "totally and categorically rejects the commission of inquiry". Regrettably, this stance has remained unchanged, despite numerous attempts at engagement by the commission.
- 10. The Democratic People's Republic of Korea did not respond to the commission's repeated requests for access to the country and to information on the human rights situation (see sect. III below).
- 11. The Commission shared its detailed findings (A/HRC/25/CRP.1) with the Government of the Democratic People's Republic of Korea, and invited its comments and factual corrections. A summary of the most serious concerns, in particular the principal findings on crimes against humanity, was also included in a letter addressed to the Supreme Leader of the Democratic People's Republic of Korea, Kim Jong-un (see annex I). In the letter, the commission drew attention to the principle of command and superior responsibility under international criminal law. It urged the Supreme Leader to prevent and suppress crimes against humanity, and to ensure that perpetrators are prosecuted and brought to justice.

B. Methods of work

12. Owing to its lack of access to the Democratic People's Republic of Korea, the commission obtained first-hand testimony through public hearings that were transparent, observed due process and protected victims and witnesses. More than 80 witnesses and

experts testified publicly and provided information of great specificity, detail and relevance, in ways that often required a significant degree of courage.

- 13. Public hearings were conducted in Seoul (20 to 24 August 2013), Tokyo (29 and 30 August 2013), London (23 October 2013) and Washington, D.C. (30 and 31 October 2013).³ The commission invited the authorities of the Democratic People's Republic of Korea to make representations at the public hearings, but received no reply.
- 14. The commission and its secretariat conducted more than 240 confidential interviews with victims and other witnesses.
- 15. In July 2013, the commission made a call for written submissions to all States Members of the United Nations and relevant stakeholders. At the finalization of the present report, 80 such submissions had been received.
- 16. The commission conducted official visits to the Republic of Korea, Japan, Thailand, the United Kingdom of Great Britain and Northern Ireland and the United States of America.
- 17. The commission sought access to China in order to conduct inquiries and to consult with officials of the Government and local experts. A working meeting was held in July 2013, at which that request was made. The commission requested access to parts of China bordering the Democratic People's Republic of Korea. On 7 November 2013, the commission transmitted a further request for an invitation to visit China. On 20 November 2013, the Permanent Mission of China in Geneva informed the secretariat that, given the State's position on country-specific mandates, especially on the Korean peninsula, it would not be possible to extend an invitation to the commission. In a follow-up letter dated 16 December 2013, the commission requested information on the status of citizens of the Democratic People's Republic of Korea and their children in China, forced repatriations to and related cooperation with the Democratic People's Republic of Korea, trafficking in persons and other issues relevant to the mandate of the commission (see annex II).
- 18. The commission engaged with a number of United Nations entities and other humanitarian actors. It regrets that other such entities and actors were not in a position to provide relevant information. The commission expresses its gratitude to the Office of the United Nations High Commissioner for Human Rights (OHCHR) for its support. The commission benefited from the invaluable support of a number of non-governmental organizations that thoroughly document human rights violations in the Democratic People's Republic of Korea, despite the inadequate financial resources available to them.
- 19. The most significant investigative challenge faced by the commission, aside from the inability to have access to the Democratic People's Republic of Korea, was the fear of reprisals by witnesses. Most of the potential witnesses residing outside the State were afraid to testify, even on a confidential basis, because they feared for the safety of family members and assumed that their conduct was still being clandestinely monitored by the authorities.
- 20. The commission paid particular attention to the protection of victims and witnesses. It recalls that primary responsibility for protecting victims, witnesses and other persons cooperating with the commission rests with their States of residence and nationality. The commission therefore urges Member States to provide additional protection measures where necessary.

Video recordings and transcripts from all the public hearings are available on the website of the commission of inquiry at www.ohchr.org/EN/HRBodies/HRC/CoIDPRK.

C. Legal framework and standard of proof for reported violations

- 21. In assessing the situation of human rights in the Democratic People's Republic of Korea, the commission relied chiefly on the binding legal obligations that the country voluntarily assumed as a State party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. Where appropriate, the commission also considered relevant obligations of other States, including the prohibition of refoulement under international refugee law and international human rights law. Matters relating to crimes against humanity were assessed on the basis of definitions set out by customary international criminal law and in the Rome Statute of the International Criminal Court.
- 22. The commission bases its findings on a "reasonable grounds" standard of proof. It concluded that there are reasonable grounds establishing that an incident or pattern of conduct had occurred whenever it was satisfied that it had obtained a reliable body of information, consistent with other material, based on which a reasonable and ordinarily prudent person would have reason to believe that such an incident or pattern of conduct had occurred.

D. Archiving and record-keeping of testimony

23. All information gathered by the commission, including information pertaining to individual perpetrators, has been stored in a confidential electronic database. The commission has authorized OHCHR, acting as the residual secretariat of the commission, to provide access to the existing materials contained in the database to competent authorities that carry out credible investigations for purposes of ensuring accountability for crimes and other violations committed, establishing the truth about violations committed or implementing United Nations-mandated targeted sanctions against particular individuals or institutions. Access must only be granted to the extent that witnesses or other providers of information have given their informed consent and any protection and operational concerns are duly addressed.

III. Principal findings of the commission

- 24. The commission finds that systematic, widespread and gross human rights violations have been and are being committed by the Democratic People's Republic of Korea.⁴ In many instances, the violations found entailed crimes against humanity based on State policies. The main perpetrators are officials of the State Security Department, the Ministry of People's Security, the Korean People's Army, the Office of the Public Prosecutor, the judiciary and the Workers' Party of Korea, who are acting under the effective control of the central organs of the Workers' Party of Korea, the National Defence Commission and the Supreme Leader of the Democratic People's Republic of Korea.
- 25. The commission emphasizes that the current human rights situation in the Democratic People's Republic of Korea has been shaped by the historical experiences of the Korean people. Confucian social structures and the experience of the Japanese colonial occupation have to some degree informed the political structures and attitudes prevailing in the country today. The division imposed on the Korean peninsula, the massive destruction

⁴ See also A/HRC/25/CRP.1, sect. IV.

caused by the Korean War and the impact of the Cold War have engendered an isolationist mindset and an aversion to outside powers that are used to justify internal repression. The particular nature and the overall scale of human rights violations in the State can be more easily understood through an appreciation of the nature of its political system, which is based on a single party led by a single Supreme Leader, an elaborate guiding ideology and a centrally planned economy.⁵

A. Violations of the freedoms of thought, expression and religion

- 26. Throughout the history of the Democratic People's Republic of Korea, among the most striking features of the State has been its claim to an absolute monopoly over information and total control of organized social life. The commission finds that there is an almost complete denial of the right to freedom of thought, conscience and religion, as well as of the rights to freedom of opinion, expression, information and association.
- 27. The State operates an all-encompassing indoctrination machine that takes root from childhood to propagate an official personality cult and to manufacture absolute obedience to the Supreme Leader (*Suryong*), effectively to the exclusion of any thought independent of official ideology and State propaganda. Propaganda is further used by the Democratic People's Republic of Korea to incite nationalistic hatred towards official enemies of the State, including Japan, the United States of America and the Republic of Korea, and their nationals.
- 28. Virtually all social activities undertaken by citizens of all ages are controlled by the Workers' Party of Korea. Through the associations that are run and overseen by the Party, and to which citizens are obliged to be members, the State is able to monitor its citizens and to dictate their daily activities. State surveillance permeates the private lives of all citizens to ensure that virtually no expression critical of the political system or of its leadership goes undetected. Citizens are punished for any "anti-State" activities or expressions of dissent. They are rewarded for reporting on fellow citizens suspected of committing such "crimes".
- 29. Citizens are denied the right to have access to information from independent sources; State-controlled media are the only permitted source of information in the Democratic People's Republic of Korea. Access to television and radio broadcasts, as well as to the Internet, is severely restricted, and all media content is heavily censored and must adhere to directives issued by the Workers' Party of Korea. Telephone calls are monitored and mostly confined to domestic connections for citizens. Citizens are punished for watching and listening to foreign broadcasts, including foreign films and soap operas.
- 30. Strengthening market forces and advancements in information technology have allowed greater access to information from outside the country as information and media from the Republic of Korea and China increasingly enter the country. The State's monopoly on information is therefore being challenged by the increasing flow of outside information into the country and the ensuing curiosity of the people for "truths" other than those provided by State propaganda. Authorities seek to preserve their monopoly on information by carrying out regular crackdowns and enforcing harsh punishments.
- 31. The State considers the spread of Christianity a particularly serious threat, since it challenges ideologically the official personality cult and provides a platform for social and political organization and interaction outside the realm of the State. Apart from the few organized State-controlled churches, Christians are prohibited from practising their religion and are persecuted. People caught practising Christianity are subject to severe punishments

⁵ See ibid., sect. III.

in violation of the right to freedom of religion and the prohibition of religious discrimination.

B. Discrimination

- 32. The Democratic People's Republic of Korea presents itself as a State where equality, non-discrimination and equal rights in all sectors have been fully achieved and implemented. In reality, it is a rigidly stratified society with entrenched patterns of discrimination, although these are being modified to some extent by the transformative socioeconomic changes introduced by market forces and technological developments. State-sponsored discrimination in the Democratic People's Republic of Korea is pervasive, but is also shifting. Discrimination is rooted in the *songbun* system, which classifies people on the basis of State-assigned social class and birth, and also includes consideration of political opinions and religion. *Songbun* intersects with gender-based discrimination, which is equally pervasive. Discrimination is also practised on the basis of disability, although there are signs that the State may have begun to address this particular issue.
- 33. The *songbun* system used to be the most important factor in determining where individuals were allowed to live; what sort of accommodation they had; what occupations they were assigned to; whether they were effectively able to attend school, in particular university; how much food they received; and even whom they might marry. This traditional discrimination under the *songbun* system was recently complicated by increasing marketization in the Democratic People's Republic of Korea and by the influence of money, including foreign currency, on people's ability to have greater access their economic, social and cultural rights. At the same time, significant segments of the population who have neither the resources nor favourable *songbun* find themselves increasingly marginalized and subject to further patterns of discrimination, given that basic public services have collapsed or now effectively require payment.
- 34. Early reforms aimed at ensuring formal legal equality have not resulted in gender equality. Discrimination against women remains pervasive in all aspects of society. Indeed, it might even be increasing, as the male-dominated State preys on both economically advancing women and marginalized women. Many women, survival-driven during the famine of the 1990s, began operating private markets. The State imposed, however, many restrictions on female-dominated markets. Gender discrimination also takes the form of women being targeted to pay bribes or fines. There is recent evidence that women are beginning to object and to resist such impositions.
- 35. The economic advances of women have not been matched by advances in the social and political spheres. Entrenched traditional patriarchal attitudes and violence against women persist in the Democratic People's Republic of Korea. The State has imposed blatantly discriminatory restrictions on women in an attempt to maintain the gender stereotype of the pure and innocent Korean woman. Sexual and gender-based violence against women is prevalent throughout all areas of society. Victims are not afforded protection from the State, support services or recourse to justice. In the political sphere, women make up just 5 per cent of the top political cadre and 10 per cent of central government employees.
- 36. Discrimination against women also intersects with a number of other human rights violations, placing women in a position of vulnerability. Violations of the rights to food and to freedom of movement have resulted in women and girls becoming vulnerable to trafficking and increased engagement in transactional sex and prostitution. The complete denial of the freedoms of expression and association has been a large contributing factor to the generally unequal status of women vis-à-vis men. These limitations have, inter alia,

prevented women from collectively advocating for their rights as women have done elsewhere in the world.

37. While discrimination exists to some extent in all societies, the Democratic People's Republic of Korea has practised a form of official discrimination that has had a very significant impact on individual enjoyment of human rights. Given the exceptional extent of State control, this official discrimination influences most aspects of people's lives. Discrimination remains a major means for the leadership to maintain control against perceived threats, both internal and external.

C. Violations of the freedom of movement and residence

- 38. The systems of indoctrination and discrimination on the basis of social class are reinforced and safeguarded by a policy of isolating citizens from contact with each other and with the outside world, violating all aspects of the right to freedom of movement.
- 39. In the Democratic People's Republic of Korea, the State imposes on citizens where they must live and work, violating their freedom of choice. Moreover, the forced assignment to a State-designated place of residence and employment is heavily driven by discrimination based on *songbun*. This has created a socioeconomically and physically segregated society, where people considered politically loyal to the leadership can live and work in favourable locations, whereas families of persons who are considered politically suspect are relegated to marginalized areas. The special status of Pyongyang, reserved only for those most loyal to the State, exemplifies this system of segregation.
- 40. Citizens are not even allowed to leave their province temporarily or to travel within the country without official authorization. This policy is driven by the desire to maintain disparate living conditions, to limit the flow of information and to maximize State control, at the expense of social and familial ties.
- 41. In an attempt to keep Pyongyang's "pure" and untainted image, the State systematically banishes entire families from the capital city if one family member commits what is deemed to be a serious crime or political wrong. For the same reason, the large number of street children migrating clandestinely to Pyongyang and other cities principally in search of food are subject to arrest and forcible transfer back to their home provinces, experiencing neglect and forced institutionalization on their return.
- 42. The State imposes a virtually absolute ban on ordinary citizens travelling abroad, thereby violating their human right to leave the country. Despite the enforcement of this ban through strict border controls, nationals still take the risk of fleeing, mainly to China. When they are apprehended or forcibly repatriated, officials from the Democratic People's Republic of Korea systematically subject them to persecution, torture, prolonged arbitrary detention and, in some cases, sexual violence, including during invasive body searches. Repatriated women who are pregnant are regularly subjected to forced abortions, and babies born to repatriated women are often killed. These practices are driven by racist attitudes towards interracial children of Koreans, and the intent to punish further women who have left the country and their assumed contact with Chinese men. Persons found to have been in contact with officials or nationals from the Republic of Korea or with Christian churches may be forcibly "disappeared" into political prison camps, imprisoned in ordinary prisons or even summarily executed.
- 43. Despite the gross human rights violations awaiting repatriated persons, China pursues a rigorous policy of forcibly repatriating citizens of the Democratic People's Republic of Korea who cross the border illegally. China does so in pursuance of its view that these persons are economic (and illegal) migrants. However, many such nationals of

the Democratic People's Republic of Korea should be recognized as refugees fleeing persecution or refugees *sur place*. They are thereby entitled to international protection. In forcibly returning nationals of the Democratic People's Republic of Korea, China also violates its obligation to respect the principle of non-refoulement under international refugee and human rights law. In some cases, Chinese officials also appear to provide information on those apprehended to their counterparts in the Democratic People's Republic of Korea.

- 44. Discrimination against women and their vulnerable status in the Democratic People's Republic of Korea, as well as the prospect of refoulement, make women extremely vulnerable to trafficking in persons. Many women are trafficked by force or deception from the Democratic People's Republic of Korea into or within China for the purposes of exploitation in forced marriage or concubinage, or prostitution under coercive circumstances. An estimated 20,000 children born to women from the Democratic People's Republic of Korea are currently in China. These children are deprived of their rights to birth registration, nationality, education and health care because their birth cannot be registered without exposing the mother to the risk of refoulement by China.
- 45. The Democratic People's Republic of Korea has repeatedly breached its obligations to respect the rights of its nationals who have special ties to, or claims in relation to, another country, in this case the Republic of Korea, to return there or otherwise to enjoy a facility to meet long separated families. The severe impediments put in place by the Democratic People's Republic of Korea to prevent contact and communication with family members in the Republic of Korea are a breach of the State's obligations under international human rights law. The restrictions are arbitrary, cruel and inhuman. This is particularly the case when previously agreed temporary reunions of separated families are cancelled for wholly unpersuasive reasons, especially given the advanced age of the persons concerned.

D. Violations of the right to food and related aspects of the right to life

- 46. The rights to food, freedom from hunger and to life in the context of the Democratic People's Republic of Korea cannot be reduced to a narrow discussion of food shortages and access to a commodity. The State has used food as a means of control over the population. It has prioritized those whom the authorities believe to be crucial in maintaining the regime over those deemed expendable.
- 47. Confiscation and dispossession of food from those in need, and the provision of food to other groups, follows this logic. The State has practised discrimination with regard to access to and distribution of food based on the *songbun* system. In addition, it privileges certain parts of the country, such as Pyongyang, over others. The State has also failed to take into account the needs of the most vulnerable. The commission is particularly concerned about ongoing chronic malnutrition in children and its long-term effects.
- 48. The State was aware of the deteriorating food situation in the country well before the first appeal for international aid in 1995. State-controlled production and distribution of food had not been able to provide the population with adequate food since the end of the 1980s. The lack of transparency, accountability and democratic institutions, as well as restrictions on freedom of expression, information and association, prevented the adoption of optimal economic solutions over those in accordance with Party directives. The State has evaded structural reforms to the economy and agriculture for fear of losing its control over the population.
- 49. During the period of famine, ideological indoctrination was used in order to maintain the regime, at the cost of seriously aggravating hunger and starvation. The concealment of information prevented the population from finding alternatives to the

collapsing public distribution system. It also delayed international assistance that, provided earlier, could have saved many lives. Despite the State's inability to provide its people with adequate food, it maintained laws and controls effectively criminalizing people's use of key coping mechanisms, particularly moving within or outside the country in search of food and trading or working in informal markets.

- 50. Even during the worst period of mass starvation, the State impeded the delivery of food aid by imposing conditions that were not based on humanitarian considerations. International humanitarian agencies were subject to restrictions contravening humanitarian principles. Aid organizations were prevented from properly assessing humanitarian needs and monitoring the distribution of aid. The State denied humanitarian access to some of the most affected regions and groups, including homeless children.
- 51. The State has consistently failed in its obligation to use the maximum of its available resources to feed those who are hungry. Military spending predominantly on hardware and the development of weapons systems and the nuclear programme has always been prioritized, even during periods of mass starvation. Nevertheless, the State still failed to feed the ordinary soldiers of its disproportionately large army. Large amounts of State resources, including parallel funds directly controlled by the Supreme Leader, have been spent on luxury goods and the advancement of his personality cult instead of providing food to the starving general population.
- 52. The State has also used deliberate starvation as a means of control and punishment in detention facilities. This has resulted in the deaths of many political and ordinary prisoners.
- 53. The commission found evidence of systematic, widespread and grave violations of the right to food in the Democratic People's Republic of Korea. While acknowledging the impact of factors beyond State control over the food situation, the commission finds that decisions, actions and omissions by the State and its leadership caused the death of at least hundreds of thousands of people and inflicted permanent physical and psychological injuries on those who survived.
- 54. In the highly centralized system of the Democratic People's Republic of Korea, decisions relating to food, including its production and distribution, State budget allocation, decisions relating to humanitarian assistance and the use of international aid, are ultimately made by a small group of officials, who are not accountable to those affected by their decisions.
- 55. While conditions have changed since the 1990s, hunger and malnutrition continue to be widespread. Deaths from starvation continue to be reported. The commission is concerned that structural issues, including laws and policies that violate the right to adequate food and freedom from hunger, remain in place, which could lead to the recurrence of mass starvation.

E. Arbitrary detention, torture, executions and prison camps

- 56. The police and security forces of the Democratic People's Republic of Korea systematically employ violence and punishments that amount to gross human rights violations in order to create a climate of fear that pre-empts any challenge to the current system of government and to the ideology underpinning it. The institutions and officials involved are not held accountable. Impunity reigns.
- 57. Gross human rights violations in the Democratic People's Republic of Korea involving detention, executions and disappearances are characterized by a high degree of centralized coordination between different parts of the extensive security apparatus. The

State Security Department, the Ministry of People's Security and the Korean People's Army Military Security Command regularly subject persons accused of political crimes to arbitrary arrest and subsequent incommunicado detention for prolonged periods of time. Their families are not informed of their fate or whereabouts. Persons accused of political crimes therefore become victims of enforced disappearance. Making the suspect disappear is a deliberate feature of the system that serves to instil fear in the population.

- 58. The use of torture is an established feature of the interrogation process in the Democratic People's Republic of Korea, especially in cases involving political crimes. Starvation and other inhumane conditions of detention are deliberately imposed on suspects to increase the pressure on them to confess and to incriminate other persons.
- 59. Persons who are found to have engaged in major political crimes are "disappeared", without trial or judicial order, to political prison camps (*kwanliso*). There, they are incarcerated and held incommunicado. Their families are not even informed of their fate if they die. In the past, it was common that the authorities sent entire families to political prison camps for political crimes committed by close relatives (including forebears, to the third generation) on the basis of the principle of guilt by association. Such cases still occur, but appear to be less frequent now than in past decades.
- 60. In the political prison camps of the Democratic People's Republic of Korea, the inmate population has been gradually eliminated through deliberate starvation, forced labour, executions, torture, rape and the denial of reproductive rights enforced through punishment, forced abortion and infanticide. The commission estimates that hundreds of thousands of political prisoners have perished in these camps over the past five decades. The unspeakable atrocities that are being committed against inmates of the *kwanliso* political prison camps resemble the horrors of camps that totalitarian States established during the twentieth century.
- 61. Although the authorities in the Democratic People's Republic of Korea deny the existence of the camps, this claim was shown to be false by the testimonies of former guards, inmates and neighbours. Satellite imagery proves that the camp system continues to be in operation. While the number of political prison camps and inmates has decreased owing to deaths and some releases, it is estimated that between 80,000 and 120,000 political prisoners are currently detained in four large political prison camps.
- 62. Gross violations are also being committed in the ordinary prison system, which consists of ordinary prison camps (*kyohwaso*) and various types of short-term forced labour detention facilities. The vast majority of inmates are victims of arbitrary detention, since they are imprisoned without trial or on the basis of a trial that fails to respect the due process and fair trial guarantees set out in international law. Furthermore, many ordinary prisoners are, in fact, political prisoners, who are detained without a substantive reason compatible with international law. Prisoners in the ordinary prison system are systematically subjected to deliberate starvation and illegal forced labour. Torture, rape and other arbitrary cruelties at the hands of guards and fellow prisoners are widespread and committed with impunity.
- 63. As a matter of State policy, the authorities carry out executions, with or without trial, publicly or secretly, in response to political and other crimes that are often not among the most serious crimes. The policy of regularly carrying out public executions serves to instil fear in the general population. Public executions were most common in the 1990s. However, they continue to be carried out today. In late 2013, there appeared to be a spike in the number of politically motivated public executions.

F. Abductions and enforced disappearances from other countries

- 64. Since 1950, the Democratic People's Republic of Korea has engaged in the systematic abduction, denial of repatriation and subsequent enforced disappearance of persons from other countries on a large scale and as a matter of State policy. Well over 200,000 persons, including children, who were brought from other countries to the Democratic People's Republic of Korea may have become victims of enforced disappearance, as defined in the Declaration on the Protection of All Persons from Enforced Disappearance. More information would have to emerge from the Democratic People's Republic of Korea to provide a more precise estimate of the number of victims.
- 65. For a nation State that seeks to live alongside others, the above-mentioned actions, in defiance of the sovereignty of other States and the rights of foreign nationals guaranteed under international law, are exceptional.
- 66. The vast majority of abductions and enforced disappearances are linked to the Korean War and the organized movement of ethnic Koreans from Japan that started in 1959. However, hundreds of nationals of the Republic of Korea, Japan and other States were also abducted and disappeared between the 1960s and 1980s. In more recent years, the Democratic People's Republic of Korea abducted a number of its own nationals and nationals of the Republic of Korea from China.
- 67. The Democratic People's Republic of Korea used its land, naval and intelligence forces to conduct abductions and arrests. Operations were approved at the level of the Supreme Leader. The vast majority of victims were forcibly disappeared to gain labour and other skills for the State. Some victims were used to further espionage and terrorist activities. Women abducted from Europe, the Middle East and Asia were subjected to forced marriages with men from other countries to prevent liaisons on their part with ethnic Korean women that could result in interracial children. Some of the abducted women have also been subject to sexual exploitation.
- 68. A number of the forcibly disappeared travelled to the Democratic People's Republic of Korea voluntarily. Others were abducted through physical force or fraudulent persuasion. Subsequently, they were all denied the right to leave the country. They have also been subject to severe deprivation of their liberty and freedom of movement within the Democratic People's Republic of Korea, denied the right to recognition as a person before the law, and the right not to be subjected to torture and other cruel, inhuman or degrading treatment. All of the forcibly disappeared have been placed under strict surveillance. They have been denied education and employment opportunities.
- 69. Ethnic Koreans from the Republic of Korea and Japan, forcibly disappeared by the Democratic People's Republic of Korea, have been discriminated against for their origins and background. They were categorized as "hostile" and forced to work in mines and farms in remote marginalized areas of the country. Many of them were likely to have been the first victims of the famine in the 1990s because of their lower social status.
- 70. Non-Korean abductees were not able to integrate into social and economic life in the Democratic People's Republic of Korea as they were detained in tightly controlled compounds. They were denied the right to work, to leave their place of residence or to move freely in society, and they were unable to choose educational opportunities for themselves and their children.
- 71. Family members abroad and foreign States wishing to exercise their right to provide diplomatic protection have been consistently denied information necessary to establish the fate and whereabouts of the victims. Family members of the disappeared have been subjected to torture and other cruel, inhuman or degrading treatment. They have been

denied the right to effective remedies for human rights violations, including the right to the truth. Parents and disappeared children have been denied the right to family life.

- 72. Despite admitting to the abduction of 13 Japanese nationals by agents of the State, the Democratic People's Republic of Korea has never adequately disavowed the practice of international abductions. Since the 1990s, its agents have abducted a number of persons from Chinese territory, including nationals of China, the Republic of Korea and, in at least one case, a former Japanese national.
- 73. The commission finds that almost all of the foregoing victims remain disappeared. Human rights violations continue against them and their families. The shock and pain caused by such actions is indescribable.

IV. Crimes against humanity

- 74. In accordance with Human Rights Council resolution 22/13, the commission carried out its inquiry with a view to ensuring full accountability, in particular where these violations may amount to crimes against humanity. The commission is neither a judicial body nor a prosecutor. It cannot make final determinations of individual criminal responsibility. It can, however, determine whether its findings constitute reasonable grounds establishing that crimes against humanity have been committed so as to merit a criminal investigation by a competent national or international organ of justice.
- 75. According to that standard, the commission finds that the body of testimony and other information it received establishes that crimes against humanity have been committed in the Democratic People's Republic of Korea, pursuant to policies established at the highest level of the State.⁶
- 76. These crimes against humanity entail extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation. The commission further finds that crimes against humanity are ongoing in the Democratic People's Republic of Korea because the policies, institutions and patterns of impunity that lie at their heart remain in place.
- 77. Persons detained in political and other prison camps, those who try to flee the State, Christians and others considered to introduce subversive influences are the primary targets of a systematic and widespread attack against all populations that are considered to pose a threat to the political system and leadership of the Democratic People's Republic of Korea. This attack is embedded in the larger patterns of politically motivated human rights violations experienced by the general population, including the discriminatory system of classification of persons based on *songbun*.
- 78. In addition, the commission finds that crimes against humanity have been committed against starving populations, particularly during the 1990s. These crimes arose from decisions and policies violating the right to food, which were applied for the purposes of sustaining the present political system, in full awareness that such decisions would exacerbate starvation and related deaths of much of the population.
- 79. Lastly, the commission finds that crimes against humanity are being committed against persons from other countries who were systematically abducted or denied

⁶ See also A/HRC/25/CRP.1, sect. V.

repatriation, in order to gain labour and other skills for the Democratic People's Republic of Korea

V. Conclusions and recommendations

- 80. Systematic, widespread and gross human rights violations have been and are being committed by the Democratic People's Republic of Korea, its institutions and officials. In many instances, the violations of human rights found by the commission constitute crimes against humanity. These are not mere excesses of the State; they are essential components of a political system that has moved far from the ideals on which it claims to be founded. The gravity, scale and nature of these violations reveal a State that does not have any parallel in the contemporary world. Political scientists of the twentieth century characterized this type of political organization as a totalitarian State: a State that does not content itself with ensuring the authoritarian rule of a small group of people, but seeks to dominate every aspect of its citizens' lives and terrorizes them from within.
- 81. The Democratic People's Republic of Korea displays many attributes of a totalitarian State: the rule of a single party, led by a single person, is based on an elaborate guiding ideology that its current Supreme Leader refers to as "Kimilsungism-Kimjongilism". The State seeks to ensure that its citizens internalize this guiding ideology by indoctrinating citizens from childhood, suppressing all political and religious expression that questions the official ideology, and tightly controlling citizens' physical movement and their means of communication with each other and with those in other countries. Discrimination on the basis of gender and songbun is used to maintain a rigid social structure that is less likely to produce challenges to the political system.
- 82. The State's monopolization of access to food has been used as an important means to enforce political loyalty. The distribution of food has prioritized those who are useful to the survival of the current political system at the expense of those deemed to be expendable. Citizens' complete dependence on the State led to one of the worst cases of famine in recent history. The authorities have only recently come to tolerate the fact that markets can no longer be fully suppressed. Instead of fully embracing reforms to realize the right to food, however, the Democratic People's Republic of Korea maintains a system of inefficient economic production and discriminatory resource allocation that inevitably produces more unnecessary starvation among its citizens.
- 83. The key to the political system is the vast political and security apparatus that strategically uses surveillance, coercion, fear and punishment to preclude the expression of any dissent. Public executions and enforced disappearance to political prison camps serve as the ultimate means to terrorize the population into submission. The State's violence has been externalized through State-sponsored abductions and enforced disappearances of people from other nations. These international enforced disappearances are unique in their intensity, scale and nature.
- 84. Today, the Democratic People's Republic of Korea finds itself surrounded by a world that is changing rapidly in political, economic and technological terms. These changes offer opportunities for incremental social change within the State. In response, the authorities engage in gross human rights violations so as to crack down on "subversive" influences from abroad. These influences are symbolized by films and soap operas from the Republic of Korea and other countries, short-wave radio broadcasts and foreign mobile telephones. For the same reason, the State

- systematically uses violence and punishment to deter its citizens from exercising their human right to leave the country. Persons who are forcibly repatriated from China are commonly subjected to torture, arbitrary detention, summary execution, forced abortion and other forms of sexual violence.
- 85. A number of long-standing and ongoing patterns of systematic and widespread violations, which were documented by the commission, meet the high threshold required for proof of crimes against humanity in international law. The perpetrators enjoy impunity. The Democratic People's Republic of Korea is unwilling to implement its international obligation to prosecute and bring the perpetrators to justice, because those perpetrators act in accordance with State policy.
- 86. The fact that the Democratic People's Republic of Korea, as a State Member of the United Nations, has for decades pursued policies involving crimes that shock the conscience of humanity raises questions about the inadequacy of the response of the international community. The international community must accept its responsibility to protect the people of the Democratic People's Republic of Korea from crimes against humanity, because the Government of the Democratic People's Republic of Korea has manifestly failed to do so. In particular, this responsibility must be accepted in the light of the role played by the international community (and by the great powers in particular) in the division of the Korean peninsula and because of the unresolved legacy of the Korean War. These unfortunate legacies help not only to explain the intractability of the human rights situation but also why an effective response is now imperative.
- 87. The United Nations must ensure that those most responsible for the crimes against humanity committed in the Democratic People's Republic of Korea are held accountable. Options to achieve this end include a Security Council referral of the situation to the International Criminal Court or the establishment of an ad hoc tribunal by the United Nations. Urgent accountability measures should be combined with a reinforced human rights dialogue, the promotion of incremental change through more people-to-people contact and an inter-Korean agenda for reconciliation.
- 88. On the basis of its findings and conclusions, the Commission makes the recommendations below.
- 89. The commission of inquiry recommends that the Democratic People's Republic of Korea:
- (a) Undertake profound political and institutional reforms without delay to introduce genuine checks and balances upon the powers of the Supreme Leader and the Workers' Party of Korea; such changes should include an independent and impartial judiciary, a multiparty political system and elected people's assemblies at the local and central levels that emerge from genuinely free and fair elections; reform the security sector by vetting the entire officers' corps for involvement in human rights violations and by limiting the functions of the Korean People's Army to defending the nation against external threats; and dismantle the State Security Department and place the Ministry of Public Security under transparent democratic oversight. An independent constitutional and institutional reform commission, consisting of respected members of society in the Democratic People's Republic of Korea, should be constituted to guide this process and should be assisted by appropriate international experts;
- (b) Acknowledge the existence of human rights violations, including the political prison camps described by the commission in the present report; provide international humanitarian organizations and human rights monitors with immediate access to the camps and their surviving victims; dismantle all political prison camps

and release all political prisoners; and clarify with full detail the fate of any disappeared persons who cannot be readily traced;

- (c) Reform the Criminal Code and Code of Criminal Procedure to abolish vaguely worded "anti-State" and "anti-People" crimes and to fully enshrine the right to a fair trial and due process guarantees articulated in the International Covenant on Civil and Political Rights; enforce existing provisions in the Criminal Code and the Code of Criminal Procedure that prohibit and criminalize the use of torture and other inhuman means of interrogation that are illegal under international law; reform the ordinary prison system so as to ensure humane conditions of detention for all inmates deprived of liberty; end reprisals against persons on the basis of guilt by association; and abolish immediately the practice of forcibly resettling the families of convicted criminals;
- (d) Declare and implement an immediate moratorium on the imposition and execution of the death penalty, followed without undue delay by the abolition of the death penalty both in law and in practice;
- (e) Allow the establishment of independent newspapers and other media; allow citizens to freely access the Internet, social media, international communications, foreign broadcasts and publications, including the popular culture of other countries; and abolish compulsory participation in mass organizations and indoctrination sessions:
- (f) Introduce education to ensure respect for human rights and fundamental freedoms; and abolish any propaganda or educational activities that espouse national, racial or political hatred or war propaganda;
- (g) Allow Christians and other religious believers to exercise their religion independently and publicly, without fear of punishment, reprisal or surveillance;
- (h) End discrimination against citizens on the basis of their perceived political loyalty or the sociopolitical background of their families, including in matters of access to education and employment; dismantle the neighbourhood watch (inminban), the secret resident registration file system, and all surveillance of persons and their communications that serve purposes of political oppression and/or are not subject to effective judicial and democratic control; and publicly acknowledge the extent of surveillance practices carried out in the past and provide citizens with access to their resident registration file;
- (i) Take immediate measures to ensure gender equality in practice, such as by providing equal access for women in public life and employment; eradicate discriminatory laws, regulations and practices affecting women; take measures to address all forms of violence against women, including domestic violence, sexual and gender-based violence by State agents and/or within State institutions; and respond immediately and effectively to trafficking in women, and address the structural causes that make women vulnerable to such violations;
- (j) Ensure that citizens can enjoy the right to food and other economic and social rights without discrimination; pay particular attention to the needs of women and vulnerable groups, such as street children, the elderly and persons with disabilities; promote agricultural, economic and financial policies based on democratic participation, good governance and non-discrimination; and legalize and support free market activities, internal and external trade and other independent economic conduct that provide citizens with a livelihood;
- (k) In the light of the past expenditures by the leadership, the military and security apparatus, realign priorities and dedicate the resources made available to

ensure, as necessary, freedom from hunger and other essential minimum standards for citizens, including those citizens serving in the armed forces;

- (l) Where necessary to ensure the right to food, seek international humanitarian assistance without delay; provide international humanitarian organizations with free and unimpeded access to all populations in need, including for the purposes of effective monitoring; and hold accountable State officials who illegally divert humanitarian aid for improper purposes;
- (m) Abolish the de facto prohibition on foreign travel imposed on ordinary citizens; decriminalize illegal border crossings and introduce border controls that conform to international standards; renounce orders to shoot and kill at the border; cease to regard citizens repatriated from China as political criminals or to subject them to imprisonment, execution, torture, arbitrary detention, deliberate starvation, illegal cavity searches, forced abortions and other sexual violence; and abolish the State's compulsory designation of places of residence and employment, as well as the requirement to obtain a permit for domestic travel outside a person's designated province;
- (n) Provide the families and nations of origin of all persons who have been abducted, or otherwise forcibly disappeared, with full information on their fate and whereabouts, if they have survived; allow those who remain alive, and their descendants, to return immediately to their countries of origin; and, in close cooperation with their families and nations of origin, identify and repatriate the physical remains of those who have died;
- (o) Allow separated families to unite, including by allowing citizens to travel or emigrate where they choose; and immediately provide such persons with facilities for unmonitored communications by way of mail, telephone, email and any other means of communication;
- (p) Prosecute and bring to justice those persons most responsible for alleged crimes against humanity; appoint a special prosecutor to supervise this process; ensure that victims and their families are provided with adequate, prompt and effective reparation and remedies, including by knowing the truth about the violations that have been suffered; launch a people-driven process to establish the truth about the violations; provide adults and children with comprehensive education on national and international law and practice on human rights and democratic governance; and seek international advice and support for transitional justice measures;
- (q) Take immediate steps to end all other human rights violations and to address the human rights concerns raised by the commission in the present report, as well as in successive resolutions of the General Assembly and the Human Rights Council, in the procedures of universal periodic review and in the reports of special procedures mandate holders and the treaty bodies;
- (r) Ratify without delay the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities, the Rome Statute of the International Criminal Court and the fundamental conventions of the International Labour Organization;
- (s) Accept immediately a field-based presence and technical assistance from the Office of the United Nations High Commissioner for Human Rights and other relevant United Nations entities to help to implement the above-mentioned recommendations.
- 90. The commission of inquiry recommends that China and other States:

- (a) Respect the principle of non-refoulement and, accordingly, abstain from forcibly repatriating any persons to the Democratic People's Republic of Korea, unless the treatment there, as verified by international human rights monitors, markedly improves; extend asylum and other means of durable protection to persons fleeing the Democratic People's Republic of Korea who need international protection; ensure that such persons are fully integrated and duly protected from discrimination; stop providing information on activities and contacts of persons from the Democratic People's Republic of Korea living in China to the State Security Department and other security agencies in the Democratic People's Republic of Korea; and allow persons from the Democratic People's Republic of Korea free access to diplomatic and consular representations of any State that may be willing to extend nationality or other forms of protection to them;
- (b) Provide the Office of the United Nations High Commissioner for Refugees, and relevant humanitarian organizations, full and unimpeded access to all persons from the Democratic People's Republic of Korea seeking such contact;
- (c) Request technical assistance from the United Nations to help to meet the obligations imposed under international refugee law, and ensure the effective protection of persons from trafficking;
- (d) Adopt a victim-centric and human rights-based approach to trafficking in persons, including by providing victims with the right to stay in the country and access to legal protection and basic services, such as medical treatment, education and employment opportunities equivalent to those afforded to their own citizens;
- (e) Regularize the status of women and men from the Democratic People's Republic of Korea who marry or have a child with a Chinese citizen; and ensure that all such children may realize their rights to birth registration and Chinese nationality where applicable, and have access to education and health care without discrimination;
- (f) Take immediate measures to prevent agents of the Democratic People's Republic of Korea from carrying out further abductions from Chinese territory; prosecute and adequately punish apprehended perpetrators of abduction and demand the extradition of those giving such orders so that they may be tried in accordance with law. China should raise with the Supreme Leader of the Democratic People's Republic of Korea and other high-level authorities the issues of abductions, the infanticide of children entitled to Chinese nationality, forced abortions imposed on repatriated women and other human rights violations that target persons repatriated from China.
- 91. The commission of inquiry recommends that the Korean people foster inter-Korean dialogue in a phased approach leading to an agenda for reconciliation. Inter-Korean dialogue could be furthered through such initiatives as friendly sporting events; academic and business interactions; scholarships and apprenticeships for young people from the Democratic People's Republic of Korea; student exchanges; exchanges between civil society organizations, including national Red Cross Societies; contacts between professional organizations and women's groups; and the development of "sister city" relationships and, eventually, the re-establishment of transport and communication links.
- 92. The commission of inquiry recommends that States and civil society organizations foster opportunities for people-to-people dialogue and contact in such areas as culture, science, sports, good governance and economic development that provide citizens of the Democratic People's Republic of Korea with opportunities to exchange information and be exposed to experiences outside their home country. The

Democratic People's Republic of Korea and other States should remove applicable obstacles to people-to-people contact, including measures that criminalize travel and contact to the extent that these are not in accordance with relevant obligations under international human rights law.

- 93. The commission also recommends that States, foundations and engaged business enterprises provide more support for the work of civil society organizations to improve the situation of human rights in the Democratic People's Republic of Korea, including efforts to document human rights violations and to broadcast accessible information into each country. Eventually, and once conditions are deemed to be appropriate, such foundations and enterprises should join forces with the Governments concerned to coordinate efforts to adopt a coherent plan for the development of the country, creation of livelihoods for the population and the advancement of the situation of human rights.
- 94. With regard to the international community and the United Nations, the commission makes the following recommendations:
- (a) The Security Council should refer the situation in the Democratic People's Republic of Korea to the International Criminal Court for action in accordance with that court's jurisdiction. The Security Council should also adopt targeted sanctions against those who appear to be most responsible for crimes against humanity. In the light of the dire social and economic situation of the general population, the commission does not support sanctions imposed by the Security Council or introduced bilaterally that are targeted against the population or the economy as a whole;
- (b) The General Assembly and the Human Rights Council should extend the country-specific human rights monitoring and reporting mechanisms on the Democratic People's Republic of Korea that predate the establishment of the commission; these include the periodic reports of the Secretary-General and the United Nations High Commissioner for Human Rights, as well as the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea. Such mechanisms should be mandated to focus on ensuring accountability, in particular for crimes against humanity, and should report on the implementation of the commission's recommendations;
- (c) The United Nations High Commissioner for Human Rights, with full support from the Human Rights Council and the General Assembly, should establish a structure to help to ensure accountability for human rights violations in the Democratic People's Republic of Korea, in particular where such violations amount to crimes against humanity. The structure should build on the collection of evidence and documentation work of the commission, and further expand its database. It should be field-based, supported by adequate personnel deployed to the region so as to enjoy sustained access to victims and witnesses. In addition to informing the work of human rights reporting mechanisms and serving as a secure archive for information provided by relevant stakeholders, the work of such a structure should facilitate United Nations efforts to prosecute, or otherwise render accountable, those most responsible for crimes against humanity;
- (d) The High Commissioner should continue the engagement of OHCHR with the Democratic People's Republic of Korea, offering technical assistance and enhancing advocacy initiatives. The High Commissioner should facilitate the implementation of a strategy led by the Special Rapporteur and involving all concerned human rights mechanisms of the United Nations system to address, coherently and without delay, the special issue of international abductions and

enforced disappearances and related matters described in the present report. Member States should afford full cooperation to ensure the implementation of such a strategy;

- (e) The High Commissioner should periodically report to the Human Rights Council and other appropriate United Nations organs on the implementation of the recommendations contained in the present report;
- (f) The Human Rights Council should ensure that the conclusions and recommendations of the commission do not pass from the active attention of the international community. Where so much suffering has occurred, and is still occurring, action is the shared responsibility of the entire international community;
- (g) The United Nations Secretariat and agencies should urgently adopt and implement a common "Rights up Front" strategy to ensure that all engagement with the Democratic People's Republic of Korea effectively takes into account, and addresses, human rights concerns, including those collected in the present report. The United Nations should immediately apply this strategy to help to prevent the recurrence or continuation of crimes against humanity in the Democratic People's Republic of Korea. The strategy should contemplate the possibility of the Secretary-General referring the situation to the Security Council;
- (h) States that have historically friendly ties with the Democratic People's Republic of Korea, major donors and potential donors, as well as those States already engaged with the Democratic People's Republic of Korea in the framework of the sixparty talks, should form a human rights contact group to raise concerns about the situation of human rights in the Democratic People's Republic of Korea and to provide support for initiatives to improve it;
- (i) States should not use the provision of food and other essential humanitarian assistance to impose economic or political pressure on the Democratic People's Republic of Korea. Humanitarian assistance should be provided in accordance with humanitarian and human rights principles, including the principle of non-discrimination. Aid should only be curbed to the extent that unimpeded international humanitarian access and related monitoring is not adequately guaranteed. Bilateral and multilateral providers of assistance should coordinate their efforts to ensure that adequate conditions of humanitarian access and related monitoring are provided by the Democratic People's Republic of Korea;
- (j) Without prejudice to all the obligations under international law that the Democratic People's Republic of Korea must immediately implement, the United Nations and the States that were parties to the Korean War should take steps to convene a high-level political conference. Participants in that conference should consider and, if agreed, ratify a final peaceful settlement of the war that commits all parties to the principles of the Charter of the United Nations, including respect for human rights and fundamental freedoms. States of the region should intensify their cooperation and consider following such examples as the Helsinki Process.

Annex I

[English only]

Correspondence with the Supreme Leader of the Democratic People's Republic of Korea and First Secretary of the Workers' Party of Korea, Kim Jong-un



유엔 조선민주주의인민공화국 인권조사위원회

COMMISSION OF INQUIRY ON HUMAN RIGHTS IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

REFERENCE: COIDPRK/GC/st/62

20 January 2014

Excellency,

Further to my letter dated 16 July 2013, I am writing you again in my capacity as the Chair of the United Nations Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea. The Commission was established by the Human Rights Council of the United Nations. It has the mandate to investigate alleged grave, systematic and widespread human rights violations in the Democratic People's Republic of Korea with a view to ensuring full accountability, in particular where any such violations amount to crimes against humanity. The Commission has concluded its inquiry, having carefully reviewed the wealth of relevant information which it received in the course of public hearings involving victims and other witnesses, confidential interviews and submissions received from concerned stakeholders.

The Commission regrets that Your Excellency's Government has not availed itself of the opportunity to cooperate with the Commission, including by taking up repeated offers to participate and to make representations at its public hearings. We also regret the fact that, despite our repeated requests, the Commission has not been invited to visit the Democratic People's Republic of Korea and that it has not been provided with information in any manner that Your Excellency's Government would have considered suitable.

The Commission has found that systematic, widespread and gross human rights violations have been, and are being, committed by the Democratic People's Republic of Korea, its institutions and officials. In many instances, the violations of human rights found by the Commission entail crimes against humanity. The comprehensive annex to this letter details the findings of the Commission. These findings substantiate and sustain the foregoing conclusions. Any official of the Democratic People's Republic of Korea who commits, orders, solicits or aids and abets crimes against humanity incurs criminal responsibility by international law and must be held accountable under that law.

His Excellency
Mr. Kim Jong-un
Supreme Leader, Democratic People's Republic of Korea
First Secretary of the Workers' Party of Korea
Pyongyang, Democratic People's Republic of Korea
Permanent Mission of the Democratic People's Republic of Korea
to the United Nations in Geneva

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Even without being directly involved in crimes against humanity, a military commander may be held responsible for crimes against humanity committed by forces under the commander's effective command and control, in the event of failing to exercise control properly over such forces, where (1) the commander knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes, and (2) the commander failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

On the same basis, a civilian superior will incur personal criminal responsibility if (1) the civilian superior knew, or consciously disregarded, information which clearly indicated that subordinates within his effective responsibility and control were committing crimes against humanity, and (2) the civilian superior fails to take all necessary and reasonable measures within the superior's power to prevent or repress their commission or to submit the matter to competent authorities for investigation and prosecution.

In your capacities as Supreme Leader of the Democratic People's Republic of Korea, First Secretary of the Workers' Party of Korea and Chairman of the Party's Central Military Commission, First Chairman of the National Defence Commission and Supreme Commander of the Korean People's Army, the Commission, therefore, wishes to draw your attention in particular to the following findings:

- 1. The Commission has found that officials of the State Security Department, the Ministry of People's Security, the Korean People's Army, the Office of the Public Prosecutor, the judiciary and the Workers' Party of Korea have committed and are committing, crimes against humanity. These officials are acting under the effective control of the central organs of the Workers' Party of Korea, the National Defence Commission and the Supreme Leader of the Democratic People's Republic of Korea. It is open to inference that the officials, are, in some instances, acting under your personal control.
- 2. The Commission has found that persons detained in political prison camps (kwanliso) and other prison camps, those who try to flee your country, adherents to the Christian religion and others considered to be introducing subversive influences are subjected to crimes against humanity. This occurs as part of a systematic and widespread attack of the State against anyone who is considered to pose a threat to the political system and the leadership of the Democratic People's Republic of Korea. The foregoing attack is embedded in the larger patterns of politically motivated human rights violations experienced by the general population, including the discriminatory system of classification based on songbun.
- 3. The Commission has also found that crimes against humanity have been, and are being, committed against persons from the Republic of Korea, Japan and other countries who have been systematically abducted or denied repatriation, ostensibly to gain labour and other skills for the Democratic People's Republic of Korea. These persons are victims of ongoing crimes of enforced disappearance. Officials who fail to acknowledge their deprivation of liberty or fail to provide available information about their fate and whereabouts may also incur criminal responsibility, even if they did not themselves participate in the original abduction or denial of repatriation.

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4. The Commission has found that crimes against humanity have been, and are being, committed against starving populations. These crimes are sourced in decisions and policies violating the universal human right to food. They were taken for purposes of sustaining the present political system, in full awareness that they would exacerbate starvation and contribute to related deaths. Many of the policies that gave raise to these crimes against humanity continue to be in place, including the deliberate failure to provide reliable data on the humanitarian situation in the Democratic People's Republic of Korea; the denial of free and unimpeded international humanitarian access to populations in need; and discriminatory spending and food distribution.

The Commission urges you to take all necessary and reasonable measures within your power to prevent or repress the commission of further such crimes and to ensure that the crimes against humanity that have been committed are properly investigated and prosecuted. To this point, the Commission has found no indication that the institutions and officials of the Democratic People's Republic of Korea are willing and able to identify and prosecute the perpetrators of the foregoing crimes against humanity. The Commission wishes to draw to your attention that it will therefore recommend that the United Nations refer the situation in the Democratic People's Republic of Korea to the International Criminal Court to render accountable all those, including possibly yourself, who may be responsible for the crimes against humanity referred to in this letter and in the Commission's report.

Finally, I wish to inform you that the full text of the report of the Commission of Inquiry will be presented to the Human Rights Council in Geneva probably on or shortly after 17 March 2014. Copy of the full report in its final form will be provided to the Permanent Mission of the Democratic People's Republic of Korea to the United Nations Office in Geneva in advance of that date.

If it would be helpful to you, officials of the Democratic People's Republic of Korea and the people of your country, the members of the Commission of Inquiry, including myself, would be prepared to travel to Pyongyang. We would hold ourselves in readiness to do this at any time convenient. Such a visit would afford to you, the officials and people of your country the opportunity to hear fully the reasoning and conclusions of the Commission; to ask questions; and to receive replies about the report, its findings and recommendations. The Commission would be ready to participate in a frank exchange of views concerning the way forward to ensure full respect for human rights in the Democratic People's Republic of Korea.

The Commission avails itself of the opportunity to renew its assurances of respect to your Excellency and to the Democratic People's Republic of Korea.

Michael Kirby Chair

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Annex II

[English only]

Correspondence with China

유엔 조선민주주의인민공화국 인권조사위원회

COMMISSION OF INQUIRY ON HUMAN RIGHTS IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

REFERENCE: COIDPRK/CC/st/59

16 December 2013

Excellency,

This letter follows up my letter dated 7 November 2013 whereby the Commission had sought the agreement of your Government to visit China. The Commission of Inquiry regrets the decision of the Government of China not to extend such an invitation as conveyed to the Secretariat by telephone on 20 November 2013.

The Commission regrets that it will not be provided the opportunity to meet and consult with officials directly concerned with China's relations with the Democratic People's Republic of Korea (DPRK) as well as experts who would have been able to inform us of the context with respect to China's official positions. The Commission also regrets not having been able to visit the Yanbian Korean Autonomous Prefecture in order to conduct interviews with DPRK citizens in holding centres and other places of detention as well as with representatives of Christian churches and other organizations that work on issues related to the position of DPRK citizens in China.

As you may be aware, the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea is presently preparing its final report for the Human Rights Council. Access to China would have been instrumental to clarifying and verifying certain facts that pertain to China and that fall under the mandate of the Commission. The Commission would have wished to clarify issues of serious concern which we have outlined below and the specific questions listed in an annex to this letter.

The Commission has been informed by representatives of Your Excellency's Government that China maintains a position that DPRK citizens who enter China without permission are considered economic migrants and thus are not given the opportunity for refugee status determination. We understand that it is the position of your Government that such persons should be repatriated to the DPRK, with some exceptions based on humanitarian grounds.

Without wishing to express any final conclusions at this stage of the inquiry, the body of testimony and other information gathered so far indicates that many of the DPRK citizens who cross the border into China do so owing to a well-founded fear of being persecuted for reasons of religion, and/or membership of a particular social group or political opinion. In addition, persons forcibly repatriated to the DPRK are regularly subjected to torture and arbitrary detention and, in

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some instances, also to rape, enforced disappearance, summary execution and other gross human rights violations. The Commission also received information on numerous cases of forced abortions and infanticide regarding children believed to have been fathered by Chinese nationals. The Commission is not aware of any effective steps taken by China to ensure that repatriated persons will not be subjected to such violations upon their return to the DPRK.

It would therefore appear that the foregoing repatriation practice breaches China's obligations not to expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. This obligation emerges from Article 3 of the Convention against Torture, ratified by China on 4 October 1988. Contrary to Article 33 of the Convention Relating to the Status of Refugees, repatriation typically also places DPRK citizens in a position where their life or freedom would be threatened on account of their religion and/or membership of a particular social group or holding a political opinion. The obligation not to expel persons to other States where there are substantial grounds for believing that the person would be in danger of being subject to gross human rights violations also emerges from the requirements of customary international law.

While the inquiry is not yet concluded, the information received so far points towards crimes against humanity being committed by officials of the DPRK against their citizens repatriated from China. There are also reasonable grounds for believing that Chinese officials have in some cases shared with DPRK authorities information about the contacts and conduct of DPRK nationals subject to repatriation. It appears that exchanges are to some degree based on border control-related agreements concluded between the Ministry of Public Security on behalf of the People's Republic of China and the Ministry of State Security on behalf of the Democratic People's Republic of Korea.

The Commission is concerned that conveying such information further aggravates the risk that repatriated DRPK nationals will be subject to torture, enforced disappearance and summary execution, in particular where information conveyed relates to alleged contacts that DPRK citizens may have had with Christian churches or nationals of the Republic of Korea or any attempts they may have made to travel onwards to the Republic of Korea. The Commission would urge your Excellency's Government to caution relevant officials that such conduct on their part could amount to the aiding and abetting crimes against humanity where repatriation and information exchanges are specifically directed towards (or have the purpose of) facilitating the commission of crimes against humanity in the DPRK.

The information gathered so far also indicates that many women from the DPRK who enter China are being trafficked into forced marriages and, in some instances, commercial sexual exploitation. The Commission is aware that China has criminalized human trafficking and is taking steps to identify and prosecute the perpetrators. However, it appears that the policy of repatriating DPRK citizens and the gross violations repatriated persons face in the DPRK makes many women afraid to report crimes of human trafficking to the authorities.



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The Commission has received reports that DPRK women, some of whom have been victims of trafficking, who have had children with Chinese men, have been among those who have been captured and returned to North Korea. The Commission has received estimates of children of Chinese fathers and North Korean mothers ranging from 10,000 to 25,000. The status of most of these children appears to be effectively stateless as the Chinese families have been discouraged from registering such children because of the illegal status of their mothers. The Commission has noted that China in its Compulsory Education Law makes provision for nine years of compulsory education to all children living in China irrespective of nationality or race. However, information received by the Commission indicates that a large number of children living in China born to women from the DPRK are deprived of the opportunity to attend school resulting from the parents' fear of being arrested and repatriated by registering their children's names as required by law in order for them to attend school.

The Commission also received indications that agents of the DPRK appear to be operating on Chinese territory and attempting to gather information about DPRK citizens and persons supporting them. On some occasions, they appear even to have abducted DPRK citizens and at least one national of the ROK. The Commission has been informed that on other occasions, Chinese security officials have taken the positive step of warning targeted individuals and thus prevented such abductions.

The Commission would be grateful to receive a reply from your Government with respect to the above concerns, and the questions listed in the annex to this letter, by 30 December 2013 so that it may endeavor to reflect your responses in the Commission's report to the Human Rights Council

Please accept, Excellency, the assurances of my highest consideration.

Michael Kirby Chair

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His Excellency Mr. Wu Haitao Ambassador Extraordinary and Plenipotentiary (Disarmament) Deputy Permanent Representative of the People's Republic of China to the United Nations Office at Geneva

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Annex

- 1. Could you confirm your position of treating all DPRK citizens who enter China without permission as illegal economic migrants and therefore not providing them the opportunity to seek asylum or have their refugee status determined? If this is not an accurate position taken by your Government, could you explain or elaborate further China's policy on such DPRK citizens?
- 2. The Commission understands that China has concluded an agreement with the DPRK in 1986 on "the Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Areas", which was first revised in 1998. Could you confirm this understanding to be correct? If so, could you provide us with a copy of the agreement currently in force and other related documentation revising such an agreement? Could you provide the Commission with any other documentation that would explain the position of the authorities of China on the policies applies to DPRK citizens in China?
- 3. The Commission has received reports that Chinese authorities have forcibly returned DPRK citizens to the DPRK. Could you let us know in which cases China has chosen to return DPRK citizens to the DPRK, and in which cases China has chosen not to return them? Could you provide us with figures, disaggregated by sex and age, on the numbers of DPRK citizens who were returned to the DPRK? Could you provide us with figures of how many DPRK citizens were permitted to remain in China under humanitarian considerations and with what status?
- 4. The Commission has received information that approximately 20,000 work or residency permits have been in recent times provided by China to DPRK citizens. Could you provide details about these permits including what is the remit of these permits, which categories of DPRK citizens have received them, how many have received them, and the procedures for obtaining these permits? In particular, the Commission requests information on whether such permits were given to undocumented DPRK citizens in China so as to regularize their status.
- 5. Could you inform us of how many DPRK citizens are estimated to currently reside in China, disaggregated by documented and undocumented status?
- 6. Could you please indicate to what extent Chinese authorities are providing information to DPRK authorities about the activities and contacts of returned DPRK citizens while they are in China?
- 7. To what extent have Chinese authorities cooperated with DPRK authorities in identifying persons for capture and repatriation? If so, how frequently has this occurred and under what legal framework?



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- 8. What protection is extended to DPRK women who have children with Chinese men and under what legal framework? Could you provide us with a figure of how many women with Chinese children have been subject to repatriation? What approach is taken towards the children born from mixed marriages of DPRK and Chinese citizens? The Commission would also be grateful for any other information about this population of vulnerable children, and what measures are being taken to address their problems?
- 9. According to information available to the Commission, pregnant DPRK women who are captured in China and are believed to have been impregnated by Chinese men, have been subject to forced abortion or their babies subject to infanticide upon return to the DPRK. Have the Chinese authorities addressed this human rights violation with the DPRK? Has China considered special measures to protect pregnant DPRK women at risk of refoulement?
- 10. The Commission understands that the agreement concluded between China and UNHCR in 1995 on the establishment of the latter's presence in Beijing allows, inter alia, for UNHCR to conduct refugee status determination for asylum-seekers as a temporary measure until the Government implements its own refugee protection framework in accordance with the Refugee Convention. We also understand, that in order for UNHCR to conduct refugee status determination, the Chinese Government has agreed to allow UNHCR personnel unimpeded access to asylum seekers. However, we believe that UNHCR has in fact not been permitted to visit or operate in the northeastern area of China where a large number of DPRK citizens who have fled the DPRK are believed to be residing. Could you provide an explanation for this refusal of permission in light of the agreement between UNHCR and China as well as China's legal obligations under the Refugee Convention?
- 11. We understand that the new Administration Law on Entry and Exit, adopted by the Standing Committee of China's National People's Congress in July 2012, and came into effect in July 2013, includes provisions on refugee status. The new legislation allows an "alien" applying for refugee status to stay in China with an official temporary identity certificate until the time his or her application is decided. Could you confirm that such an opportunity would be afforded to DPRK citizens who fled the DPRK including through them being informed of such an opportunity if and when they are arrested by the Chinese authorities (for entering and/or remaining in China without permission)?
- 12. The Commission would also be grateful for any available information on DPRK operatives who are reportedly present in China in order to monitor and capture DPRK citizens. What is the status of such operatives; are any present with the knowledge of your Excellency's Government? Have any cases of abductions been investigated by the authorities? Could you verify this? If so, how many DPRK agents are permitted to operate in China, for what period of time, and under what guidelines are they entitled to carry out their functions?
- 13. The Commission has received reports about the abduction of Chinese, Republic of Korea and other nationals from the Chinese mainland by the DPRK. The COI has received information that in at least one instance, a perpetrator of such abductions has been arrested and prosecuted



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in a Chinese Court: Liu Yong Hua, involved in the abduction of Republic of Korea pastor Kim Dong Shik (Court reference attached). Could you please advise of other arrests and prosecutions of perpetrators of abductions in China? Could a certified version of judgments in these cases please be provided to the Commission?

14. The Commission has received reports of abductions from Macau and Hong Kong in 1978. The Commission would appreciate any information that about the abductions of Ms Hong Lein-jeng and Ms So Moi Chun (both from China) and Ms Anocha Panjoy (from Thailand) abducted from Macau, and Ms Choi Un-hee and Mr Shin Sang Ok (both from the Republic of Korea) who were abducted from Hong Kong.

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30 December, 2013

Dear Mr. Kirby,

I acknowledge receipt of your letter dated 16 December 2013. I wish to state China's position on issues raised in your letter.

At the outset, I wish to reiterate that China does not support the establishment of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea by the Human Rights Council. China's position remains unchanged.

China has repeatedly made clear, on various occasions, its position that DPRK citizens who have entered China illegally do it for economic reasons. Therefore they are not refugees. Their illegal entry not only violates Chinese laws, but also undermines China's border control. Some of them have illegally crossed the border on multiple occasions, some were engaged in illegal and criminal acts such as theft, robbery, illegal harvesting. China has the legitimate rights to address those cases according to law.

To China's knowledge, some NGOs and religious groups from the Republic of Korea, under the pretext of humanitarianism, are engaged in organizing smuggling of DPRK citizens who cross the borders illegally. Their activities are for profit and form a complete profit chain. The above-mentioned organized human trafficking activities not only severely undermine China's social stability and national security, but also constitute crimes universally recognized by the international community.

Mr. Michael Kirby Chair of the Commission of Inquiry on Human Rights in the DPRK

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-6 JAN. 2014
Recipients: G. Galandruccio

In recent years, Chinese public security and border guard authorities have seized some DPRK citizens who have repeatedly entered China illegally. This demonstrates that the allegation that repatriated DPRK citizens from China face torture in the DPRK is not true. In addition, the Chinese Government has not found cases related to DPRK women and their children in China mentioned by the Commission.

China will continue to prudently and properly handle the issues of DPRK citizens who enter China illegally in accordance with its domestic law, international law as well as humanitarian principles, on the premise of safeguarding national sovereignty and fundamental interests, bearing in mind the stability of the Korean Peninsula. China firmly opposes any attempt to make this issue a refugee one and to internationalize and politicize the issue.

China hopes that the Commission of Inquiry on Human Rights in the DPRK can function in an objective and impartial manner, and not be misled by unproved information.

China requests this letter be included in the Commission's report to the Human Rights Council.

WU Haitao

美海洋

Chargé d'affaires a.i. & Ambassador
Permanent Mission of China to the
United Nations Office at Geneva and
Other International Organizations in Switzerland



No.GJ/07/2014

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the United Nations High Commissioner for Human Rights and requests the latter to convey to the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea China's following comments regarding the draft report of the Commission.

China is committed to the promotion and protection of human rights through constructive dialogue and cooperation. China is opposed the politicization of human rights issues, including country specific human rights issues. China also believes that what the Human Rights Council does should be conducive to peace and stability on the Korean Peninsula.

China wishes to remind the Commission of China's position on DPRK citizens who have entered China illegally as stated in a letter addressed to the Commission on 30 December 2013. China rejects unfounded allegations relating to China in the report of the Commission.

China requests that this note verbal, together with the letter addressed to the Commission on 30 December 2013 be accurately

The Office of the United Nations High Commissioner for Human Rights Geneva reflected in the Commission's final report to the Human Rights Council.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (DPRK) 2016 INTERNATIONAL RELIGIOUS FREEDOM REPORT

Executive Summary

The constitution provides for freedom of religious beliefs. Despite the constitutional guarantee, the 2014 report of the UN Commission of Inquiry (COI) on the Human Rights Situation of the DPRK concluded there was an almost complete denial by the government of the right to freedom of thought, conscience, and religion, and, in many instances, violations of human rights committed by the government constituted crimes against humanity. The COI recommended that the UN Security Council refer the situation in the country to the International Criminal Court (ICC) for action in accordance with the Court's jurisdiction. In January and September 2016, the special rapporteur on the situation of human rights in the DPRK and in February the Office of the UN High Commissioner for Human Rights released reports reiterating concerns about the government's use of arbitrary executions, political prison camps, and torture amounting to crimes against humanity. In March and December, the UN Human Rights Council and UN General Assembly plenary session, respectively, adopted resolutions by consensus which "condemned in the strongest terms" longstanding and ongoing systematic, widespread and gross human rights violations, including denial of the right to religious freedom, and urged the government to acknowledge such violations and take immediate steps to implement relevant recommendations by the UN. The annual resolutions again welcomed the Security Council's continued consideration of the relevant conclusions and recommendations of the COI. According to news reports, in April a Christian pastor was killed in China close to the border where he had assisted North Koreans in defecting; activists in Seoul told press the pastor was killed by DPRK agents. The DPRK has in the past detained foreigners allegedly engaging in religious work within its borders, and reports indicate at least one foreign Christian remained detained by DPRK authorities. According to nongovernmental organizations (NGOs) and academics, the government's policy towards religion has been to maintain an appearance of tolerance for international audiences, while suppressing internally all non state-sanctioned religious activities. The country's inaccessibility and lack of timely information made arrests and punishments difficult to verify. International media reported the country's authorities detained and deported foreigners, possibly in connection with religious activities.

Defector accounts indicated religious practitioners often concealed their activities from neighbors, coworkers, and other members of society for fear their activities

would be reported to the authorities. There are conflicting estimates of the number of religious groups in the country and their membership.

The U.S. government does not have diplomatic relations with the country. The United States cosponsored resolutions at the UN General Assembly and Human Rights Council condemning the government's systematic, widespread, and gross human rights violations. In July the Department of State submitted the Report on Human Rights Abuses and Censorship in North Korea to Congress, the first biannual report to Congress identifying eight entities and 15 North Korean officials, including Kim Jong Un, responsible for or associated with serious human rights abuses or censorship. Since 2001, it has been designated as a "Country of Particular Concern" (CPC) under the International Religious Freedom Act of 1998 for having engaged in or tolerated particularly severe violations of religious freedom. On October 31, 2016, the Secretary of State redesignated the country as a CPC and identified the following sanction that accompanied the designation: the existing ongoing restrictions to which North Korea is subject, pursuant to sections 402 and 409 of the Trade Act of 1974 (the Jackson-Vanik Amendment) pursuant to section 402(c)(5) of the Act.

Section I. Religious Demography

The U.S. government estimates the total population at 25.1 million (July 2016 estimate). In a 2002 report to the UN Human Rights Committee, the government reported there were 12,000 Protestants, 10,000 Buddhists, and 800 Roman Catholics. The report noted that Cheondoism, a modern religious movement based on a 19th century Korean neo-Confucian movement, had approximately 15,000 practitioners. Consulting shamans and engaging in shamanistic rituals is reportedly widespread but difficult to quantify. The South Korea-based Database Center for North Korean Human Rights (NKDB) reported in its 2016 white paper that five priests from the Russian Orthodox Church are in Pyongyang. South Korean and other foreign religious groups estimate the number of religious practitioners in the country is considerably higher. The UN estimates there are between 200,000 and 400,000 Christians in the country. According to a September Christian Solidarity Worldwide (CSW) report, Cornerstone Ministries International (CMI) stated in 2012 that it was in contact with 37,000 churchgoers in the country. CMI said it presumed based on its research that 10-45 percent of those imprisoned in detention camps are Christians. The COI report stated that based on the government's own figures, the proportion of religious adherents among the population dropped from close to 24 percent in 1950 to 0.016 percent in 2002.

Section II. Status of Government Respect for Religious Freedom

Legal Framework

Article 68 of the constitution provides that, "Citizens shall have the right of faith. This right guarantees them chances to build religious facilities or perform religious rituals." It further provides, however, that "religion must not be used as a pretext for drawing in foreign forces or for harming the state and social order."

The 2014 Report of the DPRK Association for Human Rights Studies, an official government document, states "Freedom of religion is allowed and provided by the State law within the limit necessary for securing social order, health, social security, morality and other human rights."

Ownership of Bibles or other religious materials brought in from abroad is reportedly illegal and also punishable by imprisonment and severe punishment, including, in some cases, execution.

The country is a party to the International Covenant on Civil and Political Rights.

Government Practices

The government continued to deal harshly with those who engaged in almost any religious practices through executions, torture, beatings, and arrests. An estimated 80,000 to 120,000 political prisoners, some imprisoned for religious reasons, were believed to be held in the political prison camp system in remote areas under horrific conditions. CSW said a policy of guilt by association was often applied in cases of detentions of Christians, meaning that the relatives of Christians were also detained regardless of their beliefs.

Religious and human rights groups outside the country provided numerous reports that members of underground churches were arrested, beaten, tortured, or killed because of their religious beliefs. According to the NKDB, there was a report during the year of disappearances of people who were found to be practicing religion within detention facilities. International NGOs reported any religious activities conducted outside of those that are state-sanctioned, including praying, singing hymns, and reading the Bible, could lead to severe punishment including imprisonment in political prison camps.

In 2015, the NKDB aggregated 1,165 violations of the right to freedom of religion or belief within the DPRK, with charges including propagation of religion, possession of religious items, religious activities, and contact with religious practitioners. According to a survey of 10,000 defectors from North Korea referenced in the 2015 NKDB white paper, 99.6 percent said there was no religious freedom in the country. Just 4.2 percent said they had seen a Bible when they lived there, although survey data reflects a slight increase in recent years.

According to media reports, in April Christian Pastor Han Choong Yeol was killed in China by whom activists said were DPRK agents. The pastor operated a church in Changbai, Jilin Province, and had provided aid to defectors from North Korea. DPRK authorities said South Korea was responsible for the killing.

The DPRK has in the past detained foreigners allegedly engaging in religious work within its borders, and reports indicate at least one foreign Christian remained detained by DPRK authorities.

In January and September the special rapporteur on the situation of human rights in the DPRK and in February the Office of the UN High Commissioner for Human Rights released reports reiterating concerns about the country's use of arbitrary executions, political prison camps, and torture amounting to crimes against humanity. In March and December the UN Human Rights Council and UN General Assembly plenary session, respectively, adopted resolutions by consensus which "condemned in the strongest terms" longstanding and ongoing systematic, widespread, and gross human rights violations, including denial of the right to religious freedom, and urged the government to acknowledge such violations of human rights and take immediate steps to end all such violations and abuses through the implementation of relevant recommendations by the UN. The annual resolutions again welcomed the Security Council's continued consideration of the relevant conclusions and recommendations of the COI. The February 2014 COI final report concluded there was an almost complete denial by the government of the rights to freedom of thought, conscience, and religion, as well as the rights to freedom of opinion, expression, information, and association. It further concluded that, in many instances, the violations of human rights committed by the government constituted crimes against humanity, and it recommended that the United Nations ensure those most responsible for the crimes against humanity were held accountable.

The COI report found the government considered Christianity a serious threat, as it challenged the official cult of personality and provided a platform for social and

political organization and interaction outside of the government. The report concluded Christians faced persecution, violence, and heavy punishment if they practiced their religion outside the state-controlled churches. The report further recommended the country allow Christians and other religious believers to exercise their religion independently and publicly without fear of punishment, reprisal, or surveillance.

Defectors reported the government increased its investigation, repression, and persecution of unauthorized religious groups in recent years, but access to information on current conditions was limited.

According to the South Korean government-funded Korea Institute for National Unification's (KINU) 2016 *White Paper on Human Rights in North Korea*, while Article 68 of the constitution provides for freedom of religion, the report states "it is practically impossible for North Korean people to have a religion in their daily lives." According to the NKDB, Article 68 of the constitution represents only a nominal freedom granted to supporters, and only when the regime deems it necessary to use it as a policy tool.

Juche, or self-reliance, and *Suryong*, or "supreme leader," remained important ideological underpinnings of the government and the cult of personalities of the late Kim Il Sung, Kim Jong Il, and current leader Kim Jong Un. Refusal on religious or other grounds to accept the leader as the supreme authority was regarded as opposition to the national interest and reportedly resulted in severe punishment.

Some scholars stated the *Juche* philosophy and reverence for the Kim family resembled a form of state-sponsored theology. Approximately 100,000 *Juche* research centers reportedly exist throughout the country. The government's 2014 *Report of the DPRK Association for Human Rights Studies* stated that, "Every citizen has chosen to follow the *Juche* Idea...and is firmly believing in *Juche* Idea thinking and acting according to its requirement" and that *Juche* is a belief system not forced upon citizens.

While shamanism has always been practiced to some degree in the country, NGOs noted an apparent increase in shamanistic practices, including in Pyongyang. These NGOs reported that government authorities continued to react by taking measures against the practice of shamanism.

In April an NGO reported a government official was accused of having consulted a fortune teller. According to a defector residing in South Korea, the government repeatedly reinforced the declaration that "fortune telling and superstitious beliefs are toxins that damage society and human beings," and to only trust a future provided by the state. Defector reports cited an increase in party members consulting fortune tellers in order to gauge the best time to defect.

The NKDB estimated the existence of 121 religious facilities in the country, including 64 Buddhist temples, 52 Cheondoist temples, and five state-controlled Christian churches. The government's 2014 *Report of the DPRK Association for Human Rights Studies* also cited the existence of 64 Buddhist temples, but said that the temples have lost religious significance in the country and only remained as cultural heritage sites or tourist destinations. The KINU white paper counted 60 Buddhist temples, and noted that most North Koreans did not realize Buddhist temples were religious facilities nor see Buddhist monks as religious figures.

The five state-controlled Christian churches in Pyongyang included three Protestant churches (Bongsu, Chilgol, and Jeil churches), a Catholic church (Jangchung Cathedral), and Holy Trinity Russian Orthodox Church. Chilgol Church was dedicated to the memory of former leader Kim Il Sung's mother, Kang Pan Sok, who was a Presbyterian deaconess. The number of congregants regularly worshiping at these five churches was unknown, and there was no information available on whether scheduled services were available at these locations. Reports from visitors taken to these churches to attend services when visiting Pyongyang reported local Koreans in attendance appear to have been brought in for the occasion, but they seemed to be observers rather than participants. Numerous defectors from outside of Pyongyang reported no knowledge of these churches, and according to the 2016 KINU white paper, no Protestant or Catholic churches existed in the country except in Pyongyang.

KINU also reported in 2015 the existence of state-sanctioned religious organizations in the country such as the Korean Christians' Federation (KCF), Korean Buddhists Federation, Korea Catholic Association (KCA), Korea Cheondoist Society, and the Korean Association of Religionists. The NKDB white paper also noted the existence of the Korean Orthodox Church Committee. There was minimal information available on the activities of such organizations, except for some information on inter-Korean religious exchanges in 2015.

The government-established KCA provided basic services at the Jangchung Roman Catholic Cathedral, but had no ties to the Vatican. There also were no Vatican-

recognized Catholic priests, monks, or nuns residing anywhere in the country. Visiting priests reportedly celebrated Mass at the Jangchung Cathedral in the past. In April the South Korean Catholic Archbishop of Gwangju celebrated Easter Mass in Pyongyang following a December 2015 government agreement with the Catholic Church in South Korea to send priests to the country on a "regular basis."

According to religious leaders who have traveled to the country, there were Protestant pastors at the Bongsu and Chilgol churches, although it was not known if they were resident or visiting pastors.

Five Russian Orthodox priests served at the Holy Trinity Russian Orthodox Church, purportedly to provide pastoral care to Russians in the country. Several of them reportedly studied at the Russian Orthodox Seminary in Moscow.

In its July 2002 report to the UN Human Rights Committee, the government reported the existence of 500 "family worship centers." According to the KINU white paper, however, while some Pyongyang residents had heard of them, most people living outside of Pyongyang were not aware of the existence of such family churches. Those who were aware of their existence were not able to identify them as places of worship. According to a survey of more than 9,000 defectors cited in the 2014 NKDB white paper, not one of the defectors had ever seen any of these purported home churches, and only 1.2 percent of respondents believed they existed. Observers stated that "family worship centers" may be part of the state-controlled KCF.

The COI report concluded that authorities systematically sought to hide from the international community the persecution of Christians who practiced their religion outside state-controlled churches by pointing to the small number of state-controlled churches as exemplifying religious freedom and pluralism.

The KINU white paper indicated the government continued to use authorized religious organizations for external propaganda and political purposes and reported citizens were strictly barred from entering places of worship. According to the white paper, ordinary citizens considered such places primarily as "sightseeing spots for foreigners." Foreigners who met with representatives of government-sponsored religious organizations stated they believed some members were genuinely religious, but noted others appeared to know little about religious doctrine. KINU concluded the lack of churches or religious facilities in the provinces indicated ordinary citizens did not have religious freedom.

The NKDB white paper stated that officials conduct thorough searches of incoming packages and belongings at ports and airports to search for religious items as well as other items deemed objectionable by the government.

Little was known about the day-to-day life of individuals practicing a religion. There were no reports that members of government-controlled religious groups suffered discrimination, but the government reportedly regarded members of underground churches or those connected to missionary activities as subversive elements. NKDB reported that in its survey of more than 10,000 defectors, none reported fleeing in the first instance due to religious persecution, indicating limited knowledge of and access to religion in the country. Scholars said authorities meted out strict punishment to forcibly returned defectors, including those who had contact with Christian missionaries or other foreigners while in China.

The government reportedly allowed certain forms of religious education, including programs at three-year colleges for training Protestant and Buddhist clergy, a religious studies program at Kim Il-sung University, a graduate institution that trained pastors, and other seminaries related to Christian or Buddhist groups.

Christians were restricted to the lowest class rungs of the *songbun* system, which classifies people on the basis of social class, family background, and presumed support of the regime based on political opinion and religious views. The *songbun* classification system results in discrimination in education, health care, employment opportunities, and residence. According to the KINU white paper, the government continued to view Christianity in particular as a means of foreign Western encroachment. The white paper again reported that citizens continued to receive education from authorities at least twice a year emphasizing ways to detect and identity individuals who engage in spreading Christianity.

The government reportedly was concerned that faith-based South Korean relief and refugee assistance efforts along the northeast border of China had both humanitarian and political goals, including the overthrow of the government, and alleged these groups were involved in intelligence gathering.

The government allowed some overseas faith-based aid organizations to operate inside the country to provide humanitarian assistance. Such organizations reported they were not allowed to proselytize; their contact with nationals was limited and strictly monitored, and government escorts accompanied them at all times. Some workers of such organizations reported being permitted to take their personal Bibles into the country.

Section III. Status of Societal Respect for Religious Freedom

Defector accounts indicated religious practitioners often concealed their activities from neighbors, coworkers, and other members of society for fear their activities would be reported to the authorities.

The COI report concluded government messaging regarding the purported evils of Christianity led to negative views of Christianity among ordinary citizens.

The 2015 KINU white paper reported credible accounts of private Christian religious activity in the country, although the existence of underground churches and the scope of underground religious activity remained difficult to verify. While some NGOs and academics estimated there may be up to several hundred thousand Christians practicing their faith underground, others questioned the existence of a large-scale underground church or concluded it was impossible to estimate accurately the number of underground religious believers. Individual underground congregations were reportedly very small and typically confined to private homes. Some defector reports confirmed unapproved religious materials were available and secret religious meetings occurred, spurred by cross border contact with individuals and groups in China. Some NGOs reported individual underground churches were connected to each other through well-established networks. The government did not allow outsiders access to confirm such claims.

Foreign legislators who attended services in Pyongyang in previous years reported congregations arrived and departed services as groups on tour buses, and some observed the worshipers did not include any children. Some foreigners noted they were not permitted to have contact with worshipers, and others stated they had limited interaction with them. Foreign observers had limited ability to ascertain the level of government control over these groups, but generally assumed the government monitored them closely.

According to the KINU white paper, defectors reported being unaware of any recognized religious organizations that maintained branches outside of Pyongyang. Religious ceremonies such as for weddings and funerals were almost unknown.

Section IV. U.S. Government Policy

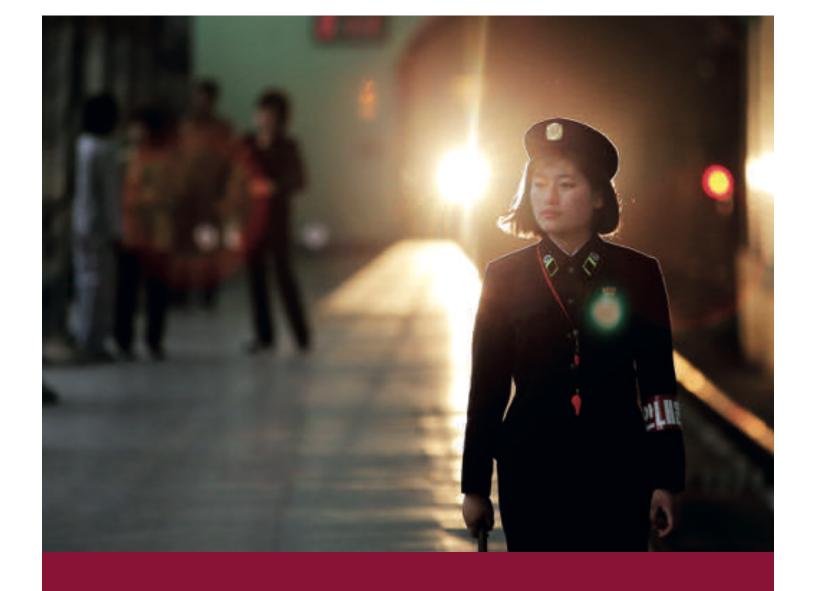
The U.S. government does not have diplomatic relations with the DPRK and has no official presence in the country. It used other mechanisms to address religious freedom concerns, however.

The United States cosponsored resolutions adopted by the UN General Assembly and Human Rights Council that condemned the country's "systematic, widespread, and gross human rights violations." The resolutions further expressed grave concern over the DPRK's denial of the right to freedom of thought, conscience, and religion, as well as of the rights to freedom of opinion, expression, and association, and urged the government to take immediate steps to ensure these rights.

On July 6, the Department of State submitted the first biannual Report on Human Rights Abuses and Censorship in North Korea to Congress. The report identified eight entities and 15 government officials, including Kim Jong Un, as responsible for or associated with serious human rights abuses or censorship. The report stated, "The government also maintains an extensive system of forced labor through its rigid controls over workers, and restricts the exercise of freedoms of expression, peaceful assembly, association, religion or belief, and movement."

The U.S. government raised concerns about religious freedom in the DPRK in other multilateral forums and in bilateral discussions with other governments, particularly those with diplomatic relations with the country. The United States has made clear that addressing human rights, including religious freedom, would significantly improve prospects for closer ties between the two countries. Senior U.S. government officials, including the Special Envoy for Human Rights in North Korea, met with defectors and NGOs that are focused on the country, including some Christian humanitarian organizations.

Since 2001, the country has been designated as a Country of Particular Concern (CPC) under the International Religious Freedom Act of 1998 for having engaged in or tolerated particularly severe violations of religious freedom. On October 31, 2016, the Secretary of State redesignated the country as a CPC and identified the following sanction that accompanied the designation: the existing ongoing restrictions to which North Korea is subject, pursuant to sections 402 and 409 of the Trade Act of 1974 (the Jackson-Vanik Amendment) pursuant to section 402(c)(5) of the Act.



MOVIES, MARKETS AND MASS SURVEILLANCE: HUMAN RIGHTS IN NORTH KOREA AFTER A DECADE OF CHANGE

JANUARY 2018 • FOR PUBLIC USE

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INTRODUCTION

In 2007 Christian Solidarity Worldwide (CSW) published a groundbreaking report setting out the case for urgent action to address serious, widespread and ongoing human rights violations in the Democratic People's Republic of Korea (DPRK, commonly known as North Korea). Entitled North Korea: A Case to Answer, A Call to Act, the report argued that these violations amounted to crimes under international law, entailing not only state responsibility and individual criminal liability, but also obligations for international actors. The report called on the United Nations to establish a commission of inquiry (COI) to 'investigate the nature and scale of serious violations of international human rights and international crimes committed in North Korea, and to propose steps to halt ongoing violations.'1

Six years later, a COI was established and went on to produce in 2014 what is generally considered to be the most comprehensive report into human rights violations in North Korea. The COI report concluded that the 'gravity, scale and nature' of the violations of human rights in North Korea 'reveal a State that does not have any parallel in the contemporary world.' The 400-page report detailed crimes against humanity including 'extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation.' The report made a number of key recommendations, many of which overlapped with those put forward by CSW and other human rights organisations. Following the report, the UN Human Rights Council passed a strong resolution on the human rights situation in North Korea which included a request for the UN Security Council to take action on North Korea's human rights situation. In November 2014 the UN General Assembly's human rights committee also approved a resolution that acknowledged the COI findings, and in December that year the Security Council formally added the human rights situation in the DPRK to its agenda.

Ten years on from CSW's 2007 call for a COI, this report looks at what has changed in the last decade, both inside and outside the country. This report is not designed to replace A Case to Answer, A Call to Act, which remains a comprehensive and relevant source of information about human rights violations in North Korea. Nor does this report aim to describe in detail the nature of the violations still taking place, which have been well-documented in the COI report, previous CSW briefings, and reports by other human rights organisations. Instead, the present report provides an update to the 2007 publication, and aims to answer the following questions:

- Has the situation inside North Korea changed since 2007?
- Has the attitude and approach of the international community changed since 2007?
- Where do we go from here?

The last question is perhaps the most fundamental and the most challenging. It is hoped that this report will generate further discussion, exchange of information, and innovative thinking by relevant stakeholders on how to address human rights violations in North Korea, post-COI.

METHODOLOGY

This report is based on information directly provided to CSW by over 100 respondents, including North Koreans now living in South Korea or Europe; the UN office in Seoul, South Korea; organisations run by North Korean escapees; South Korean officials and experts; academics; international journalists; and South Korean international human rights organisations and faith-based organisations. Many of the professional respondents have more than ten years' experience documenting and advocating for human rights in North Korea. In addition, over 91% of survey respondents left North Korea after 2007, and just under two-thirds had left within the last three years.

CSW conducted nine in-depth interviews with escapees who left between 2012 and 2017, the majority of whom have regular contact with family members still in the country. The sample size is a limitation; however, when comparing quantitative data from the surveys with the qualitative data from the in-depth interviews and experts, and examining this data alongside reports, books and media articles, overall trends emerge. From these trends we can draw conclusions about the changes that have taken place over the past decade.

CSW is greatly indebted to all of the people interviewed for this report, and to the South Korean activist who facilitated many of these meetings. We are also especially grateful to the faculty and students at Handong International Law

¹ Christian Solidarity Worldwide (2007), North Korea: A Case to Answer, A Call to Act www.csw.org.uk/2007/06/20/report/35/article.htm

² United Nations Office of the High Commissioner for Human Rights, Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea, p.14 paragraph 76 www.ohchr.org/Documents/HRBodies/HRCouncil/CoIDPRK/Report/A.HRC.25.63.doc

School (HILS), whose excellent research made an invaluable contribution to this report. Research papers from HILS students are included alongside this report.

TERMS USED IN THIS REPORT

Survey respondent: An individual originally from North Korea who completed the survey circulated by CSW in 2017. This survey largely consisted of multiple-choice questions, but for some questions respondents were asked to provide further information.

In-depth interviewee: An individual originally from North Korea who was interviewed in person by CSW in 2017. Interview questions mirrored the questions asked in the survey, but mainly used open-ended questions rather than multiple-choice. In this report their names have been changed for security reasons. Quotes are provided in order of relevance to the topic being discussed, not order of interview date.

Expert interviewee: An individual who was interviewed in person by CSW in 2016-2017. These included academics, UN officials, NGO staff, journalists, authors, researchers, and individuals working with faith-based organisations; and came from a range of countries including North Korea, South Korea, European countries and the US. Where CSW has obtained permission from the interviewee, quotes are attributed. Unless otherwise stated, quotes from organisations and experts come from private interviews with CSW 2016-2017.

This report uses the translations and romanisation patterns used in the Korean-English Glossary of North Korean Human Rights Terms by the National Human Rights Commission of Korea.³

SECTION 1: HAS THE SITUATION INSIDE NORTH KOREA CHANGED SINCE 2007?

This section looks at five key areas of change inside North Korea, which have both direct and indirect implications for the human rights situation. The findings combine information from escapees and from experts as well as from media reports and publications; and challenge the perception that North Korea is somehow socially and economically static. In fact, the significant and complex changes occurring in the country have been well documented. This section brings together these reports, together with CSW's own research, to consider specifically if and how these changes have impacted the human rights situation in North Korea.

CHANGES IN ECONOMIC MODES OF SURVIVAL

One of the most striking changes in the life of many North Koreans has been the shift from dependence on the state-run public distribution system, to widespread reliance on private trading in semi-tolerated grey markets. These economic changes predate CSW's 2007 report: most experts point to the end of the Cold War and the disastrous famine of the 1990s as the beginning of significant and far-reaching economic changes. These changes were driven not by the state, but by ordinary people who realised that to depend on the government for food and other basic necessities meant starvation. As James Pearson and Daniel Tudor state in their 2015 book North Korea Confidential: 'The government had failed the people, and crucially, everyone had to fend for themselves.' Illegal market trading, including smuggling across the border with China, has become a lifeline for many and a source of relative prosperity for some; for others, however, the economic situation remains dire. As this section discusses, the most significant economic change may be the increasingly visible gap between rich and poor.

Respondents who participated in the in-depth interviews were asked what they would describe as the major changes between 2007 and 2017. The majority of answers related to economic changes, and the most common answer was the currency reform. In 2009 the government redenominated the North Korean won (KPW), reducing the face value by a factor of 100.

Interviewee A, 50, North Hamgyong Province, went on to describe the impact of the currency reform on people's attitude towards the state: "Through this people learned a lesson: that they should not follow the government. There was less trust in the government from then on. It was a sign of the collapse of the government. People's action changed as a result. They received no salary from their jobs so they disregarded the government. On sunny days,

³ Human Rights Education Center www.humanrights.go.kr/common/download.jsp?fn=2017020318.pdf

⁴ For more on this topic, see James Pearson and Daniel Tudor (2015), North Korea Confidential, and Sokeel Park of LINK, Social Change in North Korea: Current trends and future perspectives, both excellent resources on economic changes and their wider implications.

⁵ Pearson and Tudor, 2015:19

everyone went out to collect herbs to sell. In winter people collected other herbs and mushrooms. They took care of their own survival."

Interviewee C, 41, North Hamgyong Province, agreed: "Currency reform was the biggest change: it caused a lot of chaos. People consider this to be the second stage of hardship. It was survival of the fittest. The price of goods jumped 10 or 20 times higher. There were many people who could not survive. During the 1990s, in the great famine, everyone was dependent on food rations and people didn't know how to survive. Now, the people who learned to cope without the government were the ones who are able to survive."

The change from state dependency to 'survival of the fittest' and 'taking care of oneself' has no doubt had an impact on the psychological as well as the practical relationship between the state and its citizens. Risk-taking and rule-breaking have been rewarded in a way which has significantly undermined the soft power of the regime inside the country, and at the same time has created a society where "money is king", as one interviewee put it. Interviewee G, 53, RyanggangProvince, believes that "70% of people are involved with the jangmadang [markets]; 30% are privileged. Without the jangmadang, an ordinary person cannot survive [a] single day." For the vast majority of people, the grey market is far more vivid, real and important than the official economic situation.

Experts interviewed by CSW also emphasised the importance of personal wealth alongside the social classification system, or songbun, consisting of three main categories and more than 40 sub-categories.

Songbun is not everything but a good songbun means you can make money, so money and songbun are connected.
- PSCORE

Songbun is still important for trade. You need good connections, especially with the bowiwon [intelligence or state security officer]. They are very proud, and usually despise people with bad songbun. - NKDB

According to the Database Center for North Korea Human rights (NKDB), it is now also possible to sell one's labour at unofficial labour markets, often in front of train stations: 'For example, if you wanted to renovate your house, this is where you would go to hire people to do that. This can be interpreted as a sign of development: if you can sell your labour, you have a certain degree of liberty. Through these actions, people establish private connections.'

Nevertheless, we should be careful not to jump to the conclusion that the markets are a straightforward threat to the survival of the regime. Sokeel Park⁶ and Pearson and Tudor point out that government officials, even at the highest levels, are often engaged in private trade projects and also benefit from lower level entrepreneurism through bribes and kickbacks.⁷

When asked whether the economic situation had improved, in-depth interviewees were divided. Some emphatically stated that the situation was worse, while others thought it had improved, citing the role of the markets and the increase in mobile phone use. However, respondents also reported that the gap between rich and poor had increased dramatically, particularly following the currency reform. Even those who felt the situation had improved acknowledged that the treatment and overall situation of poor people was very different from that of rich people, not only in terms of their economic wellbeing but also in application of the law and access to education:

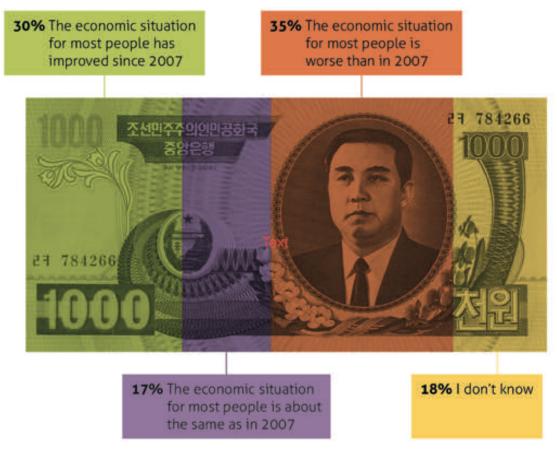
For students, North Korean education is supposed to be free and mandatory. But since we [teachers] don't receive a salary from the government, we rely on contributions from parents. This means that many children drop out of school because their parents don't have money to pay the contributions. This has increased massively over the past ten years.

- Interviewee G, 53, RyanggangProvince

⁶ LINK, Park report page 3

⁷ Pearson and Tudor, 2015:37

How do you think the economic situation has changed in North Korea 2007-2017? The 'economic situation' refers to whether people have a consistent and adequate income to cover their basic needs.



Just under one third of respondents thought the economic situation had improved, while just over one third thought it was worse now than in 2007.

How has the number of *kkotjebi* (children living on the streets without a parent or guardian) changed over the past ten years?

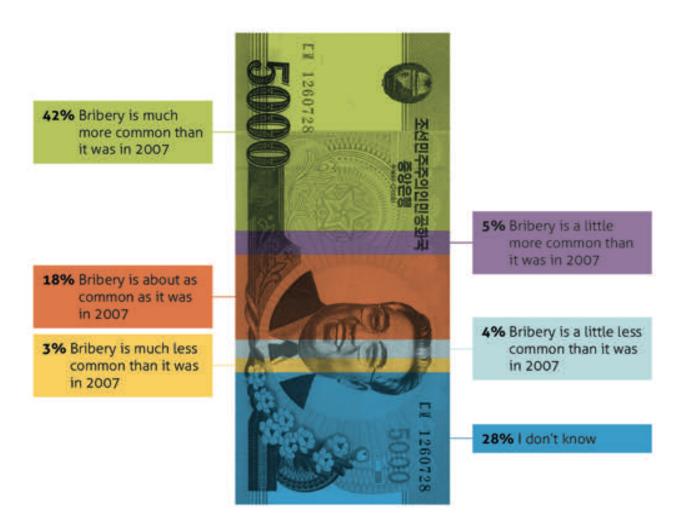


When asked about the number of *kkotjebi* (homeless children), the answers reflected the previous question: one third thought the number had increased while just over one third thought the number had decreased. There may be a number of reasons for this difference in perspective, such as age and location of the respondent. We can hypothesise that older respondents who remember the famine of the 1990s will have a different perspective from those too young to remember this period; in addition, there will likely be some differences across regions and even within provinces.

It has not been possible to identify key determining factors in this research. However, the surveys and interviewees did reveal two overarching trends:

- 1. Widening gap between the rich and the poor. This goes some way to explaining why respondents were evenly divided between those who thought the economic situation had improved and those who thought it was worse: the reality is that for some it has improved (sometimes considerably) while for others life is much worse than ten years ago.
- 2. Significant increase in corruption.

How has corruption (especially bribery) changed over the past ten years?



Almost half the respondents thought that bribery had increased, and the most common view was that bribery is much more common now than it was in 2007 (only 7% thought it had decreased).

Interviewees agreed and expanded on this issue:

Corruption has become worse. Law enforcement officers also need to survive. Before they could rely on the rations system, but now they cannot, so they have to find ways to survive. For example, they find rich people...rich people are bound to be involved in crime.

Interviewee C, 41, North Hamgyong Province

Things are getting much worse than in 2007. For example, in the past a bribe might be one packet of cigarettes. That would be enough. But now we have to give them ten packets of cigarettes, or a whole carton! And they prefer cash these days.

Interviewee A, 50, North Hamgyong Province

Some observers have hypothesised that corruption is undermining the regime: it is certainly true that it is undermining law enforcement, since all but the most serious charges can disappear with the right bribe to the right person, as explained by Interviewee A:

You can bribe your way out of prison but you need to know the right person to bribe. If you bribe the wrong person, you will still be in trouble and you will have lost all your money!

IMPACT ON HUMAN RIGHTS

The impact of corruption on human rights is complex, however. On the one hand, bribes can be used to avoid a prison sentence and other penalties which in some instances constitute or entail human rights abuses, including arbitrary detention, torture and forced labour. Bribery is vital to smuggling operations that bring foreign films and dramas into North Korea. Although watching foreign media is illegal, people who are caught are sometimes able to bribe their way out of a sentence. Brokers who facilitate phone calls between North Koreans and their family outside the country also use bribes to avoid penalties for possessing and using an unregsitered Chinese mobile phone. In this way, corruption is facilitating access to information inside the country.

At the same time, however, bribery is creating a society of extremes where the exercise of human rights, and access to education and medical care, is dependent on one's wealth and social position. While this is true to some extent in other societies, North Korea presents one of the most extreme cases. The examples below show the impact of bribery on access to education, freedom of movement, military conscription, and arbitrary detention and punishment.

In school, teachers take bribes. Everyone does – it is very common in society. The very poorest cannot pay bribes so their children are completely disregarded.

Interviewee C, 41, North Hamgyong Province

Bribery is getting worse. As life gets harder, corruption gets worse. An example is the harassment people receive when travelling short distances. Before, you could travel a short distance with just your citizens' card. This was enough. Now, they make travel very difficult, and you need money. You need a travel pass, and if it is too old or for a slightly different destination, you have to pay a bribe to get through.

Interviewee F, 85, RyanggangProvince

My elder brother went to the army but he defected because he was so hungry. Guys from poor families, living in poverty, are badly beaten if they are caught defecting. But it is different if you have rich parents who can pay bribes for you.

Interviewee H, 27, RyanggangProvince

Now the police officers' main goal of interrogations is to extract some benefit for themselves. This means the process is very different for rich people and for poor people. Two guys can be accused of exactly the same crime, but if one is rich, he will be released, and if the other is poor, he will be punished.

Interviewee A, 50, North Hamgyong Province

Perhaps the situation is best summed up by 27-year-old Interviewee H, when asked if he had heard of human rights when he was in North Korea:

Yes, but human rights are only for the privileged, not ordinary people.

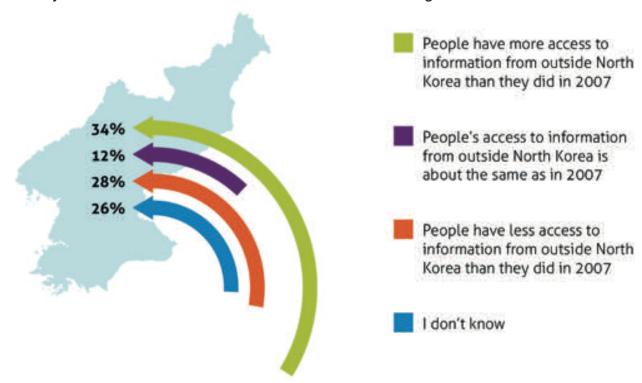
Finally, it should be noted that even where economic changes have improved the situation for ordinary people, these developments have not resulted from a change in policy or action by the government. On the contrary, despite the regime's stated aim of pursuing the development of nuclear weapons in parallel with economic prosperity (the byungjin line), the government continues to prioritise military spending over the needs of its people. Where the government has tolerated private trading and made some limited policy changes which have contributed to economic growth, these appear to have been in response to changes which had already occurred. In other words, this is change from the bottom up, pushed forward by necessity and the agency of ordinary North Koreans.

It is important to stress once again that while these changes have brought about an improvement in living conditions for some people, the economic situation is still extremely fragile, and poverty, malnutrition and related diseases continue to be major problems, particularly during periods of flooding and bad weather. Any positive changes described above should be seen in this context.

CHANGES IN INFORMATION FLOWS

In human rights and international media reporting, much emphasis has been placed on the closed nature of the regime and the absolute prohibition on the flow of uncontrolled foreign information into the 'Hermit Kingdom'. While it remains true that the government places strict control on access to information from outside, more and more people at all levels of society are nevertheless being exposed to such information. More than this, North Koreans are actively choosing to access foreign media at increasing personal risk.

How do you think access to information from outside North Korea has changed?



Survey respondents were divided in their view of how access to information from outside North Korea had changed since 2007, with just 6% difference between those who thought it has increased (34%) and those who thought it had decreased (28%). Part of the reason for this may be the difference in conditions and access to information between different regions of the country: in general, those from the provinces bordering China have much greater access to

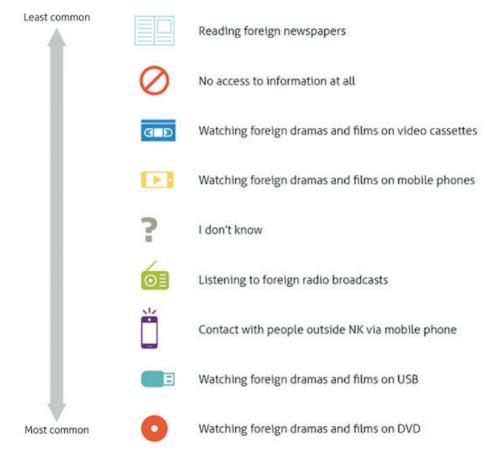
foreign media than those in other parts of the country, with the exception of the Pyongyang elite. Unfortunately, the number of survey respondents from southern provinces was too small to be able to draw firm conclusions on this subject.

Another possible factor is age. North Korean escapees who were young children in 2007 may not be able to accurately compare access to information at that time with access to information now. It is telling that for the youngest participants in the in-depth interviews, the practice of watching foreign media was so common that for them it was normal to watch with close friends and even share media with their peers via USB if they felt it was funny or interesting.

As Interviewee H explained:

We are not like the older generation. We watch dramas and movies on USB. The older generation are very cautious about watching, but we watch with our friends.

If people do have access to information from outside North Korea, what form does this take?



Survey respondents were also asked how people access foreign information; respondents were asked to select as many forms as apply. 'Reading foreign news on the internet' was also offered as an option; however, it has not been incldued on the infographic above as no respondents selected this option. The most common forms of information from outside North Korea were considered to be foreign dramas and films on USB and foreign dramas and films on DVD. As discussed below, USB has some important safety related advantages over DVD because it can be used in a media device (see paragraph below on the 'notel'). Contact with people outside North Korea, via mobile phone, accounted for slightly more than listening to foreign radio broadcasts.

Only a small percentage felt there was no access at all to information from outside, demonstrating the widespread availability of foreign information in some form or other, despite strict government controls. This is consistent with reports from think tanks, NGOs and other groups monitoring access to information in North Korea. Despite the divided view among survey respondents concerning the change in access to information, outside experts note a rapid increase in the speed at which information is entering the country and in its quantity and variety.

To give an example, North Koreans who left the country several years ago report that when they were in North Korea, they watched South Korean dramas and films several years after their release in South Korea. Now, according to a researcher at LINK, North Koreans can watch these dramas just days after they are aired in the South. Some sources say that even music, drama and sports shows produced inside North Korea (by state-run media) appear to have been influenced by South Korean shows, and report that some young North Koreans try to emulate the 'sophisticated' Seoul accent. As mobile phone ownership increases, people are also using their phones to watch foreign media smuggled into the country; although, given the tight controls over North Korean-registered phones, it may be assumed this activity is limited to those with Chinese devices.

Korean dramas and films popular in North Korea





Winter Sonata, 2002, credited with launching the Korean Wave (Hallyu) in Asia, was reportedly popular in North Korea as well; Descendants of the Sun, 2016, is a more recent favourite.



According to the highest ranking North Korean living in South Korea, Thae Yong Ho, historical programmes like *Jeong Do Jeon* are popular with educated and older North Koreans.8

Experts generally agreed that this has occurred despite the increase under Kim Jong Un of the state's attempt to control the flow of information into the country:

The flow of information has also changed things; there is more control over this under Kim Jong Un, especially of information about the outside world.

PSCORE

⁸ Noon in Korea, 'South Korea's "soft power" flexes its muscle', 2016 http://nooninkorea.com/2016/12/tae2/

In-depth interviewees agreed:

There has been a big crackdown on information from outside. Before it was common to watch dramas and movies on CD, but now people use USB.

Interviewee C, 41, North Hamgyong Province

There has been a crackdown on people watching foreign dramas and movies. The inspection teams don't even knock on the door, they just jump over the gate and barge right in. Sometimes you can bribe your way out of it.

Interviewee A, 50, North Hamgyong Province

Even as state control has tightened, enterprising traders have found innovative ways to circumvent restrictions. Internet access is restricted to a tiny group of high-ranking elites, and all devices produced inside North Korea or officially imported into the country have fixed operating systems that control what the user can play. However, in 2015 Reuters reported the widespread use of a USD50 portable media player called a 'notel', which can be used to watch media stored on DVDs or USBs.9 The Reuters report said that notels became legal in North Korea as of 2014, but must be registered with the authorities. North Koreans can buy legally imported notels from official shops or black market notels smuggled into the country: both types are made in China.

According to the article, and information from experts, the notel has several important features which make it especially useful: it is small and therefore easy to hide and transport; it is low voltage, and can be charged with a car battery; and thirdly, and perhaps most importantly, it includes a USB slot as well as a DVD player. This is important because during inspections the authorities cut the local power supply, which traps the DVD inside the device but does not prevent a USB stick from being removed. In the event of an inspection, users can quickly extract the USB containing foreign media, and claim they were watching a state-produced DVD.

How have North Korean people's attitudes towards the rest of the world changed since 2007?



⁹ Reuters, 'The \$50 device that symbolizes a shift in North Korea', 27 March 2015 http://uk.reuters.com/article/us-northkorea-change-insight-idUKKBNOMM2UZ20150327

Survey respondents were more than twice as likely to believe that North Koreans' view of South Korea and the US has become more favourable (44%), as opposed to less (19%). When asked why this was, respondents answered that it was because "North Korean people hear about stories of South Korea and the US through North Korean defectors' families", or through foreign media.

The in-depth interviewees were in no doubt about the impact of foreign information on people's views and opinions, particularly their view of South Korea:

Having information about the outside world has changed people's views inside North Korea. For example, before if a person had relatives in South Korea, it would be very bad for them and cause a lot of trouble. But now police officers even ask them why they don't leave and go and live in South Korea, because even the police know that China and South Korea are richer than North Korea.

Interviewee A, 50, North Hamgyong Province

There is greater awareness now. Many people watch South Korean dramas. North Korean propaganda shows a negative picture of South Korea but many people know the truth. They get information from their family members in South Korea and China, so the level of awareness is going up.

Interviewee D, 25, North Hamgyong Province

For some, particularly younger North Koreans, sharing foreign media or watching together is a bonding exercise which demonstrates and increases trust between friends:

People often exchange USBs with friends. Of course you have to nunchi bwa [be aware, be smart about it], and only talk to people you trust. In North Korea, almost everyone watches South Korean dramas, even the police officers! But you can only talk about it with close friends. You can watch Korean or American or British movies too. Usually we watch using USB.

Interviewee D, 25, North Hamgyong Province

Among escapees, foreign media prompted curiosity about the outside world and a desire for a different or better life, which eventually contributed to their decision to leave:

We were young guys, full of curiosity about the outside world. We watched TV dramas and shows; even the poor people watched. So we really wanted to go out and explore. One thing we all wanted was to go on a plane.

Interviewee H, 27, RyanggangProvince

Many interviewees also drew a connection between accessing foreign media and negative feelings towards the system and the authorities:

[The number of people watching foreign media] has had a big impact. It is bound to raise complaints. For example, US movies show people standing up to the government. South Korean shows are romantic. We know it is fictional but we see the freedom that they are enjoying. So it has a serious impact. We are the most pitiful country in the world with no freedom at all...When we watched dramas with friends, at first we envied the people in South Korea, and then we wished we could go outside. Then we might complain: why were we born here? It is a social complaint.

Interviewee H, 27, RyanggangProvince

I think more and more people think the future in North Korea is hopeless. Because there is more information about the outside world, and people often believe that Kim Jong II received assistance from other countries, but Kim Jong Un does not. He does not have good connections, so people feel hopeless.

Interviewee C, 41, North Hamgyong Province

Interviewees said that people also learned about the outside world from North Koreans who had worked overseas and returned to the country, as well as North Koreans now permanently settled in South Korea. This last group is increasingly important, because it most often involves family members with a high level of trust between them. Whereas North Koreans accessing foreign media may suspect (sometimes correctly) that the portrayal of life in other

countries is exaggerated or inaccurate, they are more likely to believe information from relatives actually living there.

Unsurprisingly, South Korea-based North Koreans are very careful about their communication with relatives still inside the country, which usually takes the form of a brief phone call using a Chinese phone, often belonging to a financial broker or trader. However, over time, North Koreans build up an understanding:

Contact between relatives in South Korea and North Korea has a very big impact: if people hear from relatives in South Korea, they share the information with close family members. Word spreads...

Interviewee E, 42, North Hamgyong Province

There is more information about South Korea available. We know about South Korea and we want freedom and a better life. We are motivated by freedom. For me, I often speak to my family in North Korea. We never call each other by name in case the line is tapped. But I say things like, 'It is like Heaven here, don't worry about me'. In this way, information about South Korea is getting in.

Interviewee H, 27, RyanggangProvince

Experts and organisations monitoring these developments agree that access to foreign media is having an impact on North Koreans' understanding of the outside world, and, consequently, their view of their own country. An Intermedia report by Nat Kretchun and Jane Kim based on extensive research found a strong relationship between exposure to foreign media and positive perceptions of the world, perceptions which may call into question the regime's propaganda.¹⁰

The effect is not immediate, however. Author Jieun Baek describes the effect of foreign media as a mental tug of war for North Koreans. One North Korean she cites believes it takes six months of exposure to foreign media and critical thinking to come to the realisation that the regime is "based on lies". Nevertheless, Ms Baek believes the flow of information into North Korea is crucial: 'knowledge about the outside world is undoubtedly a necessary component that North Koreans need if they want to create change for themselves in the future'. Ms Baek goes on to describe the process of measuring new knowledge from outside against actual experience, and eventually coming to distrust the regime. She concludes, 'Only after one distrusts the government can one take action against it.'12

Experts also believed that contact between North Koreans in South Korea and their family members had a significant impact on their view of South Korea. Nam Bada of PSCORE added that relatives in the South often send back money, with the result that North Koreans see South Korea as a rich country.

On the other hand, one expert suggested that South Korea-based escapees sometimes tell their North-based relatives that life in South Korea is far from perfect. It is widely reported that North Koreans in South Korea face many problems, including discrimination and unemployment, sometimes leading to depression and even suicide. As such, North Koreans who hear about these problems may be less likely to try to escape, according to the expert.

However, overall interviewees and experts felt that information about South Korea was a push factor in escapees' decision to leave.

The freedom to seek, receive and impart information and ideas is a human right guaranteed under Article 19 of the International Covenant on Civil and Political Rights (ICCPR). Access to information has increased in North Korea over the past ten years; and although much of this information has taken the form of entertainment rather than factual reports, it has nevertheless had a dramatic impact on North Koreans' view of the world, and has prompted some degree of critical analysis of the state's propaganda and the reality of life inside and outside the country.

This increase in access to information has come about in spite of increased restrictions: in other words, any improvement is due to people's own agency and external actors and circumstances, rather than the will of the state. On the contrary, the government is more determined than ever to prevent foreign information reaching ordinary North Koreans, and likewise, to prevent information about human rights conditions inside the country from getting out.

¹⁰ Intermedia (2012), A Quiet Opening: North Koreans in a Changing Media Environment, p.2 www.intermedia.org/wp-content/uploads/2013/05/A_Quiet_Opening_FINAL_InterMedia.pdf

¹¹ Yale University Press (2016), Jieun Baek, North Korea's Hidden Revolution: How the Information Underground is Transforming a Closed Society pp.79-80

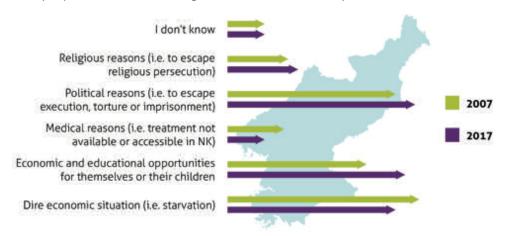
¹² ibid., p.219

CHANGES IN DEFECTION PATTERNS

Closely related to the subject of information flows is the issue of how and why people leave the country. The act of leaving North Korea is often referred to as 'defection' and people who have left the country are known as 'defectors'. This report prefers the term 'escapees', since 'defector' presupposes a political motivation for leaving. This is by no means the case for everyone who chooses to leave, as the findings below demonstrate. In addition, there are also cases of 'accidental defection', where individuals have left the country planning to return after a short period, but have found they are unable to do so.

Research suggests that there have been changes over the past ten years in the reasons for leaving North Korea, which are closely related to changes in the demographic of escapees. Though people's motives for leaving are often complex and very personal, information provided by survey respondents and interviewees provides some insights into what drives people to take the life-changing decision, and immense risk, of attempting to leave North Korea.

What were most people's reasons for leaving North Korea in 2007, compared to now?



The survey answers reveal changes in the motivation for leaving which are consistent with answers provided by interviewees and experts. Survey respondents believe that in 2007 the top three reasons for leaving were starvation, political reasons, and economic and educational opportunities for themselves or their children. In 2017 the same three reasons made up the three most common answers, but the order was different. Respondents reported that fewer people were leaving because of dire economic hardship; the biggest increase was seen in the number of people leaving to pursue economic and educational opportunities; and there was also an increase in the number of people leaving because of political reasons, such as to escape execution, torture or imprisonment.

These results are consistent with the answers provided in the in-depth interviews. For example, Interviewee G, 53, RyanggangProvince, says:

In the beginning, people defected because they were starving. They went to China to find food. But it is different now. For example, I was doing OK in North Korea, I could live. But more and more people want freedom, opportunities, and hope... For me, only last year I concluded that there was no hope in North Korea and decided to leave.

Interviewees emphasised that although the number of people leaving for South Korea has decreased, the number of people with the desire to go has not changed, despite improvements in the economic situation for some:

[In terms of the impact of economic growth on defection patterns] this makes no difference because even if someone is not in a desperate situation financially, if they have family in South Korea they will still want to come.

Interviewee A, 50, North Hamgyong Province

Interviewees attributed the decrease in the number of people leaving to harsher border control under Kim Jong Un:

The number of people going to South Korea has decreased, because of increased border security. In the past, there was a high number of defections and a lot of people were reported, too. I heard the situation of defection is so grave that Pyongyang set up a special agency to strengthen the security situation to reduce defections.

Interviewee E, 42, North Hamgyong Province

Tightened border security has pushed up the price of illegally exiting the country. Experts and interviewees estimated the cost as being up to USD15,000 per person, an increase from around USD2,000 five years ago. One interviewee (D) claimed that the only people who could afford this were those with family in South Korea.

A research paper by Ji Hae Oh and Soo Hyang Kim of Handong University supports these findings. The paper finds that the number of people leaving has decreased primarily due to increased surveillance and security, and a corresponding increase in the severity of punishment for defection. As the results above suggest, Oh and Kim also find that the motivation for leaving has changed, with more people motivated by perceived opportunities rather than survival: 'The motivation for defection is changing from a desire just to live, to a desire of "true life" and "freedom.".'13

Experts interviewed by CSW agreed:

People who come out of North Korea now are doing so not only because of food shortages (although people still do) but because of the challenge of surviving in a rapidly changing economic environment.

HHK Catacombs

Up to 2000, the main reason for defecting was because of hunger. 70-80% of defectors left for this reason. From 2000, it was because of dramas and movies from South Korea. They had a fantasy of living well in South Korea. They were worried about their future in North Korea, about their children. Even high ranking officers worry about that.

Myeong Chul Ahn, NK Watch

In connection with this trend there has been a change in demographics, with an increase in the number of families leaving together, particularly those with money.

There has been an increase in the number of families crossing over, including couples with children. They cross because they have no hope in North Korea and want a better future for their children. They have enough information now to judge between North Korea and the outside world.

NKDB

In short, whereas before many escapees were single and starving, families with funds are now leaving too. Those reaching South Korea are still mostly young (20-39 years old) and female, a trend which has continued since the mid-2000s, with females consistently making up 70% of escapees annually, ¹⁴ but it appears that the type of North Korean escaping to South Korea is becoming more diverse, to include families, overseas workers, and 'elite defectors'.

Kim and Oh note that the number of overseas workers (North Koreans posted in other countries for work operations) choosing to escape to South Korea has also increased, which could distort the overall picture of the number of people leaving: the authors cite Yoon Yeo Sang of the North Korea Human Rights Information Center, who points out that 'the number of escapes from North Korea has not increased. The number of defectors has increased because workers who have already dispatched abroad have escaped from their workplace and have entered Korea. The authors are pointing out that the number of people illegally crossing the North Korea-China border has not changed; the apparent increase in the number of North Koreans leaving the country is due to overseas workers, who are already outside the country, escaping from their work units.

The authors also note that under Kim Jong Un, the number of escapees who are high level officials, so-called 'elite defectors', has risen from 32 between 1991 and 2010, to 46 in the space of just two years, 2013-2015. They describe these defection patterns as 'family-based, asset-based, and future-oriented'. The escapees' concern is for their children's future, and they have private funds to support their defection.

Kim and Oh support the survey findings on the increase in border security. In their paper they describe the installation of electrified borders and devices to detect mobile phone use. Under Kim Jong Un, the penalty for border crossing has become more severe: until 2012 or 2013, a first-time border crosser who was repatriated would typically receive a sentence of no more than six months in a labour training camp. Now, all repatriated North Koreans, including first time

¹³ Oh, Ji Jae and Kim, Soo Hyang (2017), Changes in Defection Patterns Due to the Policies of the Kim, Jung Eun Regime, ed. Anna Dorothea Colby, p.25

¹⁴ ibid., p.3

¹⁵ ibid., p.7

offenders, are sent directly to long-term re-education camps. ¹⁶ Myeong Chul Ahn of NK Watch ¹⁷ supported this finding, observing that whereas escapees used to be sent to labour training camps for a few months and then released, under Kim Jong Un they are sent to concentration camps instead.

The Chinese authorities have cracked down on escapees and the people who try to help them. According to Oh and Kim, dozens of South Korean Christian missionaries who helped North Koreans in China have been deported.

In conclusion, the state's policy towards leaving the country has not changed: citizens' freedom of movement both within the country and across borders is still extremely limited and tightly controlled. Increased security on both sides of the Sino-North Korean border has resulted in a decrease in the number of border crossers and an enormous

increase in the cost of brokers' fees. The desire for escape remains strong, however.

FREEDOM OF EXPRESSION AND CRITICISM OF THE STATE

As mentioned above, changes in economic modes of survival, coupled with the increased exposure to information from outside, have significantly altered the relationship between the North Korean population and the state. After the famines of the 1990s, those who survived and thrived were the people who distanced themselves from the state and actively disobeyed the regime by engaging in market activities. An entire generation has grown up seeing independence, disobedience and illegality rewarded, while the regime has failed to provide for the vast majority of ordinary people, at least in part because of the deliberate prioritisation of military spending.

It would be a mistake to conclude that economic independence from the state means that rebellion is just around the corner. At the same time, however, escapees tend to believe the dissatisfaction with the regime is widespread; and although both private and public complaints are still rare, in some settings direct or indirect criticism of the regime appears to have increased – albeit from an extremely low starting point.

How much did people criticise the regime in 2007, compared to now?



^{16 2016} North Korea Human Rights White Paper, cited by Oh and Kim, 2017

¹⁷ Interview translated by Sooah Lee of NK Watch

The survey results demonstrate a perceived increase in private criticism of the North Korean leadership. Interestingly, 18% of respondents believed that in 2007 no one ever criticised the leadership in public or in private, but only 7% believed this was true in 2017, although the percentage of those who believed that people often criticise the leadership in public and in private remained very small: only 5% in 2017, a slight increase from 3% in 2007. We should be careful not to read too much into these results: unsurprisingly, a relatively large proportion of respondents answered 'I don't know': 27% for 2007, and 33% for 2017. However, the data appear to indicate that, in broad terms, private criticism of the leadership has increased over the past ten years, but public criticism is still far from common.

The information provided in the in-depth interviews sheds more light on the topic. Interviewee H, aged 27 at the time of interview, described how the act of watching foreign media with friends had spurred indirect criticism of the regime:

When we watched dramas with friends, at first we envied the people in South Korea, and then we wished we could go outside. Then we might complain: why were we born here? It is a social complaint. Surveillance is such that we cannot be straightforward about it but we would talk in hypotheticals [sic]. This has increased a lot over the last ten years.

Interviewee H believed that the number of people watching foreign media has had a big impact on people's view of the regime and their own lives. "It [foreign media] is bound to raise complaints. For example, US movies show people standing up to the government. South Korean shows are romantic. We know it is fictional but we see the freedom that they are enjoying. So it has a serious impact. We are the most pitiful country in the world with no freedom at all."

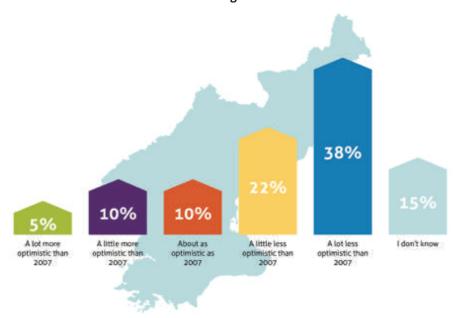
Interviewee I, 59, RyanggangProvince, believed that in general people have more complaints under Kim Jong Un than Kim Jong Il and Kim Il Sung, because whereas Kim Il Sung "liberated North Korea from the Japanese and fought many battles", and Kim Jong Il "inherited the leadership but was also involved in anti-Japanese warfare", Kim Jong Un "has no heroic past". As a result, she said, criticism of the leadership had increased.

Interviewee A, 50, North Hamgyong Province, agreed that people are more critical now than in 2007, and that people are generally more critical of Kim Jong Un than they were of Kim Jong II, though she believed the reason was that people were hoping for a change under Kim Jong Un which has not happened. However, Interviewee A cautioned that people "only complain among very close friends, though. For example when Jang Song Taek was executed, people complained about that. People may very cautiously criticise the regime, and only in private."

17% of survey respondents also reported that most ordinary people believe Kim Jong II was a more able leader than Kim Jong Un, compared to just 11% who thought the reverse, but 45% believed people mostly respected or disrespected the two leaders equally, while 27% did not know. This suggests that, while criticism of the regime has increased, this may be as much due to dissatisfaction with the overall conditions as it is to specific complaints about Kim Jong Un.

On people's feelings about the future, respondents were more decided in their views. When asked how people feel about the future inside North Korea, almost two thirds of respondents felt that people inside the country were generally less optimistic about the future of the country than they were ten years ago. Only 5% believed people were a lot more optimistic.

How do people feel about the future inside North Korea in general?



Again, the interview answers provide further context.

I think more and more people think the future in North Korea is hopeless. Because there is more information about the outside world, and people often believe that Kim Jong II received assistance from other countries, but Kim Jong Un does not. He does not have good connections, so people feel hopeless.

Interviewee C, 41, North Hamgyong Province

From Kim Il Sung to Kim Jong Un, we have had three generations of the same family. People feel hopeless because they think that as long as this one family continues, there won't be any change.

Interviewee E, 42, North Hamgyong Province

Hope was a theme that came up regularly in the interviews, and was a powerful motivation for leaving North Korea, even for those not in dire circumstances:

In the beginning, people defected because they were starving. They went to China to find food. But it is different now. For example, I was doing OK in North Korea, I could live. But more and more people want freedom, opportunities, and hope... Even though people don't talk, you can feel that they have many complaints. For me, only last year I concluded that there was no hope in North Korea and decided to leave.

Interviewee G, 53, RyanggangProvince

The increase in the level of private criticism of the regime and of general dissatisfaction should not be confused with a loosening of state control over dissent. Interviewee B, 26, North Hamgyong Province, recounted:

I know that under Kim Jong Il, someone said just a very small thing and was killed. While he was drunk, he said that Kim Jong Il was not the right person to govern, and then he disappeared.

She explained:

North Korea is like this: everyone is watching everyone else. It is a society of total surveillance. People are divided into units; everyone is watching everyone else all the time...If anyone makes a remark with political implications, it will be picked up.

Despite increased exposure to the world outside and a dissatisfaction with life inside the country, interviewees did not believe that private criticism would evolve into an uprising against the state any time soon.

North Korea is not a society of equality. It is ruled by the privileged Party members. The central and provincial and district level Party people are much better off than the ordinary people. But any crackdown is so enormously strong and oppressive that people cannot rise up. They [the government] know that people are unhappy but they will not tolerate any complaint. People have to pretend they believe in the government in order to be safe, even though this is not the way they really feel.

Interviewee F, 85, RyanggangProvince

[People] hear the propaganda from the day of their birth; loyalty to the state is taught [to us]; [we are taught] to sacrifice everything. So even though conditions are very bad, it is unlikely that people will rise up.

Interviewee G, 53, RyanggangProvince

However, an important paper on social change in North Korea by Liberty in North Korea (LINK) points out that while there is no sign yet of 'organised, planned overt disobedience against the government', small-scale acts of disorganised resistance are possible and indeed are increasing. 'The spread and normalization of everyday disobedience and the emergence of human networks could...be crucial in...eventually enabling more significant collective push-back against the system or aspects of it."¹⁸ Similarly, Tudor and Pearson emphasise that North Koreans who disobey the state face the threat of 'what is probably the most brutal penal system in the world today', but at the same time stress that 'owing to the complete breakdown of the DPRK's social contract in the wake of the famine, North Koreans are increasingly likely to disregard the government's rules of economic and social behaviour.'¹⁹

¹⁸ Park, Sokeel, 'Social Change in North Korea: current trends and future prospects', LINK, p.7

¹⁹ Pearson and Tudor, 2015:177

In conclusion, any slight increase in the space for freedom of thought and expression must be seen in context. Firstly, it should be emphasised that in the past the space for dissent was absolutely zero: the very small improvements over the past decade (or before) probably still only bring North Korea up to the same level as the next most restrictive country. In addition, any improvement in the area of freedom of expression has come about because of the failure of the state, not because the regime has allowed it. People's tolerance for state control may be being tested, but the regime's complete distaste for dissent of any kind has not changed.

CHANGES IN HUMAN RIGHTS IN LAW AND PRACTICE

THE INTRODUCTION OF RIGHTS-RELATED LEGISLATION

So far this report has looked at the key social and economic changes that have taken place, and the human rights implications of those changes. This section will look specifically at the place of human rights in law and policy, and whether any changes in legislation have had an impact on the some of the most serious human rights abuses in the country.

A paper by Mi Jung Kim and Young Sun Song entitled Examining North Korean Law and Government Directives in regards to Changes in Human Rights Policies²⁰ begins by recalling that the constitution, which does include limited protection for basic rights, is not the highest law of the land, and ranks lower than the Supreme Leader's words or instructions and Party policies. When the constitution was amended in 1972, basic rights were brought under the principle of collectivism, and in the 1990s North Korea began using the term 'our own style of human rights' to undermine the concept of universality of human rights. Since human rights in this context are 'collective' and 'North Korean', the regime has used this to justify protecting North Korea's existence and way of life from perceived threats within and without; even though in the process the rights of political prisoners, for example, are systematically violated.

In 2009 'human rights' were included in the constitution for the first time. This change came at the end of a decade of new rights-related legislation, including the Disabled People Protection Act (2003), the Elderly Care Protection Act (2007), the Social Security Act (2008), the Children's Rights Act (2010), and the Women's Rights Act (2010). Kim and Song note that, during the same decade, the government passed other legislation indirectly related to social welfare or human rights, including the Red Cross Law (2007), the Labour Measurement Law (2009), the Labour Protection Law (2010), the Common Education Law (2010), and the Higher Education Law (2010).

Much of this legislation falls short of international standards: the Common Education Law, for example, places a strong emphasis on political education, which could be said to undermine other provisions in the law. In addition, gaps in the law leave citizens vulnerable to human rights abuses: for example, domestic labour law does not apply to overseas workers, whose working conditions are reportedly extremely poor and who have little or no access to medical care. Above all, the authors note that there is a broad divide between law and reality – this is borne out by the testimonies of North Koreans settled overseas.

A research paper by Sunwoo Lee and Jihong Kim²¹ that examined North Korean law with regards to children's rights found that although the government had adopted a practice of 'selectively accepting international human rights norms in order to avoid international isolation', the reality did not match up to the legal provisions. In fact, the protections granted by legislation on children's rights were undermined by the state's practice of using education as a tool for infusing political ideology, and basing a child's worth on his or her value to the nation and society.

The authors cite research by Seok-Hyang Kim in Korea University's Journal of Asiatic Studies which found that North Korean interviewees frequently referred to 'person price' and categorised people as 'low', 'high' or 'without worth', classifications which appeared to be based on their gender, class (songbun) and whether or not they had a physical disability. Therefore, although progress has been made in legislative protection of children's rights and provision for their welfare, this is undermined by discriminatory social attitudes that are reinforced by the state's view of the child as a political subject.

Nevertheless, Kim and Song note, the introduction of a relatively large number of rights-related laws between 2003 and 2010 seems to be 'the result of North Korea's awareness of denunciations and demands for improvements by international forums such as UN organizations'. It may be assumed that this legislation was not passed in response to pressure from civic groups inside the country; nor is it likely to have been brought about by a sudden commitment to

²⁰ Mi Jung Kim and Young Sun Song, 'Examining North Korean Law and Government Directives in regards to Changes in Human Rights Policies', ed. Anna Dorothea Colby, Handong University, 2017

²¹ Sunwoo Lee and Jihong Kim, 'Examining NK law and examining NK government directives for changes in regard to children's human rights', ed. Mary-Elizabeth Hinton, Handong University

human rights on the part of the regime. International pressure, therefore, seems to have been a deciding factor, even if the state's commitment to implementation is still very much in question.

The authors go on to say that 'while North Korea's recent legislation shows its effort to at least attempt to comply with international standards, its criminal law deviates from this trend'. With few exceptions, recent changes to criminal law have been regressive in terms of human rights protection. This includes broader application of the death penalty (2007), harsher penalties for defection (2009), and increased sentences for possession of foreign or 'decadent' materials (2015). The authors conclude that North Korea has 'given up on appearing to respect human rights with its criminal law. The survival of the regime seems to take precedent [sic] over North Korea's reputation in the international community.'

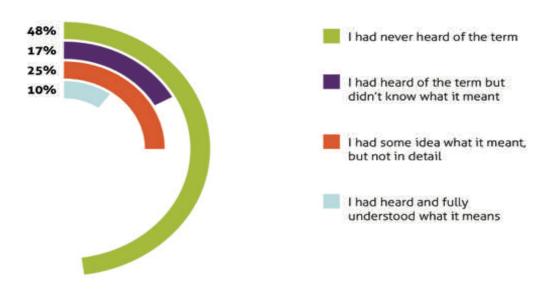
In support, a 2017 report by the Committee for Human Rights in North Korea entitled The Parallel Gulag notes that the 2012 criminal code is 'replete with provisions that criminalize acts commonly regarded as fundamental freedoms of thought, expression, assembly, association, and movement. Some of these provisions clearly and explicitly contradict fundamental freedoms stipulated in the International Covenant on Civil and Political Rights, which North Korea acceded to in 1981.' They go on to observe: 'A glance at the North Korean legal code makes it clear how easy it is for the leadership and its police organs to use the penal system to compel obedience from the citizenry.'²²

THE HUMAN RIGHTS SITUATION FROM THE POINT OF VIEW OF NORTH KOREANS

Survey respondents and interviewees were asked a number of questions about their understanding and view of human rights while in North Korea, and about arbitrary detention and public executions in 2007 and 2017. Based on this data and other information from human rights experts, this section looks at whether there is any evidence of change in the human rights situation. Much of the information related cannot be verified and concerns personal examples and observations. Furthermore, it is almost impossible to draw firm conclusions about the setting for the most dire human rights violations, the political prison camps.

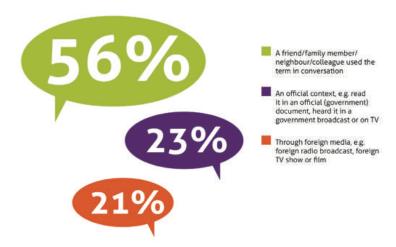
Therefore, although this section includes some examples that indicate small, positive changes which have impacted interviewees at a personal level, the authors of this report are in no way implying a universal or significant improvement in human rights. On the contrary, CSW remains extremely concerned about the ongoing, grave and widespread violations of human rights across the country and in particular for political and religious prisoners.

When you were living in North Korea, what did you know about human rights?



²² Committee for Human Rights in North Korea (2017), The Parallel Gulag: North Korea's 'An-jeon-bu' Prison Camps www.hrnk. org/uploads/pdfs/Hawk_The_Parallel_Gulag_Web.pdf

If you heard the term 'human rights' in North Korea, what was the context?



Just over half of survey respondents had heard the term 'human rights' while in North Korea, but only 10% said they fully understood the term. The data did not show a strong correlation between age and response to this question, but those who left more recently, in 2014 or after, were more likely to have heard the term. Just over half had heard the term from a friend, family member, neighbour or colleague in conversation; 23% had heard it from government sources, and 21% had heard it from foreign media.

In-depth interviewees were also asked if they had heard the term human rights inside North Korea, and if so, when and how they had heard it. Interviewee A, 50, North Hamgyong Province, reported hearing the term used in around 2007-8 by an uncle in law enforcement, who had heard that the international community was saying that North Korea had the worst human rights situation in the whole world. The interviewee also said that government reports and broadcasts also made some mention of human rights: "For example, on TV, there might be an interview where someone rejects the South Korean government's criticism of human rights abuses in North Korea." Perhaps most surprisingly, Interviewee A reported using the term herself when her family members were accused of trying to escape the country when they travelled to a different region for a wedding.

I protested to the chief of police, telling him that everyone had the correct passes. I told them, 'You can only arrest us if you find us actually at the border.' I told them they were acting against human rights.

Interviewee C, 41, North Hamgyong Province, had also heard that there were complaints from the international community about North Korea's human rights record:

I knew that South Korea was protesting against human rights abuses in North Korea. I heard about it from Rodong Shinmun [the state newspaper]. I heard the government propaganda which said that there were no such problems in North Korea, but I still didn't understand.

In some cases, interviewees had heard state representatives use the term human rights in the context of criticising South Korea:

I do remember hearing about human rights but with reference to South Korea. The North Korean government criticised the human rights situation in South Korea and said it was a country where human rights were not honoured. [But] at that time, I really believed North Korea was paradise.

Interviewee I, 59, RyanggangProvince

In official propaganda, they say there are human rights problems in South Korea but it is never explained.

Interviewee D, 25, North Hamgyong Province

Even more extraordinary is a case recounted by Interviewee G, 53, RyanggangProvince:

Yes, I heard about human rights in North Korea...I was caught and sent to a labour re-education camp, where I was treated very badly. There I heard about human rights violations. For example, at the labour camp, if guards saw two prisoners fighting, the guards accused them of violating each others' human rights! This is very ironic! They treat prisoners very harshly, but if one or two people fight the police say they are violating human rights!

Nevertheless, an account provided by Interviewee E, 42, North Hamgyong Province, perhaps gives some reason to hope:

I was repatriated to North Korea three times. The first two times, I was beaten very severely. The last time, I was not beaten at all. I was told that it was because the international community had complained about human rights. I was told there were instructions from the central government saying not to beat people. I heard this from the other prisoners. It was common knowledge. I heard that the entire international community and the UN had serious complaints about human rights in North Korea. The prisoners talked about it. This was in the re-education labour camp. This was around 2014. I think this has made an enormous difference. The beatings were very severe before, but now it seems that beatings have been prohibited. But I never heard human rights mentioned by the government.

This report is supported by other accounts, still very few in number, of detainees being informed by cellmates that they were 'lucky' to arrive at the time they did because an order had just been received at the detention centre not to beat inmates, as a result of a 'human rights directive' or inspection. This information is anecdotal and impossible to verify: however, CSW has come across several such cases in the course of this research, including the testimony above; though it should be noted that none of these cases are from political prison camps (kwanliso or gwanliso):

A North Korean woman was being interrogated when another interrogator came into the room. The woman was bleeding [because she had been beaten]. The interrogator who came in moved to one side of the room to whisper something to her interrogator. The woman was watching and listening closely and heard them mention that a 'human rights inspection team' was coming [using the same word for human rights used in South Korea].

a South Korean human rights activist

I met a North Korean who had been in prison. When he arrived at the prison, the other prisoners said he was very lucky to have arrived at that time, because the guards didn't beat them as badly as before, and this was because two weeks before there was a new 'human rights instruction' at the prison. This was in the last five years.

a South Korean human rights activist

Two interrogators were given a 15-year prison sentence and a 20-year sentence for committing human rights violations after someone they were interrogating died during the interrogation. - a South Korean human rights activist For example, a prisoner who was beaten severely in around 2008 said the guards told him not to talk about it to anyone because the international community were talking about human rights.

Myeong Chul Ahn, NK Watch

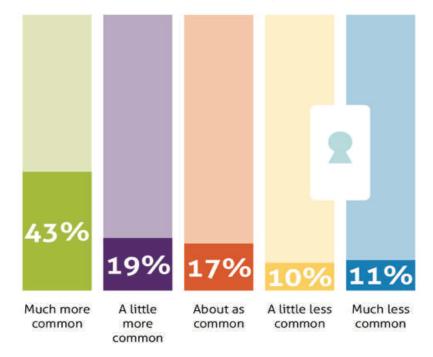
In 2008, at Camp 12, a prison guard was fired [forced to retire] because of his treatment of detainees. This was the first time a quard was punished in this way. He was punished for human rights violations.

Myeong Chul Ahn, NK Watch

In his September 2017, the Special Rapporteur on the situation of human rights in the DPRK also noted that he had received "unconfirmed reports indicating that the authorities may have taken some measures to improve detention conditions", specifically mentioning two directives by the Ministry of People's Security which may have been issued in 2010 and 2015 to address the issue of human rights violations in detention.²³

²³ United Nations, Situation of human rights in the Democratic People's Republic of Korea, 18 September 2017, paragraph 18 https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/290/81/PDF/N1729081.pdf?OpenElement

How has the use of arbitrary detention without trial changed since 2007?



How has the number of people being sent to a prison camp changed between 2007 and now, as far as you know?



How has the number of public executions changed over the past ten years?



Survey respondents and interviewees were asked about changes in the use of arbitrary detention, prison camps and public execution between 2007 and 2017. As one would expect, a relatively high number of respondents answered 'I don't know' in response to questions on public executions (33%) and prison camps (37%). 41% thought the number of people being sent to prison camps had increased, but this is only slightly higher than the number of people who did not know. Just over a third thought public executions had increased, but 19% felt the figure had decreased, and 14% said it was about the same. The view on arbitrary detention was somewhat clearer: 62% felt arbitrary detention was a little or much more common than in 2017; 17% thought there was no change, and only 21% felt it was a little or much less common.

When asked the same questions, in-depth interviewees' answers were also mixed. Interviewee A, 50, North Hamgyong Province, reported that there had been an increase in the number of both elite and ordinary people being sent to political prison camps, including border crossers. However, Interviewee C, 41, North Hamgyong Province, believed there had been a decrease in cases of neighbours disappearing in the night and being taken to political prison camps, although "the exception is in the border areas. There, night time disappearances still happen." Although these answers appear to contradict one another, they show that the regressive changes to the criminal code concerning defection, as cited in Kim and Song's research paper, are being implemented in border areas.

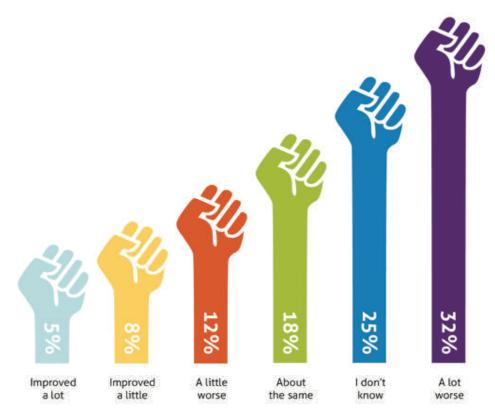
Interviewees tended to agree that the number of public executions had decreased: interviewees A, E and B had not heard of any public executions in recent years. Interviewees E and A believed this was due to "complaints from outside" and "the international outcry". Additional information provided by a survey respondent supports this theory:

"After...its public executions were exposed through satellite surveillance, public executions are not carried out, but people are taken away secretly."

Another respondent said he had not seen any executions after 2007, while a third agreed that instead of being executed in public, people were being 'taken away'.

There is a note of warning in this information: while public executions may have decreased, at least in some parts of the country, this does not mean that the overall number of executions has decreased. Rather, executions are happening in secret.

Thinking about the human rights situation in general, how have things changed in North Korea over the past ten years?



When asked about the overall human rights situation, survey respondents' and interviewees' answers were also mixed. Only 13% of survey respondents saw an improvement over the past ten years; the most common response was that the situation had become a lot worse, although a quarter did not know. Where people felt the situation had become worse, they most often attributed this to the change of leadership; those who thought there has been an improvement believed it was because of the international community's criticism of North Korea's human rights record. Interviewee E, 42, North Hamgyong Province, agreed:

Yes, there has been some improvement [in human rights]. I heard about the UN noise and fuss. Without this, no one would know about human rights at all.

Interviewee A, 50, North Hamgyong Province, also believed that accountability had improved as a result of greater human rights awareness:

The awareness of human rights has increased. If someone is badly treated [by state agents], and they appeal, then the violator will be punished. There is more accountability. So in this way things are slightly better.

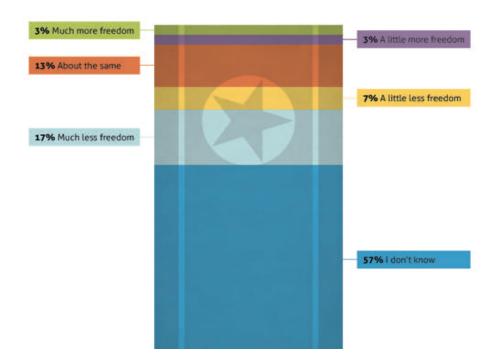
Although limited and impossible to verify, we should also not be too quick to dismiss anecdotal evidence or perceptions that there may have been some, albeit very small, positive changes. Interviewee E's rights were violated when she was arbitrarily detained for crossing the border: this was the same each time she was forcibly repatriated. Nevertheless, the fact that she was not beaten at all the third time, having been beaten severely before, significantly changed her experience in detention. In the face of overwhelmingly serious and widespread human rights abuses, we should not dismiss the significance of even a small improvement such as this for the individual.

At the same time, however, we should be careful in drawing general conclusions. It is certainly true that there is a significant gap between rights-related legislation and the reality of human rights protection. As in any country, the introduction of human rights law does not automatically solve human rights problems. In addition, we should be careful not to assume that a change in one aspect of human rights indicates an overall improvement: as the respondents suggest, a decrease in public executions may not mean a decrease in the application of the death penalty, but rather a reluctance to carry out executions in public. It would therefore be dangerous and inaccurate to suggest there has been any significant improvement in human rights protection, and in particular concerning the gravest violations found in the 2007 report.

SPECIAL TOPIC: RELIGION

In the areas of economy, information, criticism, and human rights awareness, respondents' answers provided a general suggestion of change of some kind, to a greater or less degree, over the past ten years. A notable exception to this trend was on the subject of religion. Interviewees consistently reported that there was no religious freedom, and only 6% of survey respondents felt that there was much or a little more freedom for religious believers in 2017 compared to 2007. This was also the question that had the highest rate of the response 'I don't know' (57%).

How do you think the situation for religious believers has changed since 2007?



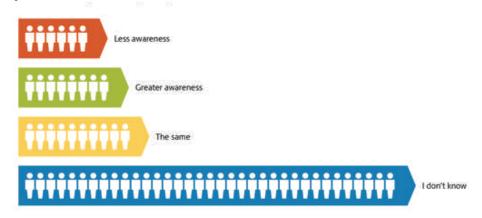
Of those who provided an answer, the largest number believed there was less freedom than in 2007. One respondent said there was no religion in North Korea, while another added:

When it comes to religion, North Korean people just shudder because punishment is very severe.

Interviewee A (50, North Hamgyong Province) also reported:

There has been no change. Religious activity was unconditionally punished and it is the same now. There has been no change at all.

How has people's awareness of religion (e.g. the different types of religion and what followers believe) changed over the past ten years?



Respondents were also unsure whether awareness of religion had changed since 2007: more than half said they did not know, and the numbers of people answering that awareness had increased, decreased or remained the same were relatively close (14%, 10% and 17% respectively).

Two in-depth interviewees had encountered a Buddhist temple. One said:

I had never heard about God in North Korea. I saw a Buddha in a temple once, but I never met any Christians. If someone was found to be a Christian, they would be immediately shot.

Interviewee D, 25, North Hamgyong Province

I visited a temple once, a Buddhist temple. There were 150 monks. I observed them closely. But it was not a real Buddhist temple – it was there to show the outside world that North Korea has religious freedom, but it was 100% fake!...There is no awareness of religion at all; not in 2007 and not now. There is no religious freedom at all.

Interviewee F, 85, RyanggangProvince

None of the interviewees had personally encountered Christianity in North Korea, although one survey respondent believed that awareness of religion had increased because North Koreans who met Christians in China sometimes returned to preach the gospel. However, it is not clear whether the respondent heard about this when he was inside North Korea or only after leaving. One respondent also reported that although people do not have an understanding of Christianity and Buddhism, they do tend to believe in "superstitions and "spirits", and "if they feel distressed, they would go see a fortune-teller."

Overall, it appears there is no tolerance at all for genuine religious belief or practice, and only very limited awareness of religion in general. It may therefore be concluded that with the possible exceptions of ancestor veneration and fortune telling, which still reportedly occur, there is no freedom of religion or belief.²⁴

²⁴ Fortune telling is officially prohibited but appears to be tolerated to a greater degree than other practices relating to religion or belief.

SECTION TWO: CHANGES IN THE INTERNATIONAL COMMUNITY

CSW's 2007 report ended with a quote from Kim Sung-Min, a former captain in the North Korean army:

"The word 'justice' is insufficient to describe what North Koreans are crying out for. Defectors testify of unspeakable abuses and vast numbers of people have died of hunger. We weep as we speak of these things, but not many people are listening. We need the outside world to know what is happening and to act. Countless numbers of North Koreans and defectors desire international action and justice. It will be a difficult and complicated process, but it must be done soon."25

The sections above demonstrate that while in some areas some changes have taken place and continue to take place, in other areas change has not occurred in the direction or at the speed needed. As a result of increased access to foreign information that enables the viewer to glimpse the wider world, North Koreans' awareness of the injustices and limitations inside the country is increasing. Compared to the 1990s, fewer people are dying of hunger as described in the above quote; but humanitarian agencies continue to report significant needs in the areas of food security, nutrition and health, 26 and poverty and malnutrition continue to affect millions of people. 'Unspeakable abuses' of human rights have not stopped, and despite some evidence of limited improvements in some areas of the penal system, we should remember that it is still almost impossible to get a comprehensive picture of the situation inside the most severe and secretive forms of detention, where serious abuses are most likely to occur.

What has changed outside North Korea during this time? Are more people listening than before, and are they willing and able to act? How far have we progressed in this 'difficult and complicated process'?

LIMITATIONS AND CHALLENGES

Several aspects of the situation have not changed, including the tendency to focus almost entirely on the security threat, relegating human rights and humanitarian concerns to second place. At the time of writing, North Korea has fired over 20 missiles over the past year. One instance involved the country's first test of an intercontinental ballistic missile (ICBM) on 4 July 2017, while on 29 August 2017 North Korea launched a missile over northern Japan. The tests have prompted condemnation from the UN Security Council, a new round of sanctions, and a war of words between the US and North Korea.

In general, security concerns and subsequent frayed relations between the key nations involved have eclipsed human rights and humanitarian concerns in the mainstream media. However, while the bulk of the headlines are given over to the nuclear threat, the increase in media attention to and public interest in North Korea has resulted in more space for articles and posts on other topics, including economic analysis, human interest stories, and human rights reporting. This is discussed further below.

Another aspect of the situation that has not changed is the difficulties faced by the international community in challenging human rights abuses in North Korea. Human rights NGOs continue to struggle with the challenge of verifying information about a country they cannot access, at least in their capacity as NGOs; while the impossibility of any kind of local, grassroots civil society organisation forming inside North Korea means that international NGOs do not have the in-country partnerships which are so crucial to combating abuses. UN and humanitarian agencies also have difficulty in getting access to all parts of the country and travelling independently without government minders. In addition, the government continues to deny reports of human rights abuses by escapees and human rights organisations.

THE UN COMMISSION OF INQUIRY

The challenges are daunting, but there have been positive steps forward over the past ten years. The most notable development in terms of human rights reporting was the UN Commission of Inquiry, which published its report in February 2014.

As has already been mentioned, the establishment of a COI was one of the key recommendations of CSW's 2007 report. To this end, CSW initiated and co-founded in 2011 the International Coalition to Stop Crimes Against Humanity in North Korea (ICNK),²⁷ a network of over 40 human rights organisations from around the world, campaigning for the establishment of a COI. In order to achieve this, the ICNK worked to raise public understanding and awareness of the

²⁵ Christian Solidarity Worldwide, 2007:95

²⁶ A 2017 report by the Humanitarian Country Team and partners estimates that 18 million people, in a population of 24.9 million, are suffering from food insecurity and undernutrition. p.6

²⁷ International Coalition to Stop Crimes Against Humanity in North Korea http://stopnkcrimes.org/

human rights situation by facilitating the holding of hearings of escapees and victims of crimes against humanity, in various UN member states. The ICNK also organised international campaigns in each member country to send letters or petitions to the UN urging the establishment of a Commission of Inquiry.

In January 2013 the UN High Commissioner for Human Rights, Navanethem Pillay, called for an international inquiry into serious human rights violations in North Korea, stressing that concerns about the country's nuclear programme must not be allowed to overshadow the "deplorable" human rights situation of its people.²⁸

The Commission of Inquiry, established by the UN Human Rights Council in March 2013 and chaired by Australian Justice Michael Kirby, concluded that 'the gravity, scale and nature' of the violations of human rights in North Korea 'reveal a State that does not have any parallel in the contemporary world'. The 400-page report details crimes against humanity including 'extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation'.²⁹

These findings echo reports by South Korean and international human rights organisations, including CSW, and the testimonies of thousands of escapees. However, the COI report was significant and powerful both because of its scope and because it carried the weight of a UN Commission report. In this sense, the COI is the most comprehensive, detailed and authoritative documentation to date of North Korea's appalling human rights violations, and marked a turning point for awareness.

In addition to documenting human rights abuses, the COI also made recommendations and both directly and indirectly led to a range of developments and activities. In November 2014 the UN General Assembly's human rights committee approved a resolution that acknowledged the COI findings and encouraged the Security Council to consider taking appropriate action to ensure accountability for these crimes, including through referral to the International Criminal Court.³⁰

In June 2015 UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein opened a new UN Human Rights Office in Seoul, fulfilling a recommendation made by the COI.³¹ In March 2017 a Group of Independent Experts on Accountability, appointed by the High Commissioner for Human Rights at the request of the Human Rights Council in 2016, issued a report calling for 'measures to ensure the right of victims to reparations, the right of victims and society to know the truth about violations, and guarantees of non-recurrence of violations.'³²

Outside the UN, the COI report, standing on the shoulders of decades of human rights reporting by escapee-led South Korean and international groups, gave new impetus to human rights-related projects and activities on North Korea. In 2016 the BBC announced its plan to provide a Korean language service on the Korean Peninsula, following years of campaigning by the UK All-Party Parliamentary Group (APPG) on North Korea as well as by CSW and other organisations.

It could also be argued that the report may have indirectly contributed to an increase in funding for projects looking at human rights in North Korea, by garnering interest and support from international funders including government agencies. One of these projects is described below.

In South Korea the COI report may be said to have encouraged further attention to the North Korean human rights issue. One South Korean NGO told CSW that before the COI, the "shocking stories" told by individual escapees were largely treated as one-offs. After the COI, there was a greater understanding of the situation. The COI also helped to foster a better understanding of the role of transitional justice in future scenarios. Beforehand, the handling of any kind of post-regime future had been considered solely a Korean issue; whereas now there is a growing recognition that, in terms of human rights violations, this is a matter of international concern.

However, this subject is still heavily politicised in South Korea, as illustrated by the challenges in passing the North Korea Human Rights Act (NKHRA).

²⁸ Christian Solidarity Worldwide, 'North Korea: CSW welcomes support for inquiry', 15 January 2013 www.csw.org.uk/2013/01/15/press/1480/article.htm

²⁹ Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea, p. 14, paragraph 76

³⁰ Christian Solidarity Worldwide, 'CSW welcomes UN General Assembly vote', 19 November 2014 www.csw.org.uk/2014/11/19/news/2373/article.htm

³¹ Christian Solidarity Worldwide, 'CSW welcomes new UN human rights office in Seoul', 22 June 2015 www.csw.org.uk/2015/06/22/news/2638/article.htm

³² United Nations Human Rights Council, Report of the group of independent experts on accountability, 13 February 2017 http://undocs.org/A/HRC/34/66/Add.1

THE NORTH KOREAN HUMAN RIGHTS ACT

On 25 September 2017 the US House of Representatives passed the North Korean Human Rights Reauthorization Act, which renews a 2004 law authorising programmes supported by federal grants to promote human rights, democracy and freedom of information in North Korea. Prior to the vote, House Foreign Affairs Committee Chairman Ed Royce emphasised the connection between security and the aims of the Act, saying that it would "help ensure that our investments stand the best chance of paying dividends in freedom for North Korea, and greater security for the rest of the world."³³

The original North Korean Human Rights Act was signed into law in October 2004; the year before, South Korea's National Assembly had passed a resolution calling for the improvement of North Korean human rights. It would be more than a decade, however, before South Korea finally passed its own North Korea Human Rights Act (NKHRA) in 2016. A paper by Susanna Kim and Youngyu Lee of Handong University examines the passage and content of the Act. The authors note that Article 1 of the Republic of Korea's (ROK) constitution considers the whole of the Korean peninsula to be ROK territory, and therefore North Koreans are entitled to the same rights as South Koreans: they conclude that the NKHRA is necessary to fulfil South Korea's constitutional obligations.

The process of passing the Act was far from smooth, however, and revealed the impact of South Korean political divisions on the handling of matters concerning the North. The final text states that the purpose of the Act is 'to contribute to the protection and improvement of human rights of North Koreans by pursuing the right to liberty and right to life prescribed in the Universal Declaration of Human Rights and other international conventions on human rights' (Article 1). According to Kim and Lee:

'In the Republic of Korea, the so-called conservative camp views the right to liberty as a more important concept of human rights, while the progressive camp views the right to survival as a more important human right. The contrast in views between the two parties was reflected in the process of enactment of the North Korean Human Rights Act. In other words, the two parties insisted that their position was the most important concept for human rights.'³⁴ As a result, the Act includes provisions for humanitarian assistance and inter-Korean dialogue, as well as human rights documentation and international cooperation on human rights.

The NKHRA specifically established several bodies and roles, including the position of Ambassador for North Korean Human Rights Issues, a North Korean Human Rights Foundation, and a Centre for North Korean Human Rights Records. However, Kim and Lee contend that the 'acute difference' between the conservative and the progressive groups was "so serious that each of them opposed the establishment of organizations proposed by the opposite party", resulting in significant delays in the establishment of the Foundation, for example.³⁵

Among both politicians and the public, there were objections to the Act on the grounds that it constituted interference in the internal affairs of North Korea and could further damage the relationship between North and South; whereas those who supported the Act claimed it was irresponsible for South Koreans to ignore human rights violations in North Korea. However, the opening of the field office of the United Nations for Human Rights in North Korea in Seoul in June 2015 'changed the atmosphere of the international society', and on 2 March 2016 the North Korean Human Rights Act was passed by a vote of 212 in favour, 0 against and 24 abstaining.³⁶

Kim and Lee conclude that if the provisions of the NKHRA are used properly it will be beneficial, but if used in an improper way 'the Act becomes a simple political tool and has the danger of becoming a bad law that will aggravate disputes.' For the moment, however, they believe the Act already has symbolic value, by recognising North Koreans as compatriots of South Koreans, taking an interest in their human rights, attempting to address human rights concerns, and seeking cooperation from the international community.³⁷

³³ Foreign Affairs Committee, 'House Votes to Promote Information, Human Rights in North Korea', 25 September 2017 https://foreignaffairs.house.gov/press-release/house-votes-promote-information-human-rights-north-korea/

³⁴ Susanna Kim and Youn gyu Lee (2017), North Korean Human Rights Act, ed. Mary-Elizabeth Hinton, pp.11-12

³⁵ ibid., p.19

³⁶ ibid., p.31

³⁷ ibid., p.40

PUBLIC OPINION IN SOUTH KOREA

As previously mentioned, there has been an increase in media attention on human rights stories about North Korea, in addition to security issues. North Koreans who have left the country have played an increasingly important role in raising awareness of the situation inside and the challenges faced by ordinary North Koreans. In South Korea in particular, young and engaging *jangmadang*-generation escapees have drawn attention to these issues by appearing on TV shows, writing books and giving media interviews and presentations. These North Korean millennials are putting a human face to reports by NGOs and UN agencies.





South Korean TV programme 'Now On My Way to Meet You' features North Korean escapees discussing life inside North Korea. Several experts interviewed by CSW cited the programme as an example of increased public interest in North Korea. According to one expert, who is himself North Korean, this programme has 'woken people up' in South Korea, and given them a better understanding about North Korea and the situation inside the country.

The increase in attention is generally welcomed by activists and experts if it also draws attention to human rights issues, and helps to foster understanding and break down barriers between South Koreans and North Koreans living in the South. However, the increase in media attention is not without its problems. Media and entertainment outlets tend to portray North Korean leaders as humorously eccentric; while these articles do not deny the existence of grave human rights abuses, they distract from these concerns.

Furthermore, the authors of North Korea Confidential claim that 'International media representation of North Koreans tends to strip them of agency. The DPRK citizen is shown either as a blind follower of state propaganda, or as a helpless victims [sic] of it.'38 Entertainment shows also tend to focus on young, female escapees and encourage them to tell harrowing stories of their lives in North Korea to sorrowful background music, zooming in on the women wiping tears from their eyes. These television programmes run the risk of presenting North Koreans as helpless, passive victims who need looking after rather than three-dimensional human beings and agents of change.

HAVE THE RECOMMENDATIONS BEEN MET?

The recommendations from CSW's 2007 report³⁹ have been partially met, but there remains a very long way to go.

Recommendations to the UN Security Council, UN Secretary-General and the UN Human Rights Council included the establishment of a Commission of Inquiry (COI). As discussed above, the COI was established in 2013. The Special Rapporteur was one of the three COI commissioners, and the High Commissioner for Human Rights also provided support for the COI, which produced the most comprehensive briefing on human rights in North Korea to date. In April 2014, following the publication of the COI's report, the Security Council convened a special session on human rights in North Korea. In December that year the Security Council formally added the human rights situation in the DPRK to its agenda.

The report called for the mandate of the UN Special Rapporteur to continue, and for the mandate holder to call for support for and engage in processes aimed at holding perpetrators to account and ensuring justice for victims. Since the report, the mandate of the Special Rapporteur has continued, and the Special Rapporteur was one of the three COI commissioners and mandate holders to have produced numerous reports on the grave human rights situation. However, the mandate is undermined by a lack of cooperation by North Korea, which means the Special Rapporteur

³⁸ Pearson and Tudor, 2015:142

³⁹ These recommendations are paraphrased from the 2007 report, pp.92-95.

has to date been unable to access the country. Similarly, the Special Rapporteur has noted that although the Universal Periodic Review (UPR) mechanism is potentially a meaningful platform for human rights analysis, "endorsing recommendations, however, means nothing without consistent implementation".⁴⁰

In a notable development, in May 2017 the Special Rapporteur on the rights of persons with disabilities, Catalina Devandas Aguilar, became the first UN independent expert to be allowed to visit North Korea. The visit was covered by the North Korean state media, and followed the country's ratification of the Convention on the Rights of Persons with Disabilities in December 2016.

Human rights activists have rightly pointed out that ratification does not automatically signal a change in the situation for people with disabilities. Furthermore, disability rights are likely to be seen as less threatening to the government than, for example, rights relating to freedom of expression and freedom of assembly. Nevertheless, the government's at least partial willingness to work with UN mechanisms and officials on this one issue could present an opening for engagement. Those who support this view also point out that there has already been long-term engagement with international organisations on this issue, of a kind which is impossible for NGOs working on other rights issues – although civil society organisations inside North Korea are invariably connected with, or run by, the government.

The 2007 report also recommended that UN member states and regional bodies support UN action, take in refugees, support victims of international crimes, and raise awareness of human rights issues.

Several states were publicly supportive of the COI and its findings, and have subsequently supported resolutions and other actions. Other states, including most notably China, have actively opposed attempts to place North Korean human rights issues on the UN agenda. The People's Republic of China also refused to cooperate with the COI.

Furthermore, China continues to treat escapees as economic migrants, and routinely deports them back to North Korea where they are at high risk of human rights abuses including arbitrary detention, ill-treatment and torture. In November 2017, ten North Korean escapees, including a four-year-old child, were forcibly repatriated from China to North Korea. ⁴¹ Other UN member states have accepted asylum seekers, while others have played a role in ensuring their passage to South Korea, where they are allowed to settle. However, more could be done to support escapees settled in South Korea and other countries, particularly in terms of education and non-discrimination (see below).

Finally, the 2007 report recommended that civil society prioritise North Korea as a human rights concern; advocate for the rights of victims of international crimes in North Korea and urge states to take steps to end violations; and provide assistance, treatment and rehabilitation for survivors.

There has been a marked increase over the past ten years both in the number of mainstream human rights organisations working on North Korea and the number of North Korea-specific organisations, projects and initiatives. In some cases, new projects and group formations have been possible because of new funding streams indirectly linked to the COI (see below). There has also been a welcome increase in the number of initiatives led by escapees settled in South Korea or elsewhere.

SECTION 3: WHERE DO WE GO FROM HERE?

CASE STUDY: TRANSITIONAL JUSTICE WORKING GROUP

The Seoul-based Transitional Justice Working Group (TJWG) is an example of a new and innovative initiative formed after the establishment of the COI. According to a recent TJWG report, the Group is 'the first Korea-based NGO focussed on transitional justice mechanisms in the world's most oppressive regimes, including North Korea', and aims to 'develop practical methods for addressing massive human rights violations and advocating justice for victims and societies that are transitioning from a situation of conflict or oppressive government'. In its first two years, the TJWG developed a mapping project to document and visualise evidence of crimes against humanity in North Korea by collecting information on alleged mass burial and killing sites, locations of national security offices, local police, military units and administrative units where documentary evidence may be stored.

⁴⁰ Situation of human rights in the Democratic People's Republic of Korea, 18 September 2017, paragraph 18 https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/290/81/PDF/N1729081.pdf?OpenElement

⁴¹ Christian Solidarity Worldwide, 'North Korean defectors forcibly repatriated', 30 November 2017 www.csw.org.uk/2017/11/30/news/3786/article.htm

The Group believes such work is essential for ensuring future accountability. In the same vein, it is also working with escapees to 'explore the localisation of transitional justice mechanisms to the Korean context.'42

The TJWG believes that there is a growing awareness and understanding in South Korea that international law is binding in the case of North Korea:

'It is slowly becoming understood that the matter of justice for North Korea leaders is not one to be decided by South Korea alone – it is of concern to all humanity.'

The TJWG's work is future-oriented, and focuses on providing a basis for future accountability in a post-regime reality. Following the establishment of the COI, there is a new level of awareness of human rights abuses in North Korea, so that despite the regime's best efforts, the human rights situation is no longer shrouded in secrecy.

Civil society therefore needs to move on from focusingon documentation only for the sake of raising awareness. To be sure, documentation is still essential, but the aim now should be supporting future accountability mechanisms.

AREAS OF FUTURE WORK AND FOCUS

"Before the COI, the aim was to prove that these things were happening. Now that's been achieved. Now – how to solve the problem? We must have the correct analysis." - a South Korean human rightsactivist

Foster an understanding of the current reality

This is crucial for generating new ideas about how to promote change and also for predicting the complex impact of existing measures, including sanctions. Those seeking to halt North Korea's nuclear development, and/or bring about regime change, see sanctions as a way to put pressure on the state and therein a system which perpetrates human rights abuses; yet sanctions, if they are not very carefully targeted, could also cut off a trade supply which is undermining obedience to the regime by allowing an independent source of income. This would also cut off information about and connections with the outside world. Whether sanctions, dialogue or a combination of the two are pursued in the future, a solid understanding of the current situation is essential for the governments involved.

Look for ways to support North Koreans outside the country

This could include scholarships, exchange opportunities and leadership training. Governments and civil society organisations should not see North Koreans ('defectors' or escapees) as 'resources' included in meetings and events solely to 'tell their story', but as some of the people best placed to provide ideas about the way forward. The international community should also invest in future community and civil society leaders by providing training and support for North Koreans with skills and interests in relevant areas.

Look for ways to support and provide information to North Koreans inside the country

There are already several projects focusing on sending information into the country through radio broadcasts, USB and other means. This information needs to be accessible both practically and psychologically. For example, young people are generally more likely to take the risk of accessing foreign media through USBs and materials smuggled in from China, and are also more likely to share it with others: a significant portion of foreign media should therefore target younger people, using content most likely to appeal to this audience.

Again, recent North Korean escapees are best placed to tailor programming. CSW welcomes the BBC's new service on the Korean peninsula, and recommends that the BBC ensure that this service includes broadcasts into North Korea with input and leadership from escapees.

Make human rights a priority in all actions and discussions concerning North Korea

UN member states, UN institutions, civil society and other relevant actors should ensure that the human rights situation is not eclipsed by security concerns, and should emphasise the connections between security, human rights and humanitarian needs. In addition, the international community and all relevant actors in South Korea should actively seek ways to separate North Korean human rights and humanitarian concerns from South Korean politics.

Remain open to opportunities for engagement

⁴² Transitional Justice Working Group (2017), Mapping Crimes Against Humanity in North Korea: Mass Graves, Killing Sites and Documentary Evidence https://en.tjwg.org/TJWG_Report-Mapping_Crimes_Against_Humanity_in_North_Korea(July2017)-Eng_Final.pdf

Partly as an outcome of the COI, North Korea has been making some efforts to engage with UN human rights mechanisms. Most experts interviewed by CSW believe that this is because the DPRK government is worried that officials and leaders may, in the future, be held accountable for human rights abuses. North Korea has made some steps to accept and work with what it considers to be the less politicised or 'biased' frameworks, such as the Universal Periodic Review process, but do not accept country mandates or the COI. These limited developments, however, may provide new opportunities for engagement on human rights issues.

CONCLUSION

At the time of writing, North Korea's nuclear tests and threats continue to dominate the headlines. Photographs and video from state media show row upon row of marching soldiers and patriotic citizens, glorying in their country's military might. It would be easy to conclude that these citizens are simply brainwashed servants of the regime. Yet behind these carefully choreographed scenes North Korea is changing, and the change-makers are the people themselves.

This report shows that even changes brought about in part by external factors, such as information flows, would not have happened if there had been no motivation and action on the part of people inside the country. Rather than being passive recipients, viewers are themselves choosing to access foreign media at their own risk. North Koreans, especially young people, are shaping their own destiny, and gradually pushing the boundaries in everything from fashion and dating to enterprise and trade.

Initiatives aimed at improving human rights in North Korea should therefore focus on what we can do to support these change-makers. In the words of one expert, himself a North Korean:

The international community is not the future for North Korea: North Koreans have to lead. But we need support from the international community. This could include leadership training, and education on foreign affairs, economics etc. The best way is for North Koreans to tackle these issues themselves, with support from the international community.

It is hoped that this report and others like it will encourage a discussion among researchers, policy-makers, implementers and funders with a view to designing future policies and projects which support North Koreans, South Koreans and others to address human rights violations in North Korea, and to build a future of justice and freedom for all Korean people.

LIST OF ABBREVIATIONS

DPRK Democratic People's Republic of Korea, also known as North Korea

UN United Nations

NGO Non-Governmental Organisation

ICCPR International Covenant on Civil and Political Rights

UPR Universal Periodic Review.

jangmadang market

songbun social classification system

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