



Citizens' Alliance for North Korean Human Rights (NKHR)
10F, gonghwa bldg, 7-2 chungjeong-ro 2-ga, seodaemun-gu, Seoul 120-012, Korea
Tel: +82-2-723-1672, 2671 Fax: +82-2-723-1671

<http://www.nkhumanrights.or.kr> e-mail: citizens.nkhr@gmail.com

STATEMENT

UPR PRE-SESSION ON DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (DPRK)

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ORGANIZATIONAL BACKGROUND

Citizens' Alliance for North Korean Human Rights (NKHR) is a non-partisan, non-religious and non-profit organization founded in Seoul in 1996. NKHR's work focuses on international advocacy and research concerning human rights situation in the DPRK, assistance for North Korean refugees, as well as education and mentorship programs for North Korean youth and college students re-settling in South Korea (ROK).

EXECUTIVE SUMMARY

The statement addresses the following issues: (1) Awareness of women's rights and participation in associations and decision-making processes (2) Exploitation and discrimination against women (3) Violence against women.

This statement was based upon two rounds of 1:1 surveys and interviews with 80 North Korean participants in 2013 and 40 North Korean participants in 2017. The two rounds of surveys focused on the implementation of UPR recommendations in DPRK between 2010 and 2017, assessing the situation on the ground before the Second and Third Cycle of the Universal Periodic Review.

ISSUES

1. Awareness of human rights legislation; participation of women in associations and decision-making processes

A. Follow-up to the second review

The North Korean government enacted both the Law on the Protection and Promotion of the Rights of Women (Women's Law) and the Law on the Protection and Promotion of the Rights of Children (Children's Law) in 2010 (before its second cycle of the Universal Periodic Review). During the second cycle of the UPR, DPRK accepted several of the recommendations from States related to implementation of the new laws, enhancement of rights awareness programs, and promotion of human rights of women and children and in its 2016 State Party's Reports to the UN CEDAW Committee, the North Korean government stated that it distributed the Women's Law to "every institution, enterprise and organization for wide dissemination and sensitization".¹ According to DPRK official reports, the Korea Democratic Women's Union was given responsibility for gathering feedback, education on domestic laws and human rights treaties, monitoring of women's rights and administering a complaint mechanism.

¹ "Consideration of reports submitted by States parties under article 18 of the Convention; Second, third and fourth periodic reports of States parties due in 2014; Democratic People's Republic of Korea," June 1, 2016, <http://undocs.org/CEDAW/C/PRK/2-4> (Search date: September 2017), p.3, §12.

B. New developments since the second review

There is a serious question of the implementation of the Women's Law in DPRK since its enactment in 2010. According to the claims of wide dissemination and education campaigns, a substantial number of respondents should have heard about the laws and be educated on women's and children's rights. However, there is a consistent pattern of responses since 2010 when the Law was enacted: over 95% of interviewed North Korean women have not even heard that the Law on Women and Law on Children were adopted, let alone be educated on them or know any details of what rights or benefits the Women's Law gave them.

Furthermore, women contradicted government's claims that the Korea Democratic Women's Union educated them on their rights or conducted surveys on women's situation and claimed that the Weekly Life Review Sessions of the Women's Union serve for ideological education, including on the role of women in supporting the livelihood of families and bearing more children, confining them to the traditional role of caregivers. Women also claimed that there would be repercussions for raising issues or complaints related to negative situations women face in the society during the Women Union's Sessions.

North Korean women and men claimed there is no voluntary independent organization in the DPRK to which women could turn to address women's problems. This further limits the participation of women in decision-making and policy-making processes in the country, as women cannot advocate as a group to resolve their problems, nor do they expect to be able to do so.

The state-operated Korea Democratic Women's Union (KDWU, or Women's Union) mentioned by DPRK in their official reports to the UN, is the largest governmental women's association, but by no means does it improve women's lives, advocate for their rights, or address complaints. During the 2017 CEDAW Review, the DPRK delegation was unable to provide a response to repeated questions from experts about the activities and consultations with the independent women's organizations, only about the KDWU. The delegation was also unable to provide any materials or examples of women's rights education that this organization was mandated to implement. As the only organization that allegedly represents half of the population, it is impossible to believe that it can advocate diverse problems women in every country are facing.

Since there are no autonomous organizations with voluntary membership which would advocate for women's causes, it is difficult to envision how the North Korean government is gathering feedback on policies and issues women are facing, and gathering independent data for the official reports it claims to receive and incorporate into its planning on women's policy. Given that the government supported substantial number of recommendations on women's rights during the second cycle of the Universal Periodic Review, this calls into question the UPR processes of the DPRK and the post-review cycle of implementation of UPR recommendations, which are supposed to be based on the national consultations with civil society organizations that are non-existent.

C. Recommendations

- 1) Provide easily accessible public lists of civil society organizations advocating on women's issues (other than Korea Democratic Women's Union). Provide details of issues that were raised by these NGOs during national consultations before the next cycle of the Universal Periodic Review.
- 2) Facilitate conditions to allow members of North Korean autonomous NGOs advocating on women's issues (aside from Korea Democratic Women's Union and similar mass organizations) to appear and contribute independent information to the experts of the UN Committee on Discrimination Against Women, the UN Committee on the Rights of the Child and before the Universal Periodic Reviews.

2. Exploitation and discrimination against women

A. Follow-up to the second review

Several countries gave general recommendations regarding better representation of women at top posts, better access of women to health, education and food without addressing specific conditions that have developed in North Korea that lead to discrimination and exploitation of women.

B. New developments since the first review

When the rationing system collapsed in the mid-1990s, a full-scale underground economy was born. The state encouraged women to take on additional economic activities aside or instead of their daily jobs. As a result of government policies and persistent discriminatory practices insisting that women provide for the livelihood of their families, North Korean women have since then been disproportionately active in most of the private market economy, which - given the collapse of the state public distribution system and dysfunctional industries – is de facto sustaining country's economy on both micro and macro levels. This results in secondary discrimination against women as they are expected to quit their state jobs at a certain age or after marriage, to turn to private trade and financially support their families. Similarly, a growing number of North Korean women and men confirm that families do not invest in daughters' education, as it is expected that women will turn to private market operations which do not require special skills or education.

Several states have recommended that there should be a greater representation of women at national posts. However, in North Korea young female graduates are automatically assigned jobs by the state, this is why the overall female percentage may be impressive. The problem is the limited number of women after 40 years old (the minimum age allowing market trading) continuing to work and climb employment ladder at state enterprises, in government or at Korea Worker's Party posts, which is not reflected in North Korean statistics and reporting.

Since the North Korean economy is largely supported with women's private market activities, women continue to report that they are imposed quotas in materials and money through the Korea Democratic Women's Union, or through their children at schools and have to divert hard-earned resources from their families. The Union enforces central policies by exploiting its members so that women's earning power is used to provide necessary resources to the government. Through the Union, women are also forced to provide unpaid labor on construction sites, railroads, making bricks, etc. Women are also conscripted to such labor as a form of punishment when they are unable to pay their individual financial or material quotas to the Women's Union.

Despite the generation of that revenue for the government, all of the interviewed women claimed that this money was not reinvested in the very old and outdated health and school infrastructure in their Provinces but were gathered for other purposes, such as building Pyongyang infrastructure or for the military.

C. Recommendations

- 1) Enforce effective policies in consultations with women NGOs to end discriminatory practices pressuring women into private economic activities to take care of the well-being of the family that result in growing disproportions of women unable to continue tertiary education or sustain state jobs.
- 2) Prohibit and effectively end exploitative practices that require women who support families through private economy to contribute quota of goods, money and unpaid forced labor for the government and military investments through the Korea Democratic Women's Union and Neighbourhood Watch Units (Inminban).
- 3) Establish policies to invest monetary contributions and goods in proportionate geographic distribution of medical and school investments, such that women in areas outside Pyongyang also benefit.

3. Violence against Women

A. Follow-up to the first review

The issue of violence against women including in detentions has been addressed by several states and focused on enactment of specific legislation to punish violence against women and perpetrators and provide assistance to the victims, but it was not effectively addressed by the DPRK Government. During the CEDAW review in 2017, the representatives of DPRK government including from the Central Court claimed that such phenomena as violence against women or sexual harassment did not exist in the country, but were unable to provide supportive evidence, including statistics. They claimed lack of reporting on lack of such incidents, not on the low awareness among government, law enforcement officials and in the society. The DPRK delegation also asked experts for

explanation of such concepts as marital rape and acknowledged none-existence of shelters and psycho-social support for women and children escaping domestic violence. They also denied that large numbers of women deported from China, including victims of trafficking, have been sent to various detentions.

B. New developments since the last review

North Korea did not implement a separate law on violence against women and provisions in the Women's Rights Law are very vague. There is no definition of rape or trafficking of women.

The reported incidents of violence remain high. North Korean interviewees also disagree that police officers take family violence more seriously in recent years and the medical personnel reported that there are no forms to report medical examination of victims of violence that could be submitted as evidence. All respondents have also never seen a female police officer especially trained to respond to women and children in cases of domestic or sexual violence. The majority of respondents in 2013 and 2017 cited domestic violence as one of the main reasons for the divorce, but also acknowledged that under current regime courts deny divorces to women citing rights of children to a family. The general statistics that DPRK officials provided are suspiciously low: they reported only 2000 divorces in 2016 in a population of 25.3 million.

During UN CEDAW review, the North Korean government was claiming an effective system of complaint and emergency response in cases of violence against women, but at the same time had no reported cases of sexual harassment and lacked statistics on violence against women and redress mechanism.

The area of special attention should continue to be the violence against women in pre-trial detentions, especially those operated by the Ministry of State Security (*powibu*). Ordinary social crimes are under jurisdiction of police or Ministry of Public Security. However, the secret police, MSS, has a primary investigative authority over so-called crimes against the national interest. These "crimes" usually amount to the exercise of basic human rights and freedoms, many of which are also guaranteed by the DPRK Constitution². They include contacts with religion or access to independent sources of information, including through external radio broadcasts, foreign movies and music. MSS is also a primary investigative body dealing with persons deported from China, the majority of them women, who have illegally crossed the border with the aim to find work or seek asylum in other countries, or as victims of trafficking.

The gravity of crime decides whether the person will remain under authority of the secret police (MSS) without a trial, or whether the detainee after MSS investigation will be transferred to the pre-trial detention operated by police, to face a trial held in their town of origin. Only at this stage the person's relatives will for the first time be notified of the person's detention as in the secret police detention detainees are kept incommunicado and without access to a lawyer. Once in police detention, a person will be investigated again, and a trial will confirm the type of crime that the secret police charged the person with during the initial interrogation. After the trial, prisoners are sent to one of the forced labor detention facilities operated by the police: short-term forced labor detention - *rodongdallyeondae*, or reform prison - *kyohwaso*.

The secret police use various methods of intimidation to coerce women to write admissions of guilt. Some women were threatened with beatings, and some reported beatings to the point of losing consciousness. Victims explained that the treatment depends on whether the secret police believes the account they provide. In addition, secret police use other methods to inflict physical pain on the detained. Except for a recess for sleep, meals and toilet, all detainees are required to sit the whole day for about 17 hours without moving their bodies, while waiting for their next call for interrogation. Interviewed women understood torture only as beatings, or other form of physical abuses. However, the interviews revealed secret police pursuance of other forms of degrading and humiliating practices that inflict mental and physical suffering. Food and hygiene conditions were reported to be substandard. The cells are overcrowded with no beds and prisoners required to sleep on the cold floor. There is only one open toilet (in reality, a hole) in the room's floor shared on average by 10 to 20 women. The toilet is visible to other inmates and often to the guards. There is usually a bucket of water near, but no soap or towels. All women reported these are no facilities to properly wash themselves or their clothes. Women also reported ripping parts of their own clothes into long pieces of material to use as washable hygienic pads during menstruation.

² The DPRK's Constitution guarantees freedom of speech, press, assembly and association, freedom of religion, and freedom of residence and travel. (Articles 67, 68, 75 respectively of the 2016 Constitution of the Democratic People's Republic of Korea).

Women deported from China continued to report the same pattern of abuses as in the 1990s and early 2000s. Upon repatriation, women were ordered to strip naked in front of other detainees and secret police officials who would forcibly search their genital cavities for hidden valuables, sometimes using gloves and sometimes without. In addition, women reported that they were checked for visible pregnancy and such women were also asked questions whether the father was a Chinese national. In the interviewed group, women continued to report that such pregnancies were forcibly aborted. In over 20 years of history and having interviewed hundreds of victims, Citizens' Alliance for North Korean Human Rights has never met a single case in which being the victim of trafficking would be considered a mitigating circumstance either during interrogation in detention, or at a trial. Women who had experienced trafficking to China and detention upon deportation reported that their experience increases the amount of insults and physical abuse from law enforcement officials while in detention, especially if a woman is deported pregnant and the father is reported or presumed to be a Chinese national.

The steps North Korea claims to have been taking to increase the independence of the judiciary are only theoretical.³ The MSS continues to have overwhelming power and prerogatives to administer arbitrary detention, and determine guilt and type of sentence in pre-trial detentions. Under these conditions, any reforms North Korea undertakes in the judiciary, and not in the prerogatives vested in secret police, are in fact meaningless.

While all decisions about incarceration are arbitrary because they are not decided in open court according to precedential guidelines and are not appealable, the decisions of secret police are fully confidential and exempted from all court proceedings or outside monitoring.

C. Recommendations

- 1) Review the laws, including the Law on the Protection and Promotion of the Rights of Women to include definitions of violence against women, including rape and trafficking of women. The definition of rape should include sexual intercourse with a woman in custody or in care of state functionaries or in abuse of authority with or without her consent.
- 2) Introduce special training programs educating local law enforcement officers (MSS/secret police and MPS/police), judiciary, staff of national and local Korea Democratic Women's Union chapters and Neighborhood Watch Units on what constitutes violence against women and sexual harassment, and effective responses toward these problems.
- 3) Introduce special female law enforcement officers and counsels to respond and provide support to women and children which are victims of violence or sexual abuse.
- 4) Introduce clear orders prohibiting Ministry of State Security (*powibu*) officers to perform enforced and humiliating genital searches on North Korean women deported from PR China, which constitute elements of the crimes against humanity of sexual assault or rape under the Rome Statute of the International Criminal Court.
- 4) Undertake reforms to end prerogatives of Ministry of State Security (*powibu*) to administer arbitrary detention, and determine guilt and type of sentence in pre-trial detentions. Abolish incommunicado system in MSS pre-trial detentions, allow contacts with a lawyer and family in MSS detentions. Abolish the system of double investigations of the same person; once by MSS in secret police pre-trial detention and upon release by MPS/police in police pre-trial detention.
- 5) Establish behavior reviews and press criminal charges against MSS officials who routinely performed investigations amounting to torture, sexual violence, or inhumane conditions in MSS (*powibu*) detentions.
- 6) Incorporate the principle of presumption of innocence in laws and in practice.

³ "National Report submitted in accordance with paragraph 5 of the annex to the human rights council resolution 16/21," A/HRC/WG.6/19/PRK/1, Human Rights Council, Working Group on the Universal Periodic Review, 30 January 2014, pp.6-7, § 35~40.