

Stakeholder's Submission to the Democratic People's Republic of Korea's Universal Periodic Review 33rd SESSION OF THE UPR WORKING GROUP



ORGANIZATIONAL BACKGROUND

The **Database Center for North Korean Human Rights (NKDB)** is a non-political, non-religious, non-governmental organization. Established in 2003, NKDB has dedicated its work primarily on the investigation and documentation of human rights abuses perpetrated in the DPRK. The information collected is stored in NKDB's Unified Human Rights Database, which as of August 2018 contains 71,473 cases of violations and information on 42,981 individuals related to them (victims, perpetrators, witnesses, etc.). Due to the unique situation in the DPRK in which data-collection is not possible within the country, in-depth interviews were carried out with fifty North Korean defectors¹ who lived in the DPRK during the period under review for the compilation of this stakeholders' report.

Introduction

During the period under review, North Korea's standing in the international community saw major changes with two inter-Korean Summits and the Trump-Kim Summit in June, 2018. While, Kim Jong-un and the North Korean government saw greater engagement with international actors, both talks were centred on denuclearisation and little progress was seen in the realms of human rights. NKDB's interview findings showed that despite the government's efforts to make superficial improvements, fundamental issues remain unresolved concerning the human rights of North Korean citizens.

A) The Right to Life and Liberty

1. The DPRK's use of executions as a means to instil fear and manage its system has been brought up through many recommendations in the past two UPR cycles. Despite this, the DPRK has yet to accept any specific recommendations related to abolishing this method of punishment. In its [2014 National Report](#) the DPRK stated that the "[d]eath penalty is not imposed unless it is [used to penalise] an extremely heinous and grave act." NKDB's findings show that the death penalty is imposed for human trafficking,² narcotic drugs distribution, the distribution of pornographic content and even simply disobeying an order given by the Supreme Leader. It is important to question the way North Korean authorities define "grave acts." This issue is

¹ Testimonies given by North Korean defectors who lived in the DPRK during the period of review have been italicized in this report. Personal information of the interviewees have been withheld for the protection of the information providers.

² The DPRK's interpretation of human trafficking is different from the one used by the United Nations in a way that it considers brokers who assist defectors in crossing the border to China to be human traffickers. Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, or the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

problematic as the term is often used ambiguously, which allows for too broad interpretation and applying the death penalty to less serious offenses. There are many reported cases of public executions in which the people killed committed economic or political crimes that are not considered to be of severity, which requires the death penalty. The DPRK's interpretation of "heinous and grave acts" refers to acts that are considered to be dangerous to the credibility of one person i.e. Kim Jong-un and his regime, rather than acts that are considered to be dangerous to the North Korean people.

2. *Death penalties are imposed when a person disobeys or misinterprets the Supreme Leader's orders. For example, you might have been told to plant some grass, but you are meant to bake the soil before the grass is planted. But if you just plant it then it is seen to be a perversion of an order. So basically it applies when you do not implement the orders correctly. Generally people are shot as examples for others. Especially if the Supreme Leader Kim has given an order. For example, if he says 'Don't defect,' and you defect then you get a severe punishment. Or if you steal crops or military supplies then you are shot for sure.*

Recommendation

3. Make adjustments to the legal text of the Penalty Code so that it reflects the core international law documents and does not leave any opportunity for arbitrary interpretation by the enforcing agencies and officials.

B) Right to Access Justice

4. In response to the increasing crescendo of international criticisms on human rights, the DPRK has made efforts to create as many legal mechanisms to superficially show that the state is making efforts on human rights issues. The DPRK accepted recommendation 124.116³ and also reported the operation of the 'Day of Complaints Consideration' in its [National Report](#), which allows citizens to submit complaints from the central level down to the grassroots. According to Article 69 of the North Korean Constitution and the Law on Complaints and Petition, citizens have the right to submit complaints and petitions. In its National Report, North Korea claimed that "[all institutions, enterprises and organizations from the central level down to the grassroots](#)" have established a complaints-handling machinery that allow citizens to submit complaints to stop encroachment upon their rights and interests or seek compensation for the encroached rights and interests. However, 94% of NKDB respondents stated that they were not aware that this day was in operation; rather, these 'complaints' are an additional surveillance tool for the state. Additionally, citizens are deprived of the explanation of complaint systems and of their right to justice. Interviewees stated that those who submitted complaints were framed to be criminals, leading to citizens being scared to submit complaints.
5. *There is no such thing as a Day of Complaints Consideration. Instead there are spots with the sign "For Complaints" in every office or store, but you get caught if you submit a complaint. In North Korea, people who file complaints are considered to be troublemakers. Both the state*

³ 124.116 "Create a national mechanism for the review of complaints of the populations concerning human rights violations." UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Democratic People's Republic of Korea*, July 2, 2014, A/HRC/27/10.

authorities and the citizens think like this. Those who file complaints are seen by others as people who talk behind people's backs and cause trouble to others. When we want to complain, we just whisper among ourselves and then let it pass and don't talk about it. Even if you complain [formally], no one listens to you. Even if you complain to the Central Party. For example, if I file a complaint for corruption against the general manager who works together with my husband, it would get smothered up and there's nothing done about it. The person who filed the complaint is deemed bad and is removed [from their post].

Recommendations

6. Ensure that the complaints system is implemented without posing threat to citizens using the complaints procedure.
7. Incorporate education on human rights and allocate a budget to spread human rights literacy including the right to access justice in the national curriculum.
8. Create and introduce a handbook based on international human rights standards including definitions of different rights to be distributed freely in People's Unit and Women's Union meetings.

C) Right to Food

9. Throughout history and to the present day, the DPRK has had difficulties with providing sufficient food for its citizens, which was the primary reason for many years that led to the wave of defections during the great famine of the late 1990s. With the collapse of the public distribution system and the rise of marketisation, in recent years, the North Korean people have managed to sustain their livelihoods without the support of the state. Nonetheless, alongside the 12 recommendations accepted by the DPRK on the Right to Food, the government stated that it "[motivate\[d\] farmers](#)" to increase agricultural output which "[resulted in improvement of food supply to people](#)." Yet, 56% of NKDB's respondents had not received any food rations during the review. An analysis of those who did receive food rations were those who were affiliated with the military and/or were state officials or had received a few kilograms of corn during national holidays such as Kim Il-sung's birthday. Additionally, 96% of respondents had stated that the food supply to the people did not increase; in fact, testimonies were gathered in which their efforts to provide food for themselves were obstructed by the state.
10. As was stated in its [National Report](#), the DPRK often sources many of its food problems to natural disasters. It should be considered that North Korea experienced one of its most disastrous floods in the summer of 2016, which affected the northern provinces of the country. As a result, the government made nation-wide efforts for greentrification in which organisations were given orders to plant trees in the mountains. However, NKDB's research has shown that these state efforts have been violating the right to food of those in rural areas and dependant on agriculture. Testimonies were gathered by NKDB in which citizens in North Hamgyeong Province were prevented from farming food for their own livelihood in the summer of 2017.
11. *The reason that they don't give [food rations] is because we farmed in the mountain. They*

consider the [farmed goods] to be rations. But actually these days they don't even allow us to farm. They don't give us food rations and they don't let us farm. That's basically like telling us to die. Last year (2017) they wouldn't let us sow any crops, so my father-in-law said 'You don't give us food rations. I understand that the state is going through difficulties, but what do you expect us citizens to eat? You might as well just kill us and sow our [bodies]'. We didn't have a cow so my husband pulled the plough from the front as I carried things on my back. Then the forest rangers came and told us to stop. They took all that land and gave it to the State Department enterprises to sow tree saplings. But the time to plant saplings had already passed. You have to plant saplings in the spring, if you plant them in the summer they'll die. [...] My father-in-law was a member of the party and so was I. He would argue with them saying 'Hey, I'm a Party Member as well, shouldn't I be getting food and living my life as well? I'm old now, I don't care. Take me away for a political crime for all you like. I'm just looking out for my children, that's all.'

Recommendations

12. Ensure citizens' freedom to sustain their livelihood by providing subsidies for fertilisers and crops for all its citizens.
13. Increase the share of crops and other produce allowed to be retained by farm workers in order to sustain themselves.

D) Labour Rights

14. Despite the fact that the obligation to work is deeply rooted in North Korean society, the government has made little to no efforts to make any adaptations in accordance with the changing society. While the DPRK is still not a member of the ILO, according to Article 29 of the DPRK's constitution, the "working masses [...] have been freed from exploitation and suppression." In theory, the DPRK is externally still a socialist state in which the Supreme Leader and the state provide for its people but the reality shows a marketised system where not only the people have to support themselves but are also expected to fund the Supreme Leader.
15. The contradiction between the socialist rhetoric and market-based realities means that there is a loose control over the labour conditions of workers not only in official workplaces but also in illegal activities in which most North Koreans earn their livelihoods. With the collapse of the public distribution system, few if any North Koreans depend on the state to sustain their lives. As the majority of companies fail to provide compensation for labour services provided by workers, many North Korean people have turned to other means of sustaining themselves. A large portion of interviewees, who ultimately had enough money to pay a broker to come to South Korea, stated that they were able to sustain their livelihoods through economic activities that are considered to be illegal in North Korea. In order to be able to do these 'illegal economic activities' North Koreans register as '8/3 workers,'⁴ in which they would pay a steep monthly fee to be registered at a workplace to avoid punishment. Despite receiving no compensation,

⁴ The term '8/3 workers' sources back to Kim Il-sung's directive of August 3, 1983 to recycle discarded materials to produce new materials. '8/3' was used in the past to refer to any counterfeit products. Nowadays, '8/3' is referred to counterfeit workers who pay to be registered as workers.

97% of respondents stated that there were criminal punishments for those who did not work. The punishment for being unemployed or failing to attend work for more than fifteen days is a labour training camp sentence. It is clear that North Koreans are deprived of the freedom to not only choose their workplace but the freedom to remain unemployed.

16. *[If you don't work] you go to a labour training camp. They come to your house. You can get away with not going to work for a day. But if you don't go out for about ten days then they come to get you. If you don't want to go then you have to give some money and pay a bribe. Or you have to spend your life hiding. But if you are caught hiding, then you have to go [to a labour camp]. There are people who die in labour training camps. Labour training camps were made with the purpose of re-educating people through labour... There is no freedom to not work in North Korea.*
17. In its second cycle, the DPRK only accepted one recommendation related to labour (124.138)⁵ in which it pledged to provide safer working conditions. However, the lack of electricity, intensity of labour and quota fulfilment-orientated pressure has made it difficult for workers to implement any changes. The lack of resources in North Korea means that there is great deal of negligence and that lives are lost because safety checks and appropriate equipment is not provided.
18. *Labourers themselves do not keep the safety regulations and while the safety regulations are there to ensure the safety of the labourers the enterprises usually lack these types of facilities. Heavy goods are usually moved around by vertical shafts, you would call them elevators, but there are a lot of accidents from crashes. And some people die when they do not close the safety doors while pushing carts... These are the conditions in Hyesan Mine, which is a First Class so of course the other places are in terrible conditions. A First Class enterprise in North Korea is a really large enterprise with over 10,000 people so of course it's much worse in other places.*
19. The lack of implementation of labour rights in North Korea has had a domino effect on other human rights. As medical doctors are not provided with salaries or other official means to sustain themselves, this forces them to turn to channels that will earn them the highest income and leads to doctors not prioritizing the health of their patients. Testimonies were gathered in which patients have been told to buy medicine that is not needed, directly from doctors.
20. *But as doctors don't even get paid salaries in North Korea... they make you buy medicine you don't even need. They tell patients that they have tuberculosis so they will continue to pay tuberculosis medicine. My daughter took tuberculosis medicine for 8 months before coming here.*
21. Additionally, as women generally have become the breadwinners in North Korean society while men attend a workplace in which they do not get paid has led to a change in the dynamics

⁵ "Take practical measures to provide safer working conditions, suitable for its citizens" UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Democratic People's Republic of Korea*, July 2, 2014, A/HRC/27/10.

between married couples.⁶ This change has led to women demanding more rights at home, which has resulted in increased domestic violence. 40% of NKDB's respondents stated that over 50% of North Korean women were subject to domestic violence. Despite this increasingly problematic social issue, state authorities are reluctant to get involved with 98% stating that no state measures were made after 2014 to protect women in domestic violence issues.

Recommendations

22. Incorporate Article 23 of the UN Declaration of Human Rights, which gives the “protection against unemployment” by abolishing any legal procedures that punish unregistered workers.
23. Ensure that every worker is provided with full and regular remuneration without any deductions such as but not limited to loyalty and state support fees.
24. Remove the gender and age restriction enforced on traders and those involved in market activities.
25. Ensure the freedom to choose an occupation by dismantling the practice of job assignment by the state and removing any form of discrimination against social class and wealth and penalising any state officials who receive bribes during the employment process.

E) Freedom of Movement

26. Despite the DPRK's acceptance of recommendation 124.125 to facilitate the movement of North Korean citizens abroad, the government continuously punishes those who travel within and out of the country. Penalties depend on the level of movement and range from paying a bribe to state officials for travelling without a ‘travel permit’ between provinces to being sent to labour training camps for travelling to China for work without a permit. NKDB gathered a [testimony of a North Korean defector](#) whose husband and son's whereabouts are unknown upon being caught by officials defecting to South Korea in 2016. In spite of the promise of a “[new era of peace](#)” between the two Koreas, the North Korean government continues to consider the act of defecting to South Korea as a political crime in which those who are caught are either sent to a political prison camp or even publicly executed.

Recommendations

27. Allow the overseas travel of all North Koreans regardless of regional, educational and family background.
28. Seize punishment of citizens who return or are involuntarily returned to the DPRK from abroad

⁶ Once women are married in North Korea, they can register as housewives and the requirement to be present at one's workplace does not apply to them. As a result, registered housewives over the age of 40 are permitted to trade in state-controlled markets while men are banned from doing so. The income earned by women on the markets has become the main source of money for the vast majority of families in North Korea.