

SUBMISSION BY GLOBAL RIGHTS COMPLIANCE TO THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

The Democratic People's Republic of Korea (DPRK or North Korea) has demonstrated over the past few years a reserved openness to assessing its own internal policies and practices following some recommendations by the international community on issues related to the improvement of the rights of women and girls in North Korea. In particular, it has supported the adoption of the Beijing Declaration and Platform for Action;¹ it has ratified the Convention on the Elimination of Discrimination Against Women (CEDAW)² and engaged with the Committee monitoring its implementation;³ as well as by accepting a number of Universal Periodic Review (UPR) recommendations related to taking measures to improve gender equality and promote women's empowerment, including reviewing legislation on the protection and promotion of the rights of women.⁴

GRC intends that this submission will go towards supporting the important work of the Special Rapporteur on the Situation of human rights in the DPRK. By providing an insight into the relevant international legal framework which underpins, or intersects with, several of the nine general questions outlined by the Special Rapporteur in her guiding document attached to the public call for submissions dated 15 November 2022, GRC aims to assess the actions of the DPRK regime from an independent standpoint and provide recommendations that may strengthen the North Korean human rights CSOs investigative efforts, and accountability initiatives. It is our stance that as a member of the international community, the DPRK government needs to comply with international law and human rights norms as a contribution to the global peace and security.

The Special Rapporteur on the Situation of human rights in the DPRK has underlined the importance of exploring ways to promote and protect the rights of women and girls in the DPRK and has acknowledged the measures the DPRK government has introduced in relation to improving gender equality and women's rights.⁵ However, the Special Rapporteur raised her concerns about a number of urgent issues including:

- I. the human rights situation of women and girls trying to leave the country;
- II. their treatment and conditions in detention facilities;
- III. the continued existence of high numbers of cases of sexual and gender-based violence, coupled with the limited access to gender-specific healthcare; and
- IV. the dangers of women and girls falling victims of human trafficking.⁶

Whilst the positive engagement of North Korea in relation to advancing the protection and respect of women and girls is to be roundly commended, these aforementioned concerns, amongst a host of others, illustrate the tragic reality which numerous women and girls face in the DPRK, that cannot be ignored and which the international community has an imperative obligation to respond to. Most effectively this can be done in close collaboration with the DPRK government itself and GRC hopes that

¹ Fourth World Conference on Women (16th plenary meeting), [Beijing declaration and Platform for Action](#) (adopted 15 September 1995); see also Democratic People's Republic of Korea, [Permanent Mission to the United Nations during the twenty-third Special Session of the General Assembly: Women 2000: Gender Equality, Development and Peace for the Twenty-first Century](#) (8 June 2000).

² [Convention on the Elimination of All Forms of Discrimination against Women](#), (signed 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 ('CEDAW').

³ Committee on the Elimination of Discrimination against Women, [Concluding observations on the combined second to fourth period reports of the Democratic People's Republic of Korea](#), UN Doc. CEDAW/C/PRK/CO/2-4 (22 November 2017)(CEDAW Concluding observations 2017), paras.4-7.

⁴ Universal Periodic Review of Democratic People's Republic of Korea (3rd Cycle – 33rd session), [Matrix of Recommendations – Thematic list of Recommendations: F13: Violence against Women](#), see Recommendations supported

⁵ UN, [Report of the Special Rapporteur on the Situation of human rights in the Democratic People's Republic of Korea](#), UN Doc. A/77/522 (13 October 2022), para. 36

⁶ UN, [Report of the Special Rapporteur on the Situation of human rights in the Democratic People's Republic of Korea](#), UN Doc. A/77/522 (13 October 2022), para 36.

relevant North Korean authorities would be receptive to the recommendations and concerns raised via this initiative of the Special Rapporteur.

Non-compliance with international law

Global Rights Compliance (GRC) conducted analysis and comparison of the DPRK domestic legal framework vis-à-vis applicable international law including customary norms and international conventions ratified by the DPRK. Although the existence of various pieces of legislation recognising and protecting women's and girls' rights, including the Constitution of 1972,⁷ the Law on Sex (Gender) Equality of 1946⁸ and Family Law of 1990,⁹ and most recently the Law on the Protection and Promotion of the Rights of Women of 2010 (LPPRW),¹⁰ is a positive development, GRC identified various provisions not in compliance with international law and standards. This paper discusses only some of the most striking examples of non-compliance.

One of the most important pieces of legislation concerning women's rights in North Korea, is the LPPRW as it states that an international treaty such as the CEDAW 'shall have the same effect' as a domestic law.¹¹ The LPPRW incorporates several provisions including recognising the (i) inviolability of the woman's body and prohibiting acts that may violate such right;¹² (ii) right to health and life,¹³ (iii) obligation to respect the character of women,¹⁴ and (iv) prohibition of domestic violence.¹⁵ All provisions and particularly the latter on domestic violence which was introduced following a recommendation of the CEDAW Committee back in 2005 are to be welcomed.¹⁶ However, GRC notes that there is no definition neither in the LPPRW, nor in other pieces of legislation e.g., Criminal or Civil Law of the DPRK¹⁷ of the term 'domestic violence' or 'domestic assault'. In addition, although the LPPRW stipulates that a violation of the rights thereof will result in criminal or administrative responsibility, the relevant provision is not very well articulated and the wording is vague.¹⁸ It does not specify which institutions will have the authority to investigate such violations, what process the victims should follow to report infringement of their rights and what will be the applicable punishments for the perpetrators.

As the LPPRW does not set out a clear framework regarding the punishment of individuals who commit acts that violate the right to personal autonomy and integrity, one may seek to draw guidance from the DPRK's Criminal Law. Although the Penal Code includes crimes such as rape, infliction of injury, forcing subordinate women to have sexual intercourse,¹⁹ it fails to recognize other forms of sexual violence such as attempted rape, sexual harassment or assault which does not constitute rape and take place either in a domestic setting or other. The lack of specific regulation on these issues, leaves women vulnerable and unprotected. In addition, the fact that the DPRK appears unaware of the existence of domestic violence in the country - evident by the CEDAW Committee's own observations that domestic violence is not considered a social problem in the DPRK but is rather treated as a family matter

⁷ [Socialist Constitution of the Democratic People's Republic of Korea](#) (1972), Articles 63, 66, 69 and 77.

⁸ See Committee on the Elimination of Discrimination against Women, [Concluding Comments: Democratic People's Republic of Korea](#), UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), para. 11 quoting Law on Gender Equality (30 July 1946); Korean Bar Association, 2016 White Paper on Human Rights in North Korea (Korean Bar Association, 2016), p. 243. The Law is also known as 'Decree of Gender Equality', see for example Sustainable Development Goals: [Democratic People's Republic of Korea, Voluntary National Review on the Implementation of the 2030 Agenda for the Sustainable Development](#) (June 2021), pp. 23, 60.

⁹ [Family Law of the Democratic People's Republic of Korea](#) (adopted 1990 and all subsequent amendments), Articles 8 and 21.

¹⁰ [Law on the Protection and Promotion of the Rights of Women of the Democratic People's Republic of Korea](#) (adopted 2010 and all subsequent amendments) ('LPPRW').

¹¹ [LPPRW](#), Article 10.

¹² [LPPRW](#), Article 37.

¹³ [LPPRW](#), Article 38.

¹⁴ [LPPRW](#), Article 41.

¹⁵ [LPPRW](#), Article 46.

¹⁶ See Committee on the Elimination of Discrimination against Women, [Concluding Comments: Democratic People's Republic of Korea](#), UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), paras. 37-38.

¹⁷ [The Criminal Law of the Democratic People's Republic of Korea](#) (1990 and all subsequent amendments); [The Civil Law of the Democratic People's Republic of Korea](#) (1990 and all subsequent amendments).

¹⁸ [LPPRW](#), Article 55.

¹⁹ [The Criminal Law of the Democratic People's Republic of Korea](#) (1990 and all subsequent amendments), see Articles 246, 260, 271-275, 279, 281.

occurring in the private sector;²⁰ or is unwilling to accept UPR recommendations submitted by a number of States calling on the DPRK government to 'reform criminal legislation and the LPPRW and clearly define and punish violence against women'²¹ *inter alia* because of lack of gender-sensitivity and awareness on the part of the legislators, is highly worrisome.

GRC submits that relevant laws which were allegedly formed with the aim to protect women, fail to adequately do so, and instead cultivate a breeding ground for impunity and injustice.

Practical deviations from established domestic legal framework

Having legislation per se does not ensure protection and implementation of women's rights, however its existence provides the minimum standards of protection as well as sets a level which the DPRK can be held accountable against. Despite this, pursuant to secondary open-source research, there is great disparity between the DPRK's assertions on the practical implementation of various legislative provisions and the actual experiences of women and girls in the country.²² Reportedly there is lack of implementation of the existing domestic and regulatory framework which (partially) protects the rights of women and girls. The *de facto* situation suggests that there is a systemic leniency by the State apparatus in enforcing legislation and women are being discriminated against and fall victims of various human rights violations including unlawful and invasive strip searches by state officials, sexual violence (within the family, in society or by state authorities), and human trafficking.²³ A number of UN reports focussing on conditions in DPRK detention facilities also found that female detainees suffer from malnutrition and starvation, sexual violence and other humiliating acts, forced labour, forced abortions and infanticide of their children, lack of access to health care and deprivation of their right to a fair trial.²⁴ Needs specific to female detainees are also severely neglected in the North Korean penal system,²⁵ causing severe consequences on women's health and deepening the sense of humiliation suffered by a multitude of women detained in the DPRK.

The North Korean human rights community has tirelessly and elegantly sought to untangle aspects of the women's position in North Korean society, issuing a number of innovative reports analysing the discriminatory practices and perceptions prevailing in the DPRK against women and girls, both in the public and private sphere.²⁶ However, the impact of specific types of State conduct, such as the crimes of enforced disappearance and public executions, have had on women and girls whose loved ones have

²⁰ Committee on the Elimination of Discrimination against Women, [Concluding Comments: Democratic People's Republic of Korea](#), UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), para.37; Committee on the Elimination of Discrimination against Women, [CEDAW Concluding observations 2017](#), para.13; Committee on the Elimination of Discrimination against Women, [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](#), UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), para.63. See also Y Rim, Legislation related to Violence against Women in North Korea (2019) *International Journal of Korean Unification Studies* 28(1) p. 25.

²¹ Universal Periodic Review of Democratic People's Republic of Korea (3rd Cycle – 33rd session), [Matrix of Recommendations – Thematic list of Recommendations: F13: Violence against Women](#), see Recommendations 126.182-126.183, 126.185.

²² Database Center for North Korean Human Rights, [White Paper on North Korean Human Rights](#) (2020) pp. 217-232, 316-325, 566-577, 578-591; Citizens Alliance for North Korean Human Rights, [They only claim that things have changed: Discrimination against women in the DPRK](#) (2018); J Yang, [Women's Rights in the DPRK: Discrepancies Between International and Domestic Legal Instruments in Promoting Women's Rights and the Reality Reflected by North Korean Defectors](#) (2018) *Cornell International Law Journal* 51(1).

²³ Database Center for North Korean Human Rights, [White Paper on North Korean Human Rights](#) (2020) pp. 217-232, 316-325, 566-577, 578-591; Citizens Alliance for North Korean Human Rights, [They only claim that things have changed: Discrimination against women in the DPRK](#) (2018); J Yang, [Women's Rights in the DPRK: Discrepancies Between International and Domestic Legal Instruments in Promoting Women's Rights and the Reality Reflected by North Korean Defectors](#) (2018) *Cornell International Law Journal* 51(1).

²⁴ Committee on the Elimination of Discrimination against Women, [CEDAW Concluding observations 2017](#), paras 27, 45-46, 415-422, 424-434; UN OHCHR, [Human rights violations against women detained in the Democratic People's Republic of Korea: I still feel the pain](#), July 2020 (UN OHCHR, Human rights violations report against women in detention), Sections 4.2.- 4.7.

²⁵ H Ahn, J Sim, The state of menstrual health of North Korean women (2018), Database Center for North Korean Human Rights, pp. 121-138.

²⁶ Since 2021, GRC has an ongoing partnership with three North Korean human rights CSOs, namely the Database Center for North Korean Human Rights, Transitional Justice Working Group and Korea Future with the aim to strengthen their legal capacity to conduct investigations and elevate their accountability pursuits.

gone missing or were executed, has yet to be forensically explored. Despite the extensive international reporting on the effects these types of violations have on women, including that women are socially stigmatized, suffer from grave psychological and emotional trauma, are negatively affected economically and left in a very vulnerable position;²⁷ the situation in the DPRK context is antithetical, as the impact these two violations have on women and girls has not been sufficiently explored to date.²⁸ Taking into consideration the composition of the North Korean society in which gender roles are deeply embedded in history and tradition, and the frequency in which people (mostly men) forcibly disappear or are being executed (either publicly or secretly) in the DPRK,²⁹ renders an investigation on this issue critical. Supporting efforts seeking to assess the ramifications these two types of violations have on women and girls will complement the international community's awareness on how the DPRK regime fails to address discriminatory practices pertaining in various aspects of a woman's life.

The road to accountability through the International Court of Justice

Considering the denial of the DPRK to reform relevant legislation and the assertion that the legal framework is not properly implemented by State authorities,³⁰ leaving women exposed to various forms of discrimination, including sexual and gender-based violence, illustrates that the DPRK does not fulfil its obligations arising under the CEDAW Convention. In light of this, GRC has identified a novel accountability pathway which has not been publicly explored to date.³¹ Namely, if the UN General Assembly (UNGA) requests an advisory opinion by the International Court of Justice (ICJ), to rule on the legal consequences of non-implementation of the CEDAW by the DPRK.³² As one of the aims of the UN is to establish conditions under which respect for the obligation arising from treaties and other sources of international law can be maintained, a prospective referral to the ICJ by UNGA, could be interpreted as an effort to create conditions where respect for international law by the DPRK regime can be maintained. GRC acknowledges that this is a long-term pursuit, however engaging the UNGA in efforts aimed at achieving truth, justice, and accountability for the victims of the DPRK regime, particularly through the prism of CEDAW, is worthy of further exploration.

The DPRK government, like so many others, was confronted by the COVID-19 pandemic, rendering its engagement with the international community ever more fragmented and sporadic. This coupled with the fact that the overall human rights situation in the DPRK poses a threat to the international peace and security, as the UN Office of the High Commissioner for Human Rights and a number of UN Security Council Members have recognised,³³ necessitates immediate action. GRC has prepared this note to share some of the most critical observations and concerns around the DPRK's domestic legal framework and the implementation thereof; encourage the North Korean Human Rights community of

²⁷ UNGA, Working Group on Enforced or Involuntary Disappearances, [General Comment on Women affected by enforced disappearances at its ninety-eight session](#), UN Doc. A/HRC/WGEID/98/2 (14 February 2013); The Death Penalty Project, [World Day Against Death Penalty – Women and the Death Penalty](#), 10 October 2021.

²⁸ One exception is the analysis conducted in the Human Rights Council, [Report of the Detailed Findings of the Commission of Inquiry on human rights in the DPRK](#), UN Doc. A/HRC/25/CRP.1 (7 February 2014) which recognised the enormous impact the disappearance of men have on the lives of women and girls in a culture in which gender roles are deeply embedded in history and tradition – see paras. 985, 992, 1003-1004.

²⁹ Transitional Justice Working Group, [Footprints: Database of those taken by North Korea](#); Transitional Justice Working Group, [Mapping Human Rights Abuses: Mapping the Fate of the Dead](#) (2019 and 2021 progress reports); Human Rights Watch, [Justice Needed for North Korea's 'Disappeared'](#), 30 August 2017; Database Center for North Korean Human Rights, [White Paper on North Korean Human Rights](#) (2020).

³⁰ CEDAW, Article 2 requires Members States to introduce policies and legislation to eliminate discrimination against women and ensure that all public authorities act in conformity and refrain from engaging in any discriminatory practices and establish the legal protection of women through tribunals and other institutions. In addition, pursuant to the General Recommendations [No. 19](#) and [No. 35](#) published by the CEDAW Committee, States can be held responsible for not exercising due diligence in the prevention of acts of violence against women and can be responsible if they fail to investigate and punish such acts and to provide compensation. Finally, States should ensure that the laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women and respect their integrity and dignity.

³¹ Global Rights Compliance, [Democratic People's Republic of Korea: Accountability Strategy Report](#) (short-version), 2022.

³² [UN Charter](#) (signed 26 June 1945, entered into force 24 October 1945) 892 UNTS 119, Chapeaux, Articles 10 and 96.

³³ Permanent Mission of the Federal Republic of Germany to the United Nations, [Statement by Germany, Belgium, the Dominican Republic, Estonia, France, the UK, the USA and Japan on the Human Rights Situation in DPRK](#), 11 December 2020; see also UN Meetings Coverage and Press Releases, [Institutional Human Rights Violations in the Democratic People's Republic of Korea Pose Threat to International Peace](#), Security, Security Council Told, SC/12151, 10 December 2015.

Civil Society Organisations to continue their documentation and investigation work; and with the aim of pursuing accountability through a number of pathways. The ICJ-CEDAW pathway is ripe for further exploration, by using new tools and methods such as the Murad Code,³⁴ which has the potential to provide guidance to the North Korean Human Rights community, by providing them with unified investigative standards and approaches. Finally, this submission is aimed at respectfully urging the international community to keep the issue of women's rights as a permanent priority on its agenda.

The dire human rights situation of women and girls in the DPRK demands an immediate response. Raising awareness on the sufferings and discrimination of women and girls in the DPRK is pivotal in order to engage the DPRK regime and lead to improvement of their rights. Recent studies have shown that women can potentially turn into a growing social and economic power in North Korea and can play a crucial role in pursuing sustainable peace and security in the region.³⁵ The landmark UN Security Council resolution on Women, Peace and Security reaffirmed the important role of women in peace negotiations, peace-building, stressed the importance of incorporating gender-perspectives in peace and security efforts, as well as urged all actors to take special measures to protect women and girls from gender-based violence.³⁶ Accordingly, any efforts geared towards seeking accountability, elevating the voices of women and girls and raising awareness of the crimes and violations committed against this group of vulnerable individuals, should be enhanced and supported.

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³⁴[Murad Code Project](#), 2022. The Murad Code was developed as a global and voluntary code of conduct for a variety of actors collecting information from survivors of systematic and conflict-related sexual violence and has a strong applicability to SGBV-related cases.

³⁵ Eun-Ju Kim, Role of South Korean women to promote women's rights in the DPRK in *International Symposium on North Korean Human Rights: Protecting and Promoting women's rights in North Korea with a focus on the UN human rights protection mechanisms* (2016) p.123.

³⁶ UN Security Council, [Resolution 1325\(2000\)](#), UN Doc. S/RES/1325 (2000), 31 October 2000; Office of the Special Adviser on Gender Issues and Advancement of Women, [Landmark resolution on Women, Peace and Security](#).