



## **SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA CONCERNING SYSTEMATIC AND GROSS HUMAN RIGHTS VIOLATIONS**

**10 January, 2023**

### **INTRODUCTION**

1. [Korea Future](#) makes this submission to Special Procedures in order to draw the attention of the United Nations Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (UN Special Rapporteur on DPRK) to grave violations of international human rights law that have been committed within the penal system of the Democratic People's Republic of Korea (DPRK).
2. The contents of this submission are based on interviews with displaced survivors, perpetrators, and witnesses who have either experienced, are responsible for, or have witnessed violations of international human rights law at penal facilities<sup>1</sup> within the DPRK. These violations are documented in Korea Future's [North Korean Prison Database](#) (NKPD) and are summarised in Korea Future's [2022 report](#), *North Korean Prison Database: Volume 1* (NKPD Report).<sup>2</sup>

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<sup>1</sup> Being, for the purposes of this submission, locations or institutions where a detainee is deprived of their liberty. In other jurisdictions, such places may be described (variously) as jails, penal colonies, penitentiaries, correctional institutions and/or prisons.

<sup>2</sup> For further details in respect of Korea Future's methodology, please refer to Appendix 1 of the NKPD Report.

3. This submission provides a high-level overview of the DPRK penal system, chronicles violations of international human rights law that have taken place within the penal system, and respectfully requests the UN Special Rapporteur on DPRK to send a letter of allegation regarding such violations to the Supreme Leader of the DPRK, Kim Jong Un, and the ruling Workers' Party of Korea.

## **THE DPRK PENAL SYSTEM**

4. The DPRK penal system was first established under the Soviet Civil Administration in early November 1945. The Prison Division of the Police Department took responsibility for managing the newly-formed country's penal facilities and up to 8,000 detainees.
5. Today, effective command and control of the DPRK and its penal system is held by the Workers' Party of Korea (WPK). Penal facilities are directly managed by multiple state organisations. The Ministry of People's Security<sup>3</sup> (MPS), the Ministry of State Security (MSS), and the People's Committee of North Korea (PCNK) are prominent in this regard.
6. State organisations managing penal facilities fall directly under WPK command and control through the WPK's Propaganda and Agitation Department (PAD) and Organisation and Guidance Department (OGD). PAD and OGD branches are embedded in every DPRK state organisation. WPK Party committees are embedded at every level of the MPS, MSS, and PCNK, issuing guidance and serving as each organisation's political staff. As a consequence, penal facilities serve a party-political function to the extent that they uphold absolute obedience to the ideas of Kim Il Sung and Kim Jong Il, rather than to criminal justice.

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<sup>3</sup> The Ministry of People's Security has undergone several name changes over the last two decades. It has also been referred to as the Department of People's Security and the Ministry of Social Security. To avoid confusion, this submission refers to the Ministry of People's Security, which is the name most commonly associated with the department.

7. The MPS is analogous to national police forces in other nations, but serves a party-political function in the DPRK due to it being subject to WPK control. It conducts law enforcement activities pursuant to the DPRK criminal code, and is directly responsible for **78 penal facilities** documented in the NKPD, including holding centres, detention centres, waiting rooms, precincts, and a re-education camp.
8. The MSS is an intelligence agency whose official mission is to protect the ruling Kim family and the DPRK's political system by identifying citizens and foreign nationals engaged in espionage, anti-party, and/or anti-revolutionary activities (commonly referred to as "political crimes" in DPRK). The MSS is directly responsible for **28 penal facilities** documented in the NKPD.
9. People's Committees are administrative bodies that operate at city/county, provincial, and national levels, overseeing labour training centres and *kkotjebi* relief stations that house homeless people. They are responsible for the management of **22 penal facilities** documented in the NKPD.
10. It is evident from the structure and operation of the DPRK penal system that responsibility for the daily management of penal facilities, as well as for political oversight of their organisation and staff, is attributable to the WPK. As a consequence, there exists a direct relationship between the human rights abuses committed within the DPRK penal facilities and the conduct and/or omissions of DPRK state agents, the WPK, and the leader of the WPK, Kim Jong Un.

## **HUMAN RIGHTS VIOLATIONS WITHIN THE DPRK PENAL SYSTEM**

11. Korea Future finds the DPRK state responsible for gross and widespread violations of detainees'<sup>4</sup> rights under international human rights law. The following section of this submission categorises the types of human rights

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<sup>4</sup> Being, for the purposes of this submission, any person deprived of their liberty.

violations Korea Future has identified during the course of its investigations, and provides specific examples of past human rights abuses for which the DPRK state is responsible.

### **Violation of the right not to be subject to torture or cruel, inhuman or degrading treatment or punishment (CID)**

- 12.** Korea Future finds the DPRK state responsible for gross and systematic violations of the right not to be subject to torture or CID, in contravention of multiple international human rights instruments (including the 1984 UN Convention Against Torture (UNCAT), Article 5 of the 1948 Universal Declaration of Human Rights (UDHR), Article 7 of the 1966 International Covenant on Civil and Political Rights (ICCPR) and Article 37(a) of the 1989 UN Convention on the Rights of the Child (CRC))<sup>5</sup> and customary international law.<sup>6</sup>
  
- 13.** Korea Future has documented multiple forms of torture and wide-ranging acts of CID that have occurred across the DPRK penal system. This includes **452 cases** of corporal punishment, **321 cases** of positional torture and **35 cases** of forced abortions.
  
- 14.** By way of specific example, interviewee A1347 (Ms. Yang)<sup>7</sup> was subject to torture and CID during periods of detention at North Hamgyong Provincial MPS Holding Centre (Nongpo) in 2004 and 2005. Ms. Yang was severely beaten by MPS agents and experienced prolonged denial of food, medical assistance, sleep, and sufficient hygiene between February and March 2004 and January and March 2005.

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<sup>5</sup> DPRK is a state party to the ICCPR and the CRC.

<sup>6</sup> *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, ICJ Judgment of 20 July 2012, paragraph 99: “In the Court’s opinion, the prohibition of torture is part of customary international law and it has become a peremptory norm (jus cogens)”.

<sup>7</sup> Interviewees’ identities have been concealed in this submission. Where necessary, pseudonyms have been used.

**15.** Interviewee A0001 (Ms. Kim) was subject to positional torture during her detention in Onsong County MPS Detention Centre between January and July 2019. Ms. Kim was forced to sit cross-legged for more than 12 hours each day without moving. Slight movements were punished with beatings, either at the hands of state agents or with objects.

### **Violation of the right to life**

**16.** Korea Future finds the DPRK state responsible for gross violations of the right to life, in contravention of Article 3 UDHR and Article 6 ICCPR, among other human rights instruments.

**17.** Korea Future has documented instances of detainees being denied the right to life as a result of the failure of the DPRK state to prevent torture or CID in detention (**108 cases**),<sup>8</sup> as well as **five cases** of extrajudicial, summary, or arbitrary executions of detainees, and **four cases** of infanticide. In **22 cases**, there were no official investigations into deaths of detainees in custody.<sup>9</sup>

**18.** By way of specific example, one interviewee who was detained at North Hamgyong Provincial MPS Holding Centre (Nongpo) in 2000 (interviewee A1406) stated that she accompanied and witnessed a fellow detainee, who was in her eighth month of pregnancy, being transported from the holding centre to a local hospital to undergo a forced abortion. Following the forced abortion, the infant (who had survived) was drowned in a basin of water by MPS agents.

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<sup>8</sup> UN Human Rights Committee (HRC), *General Comment no. 36, Article 6 (Right to Life)*, 3 September 2019, CCPR/C/GC/35, paragraph 54: "Torture and ill-treatment, which may seriously affect the physical and mental health of the mistreated individual, could also generate the risk of deprivation of life".

<sup>9</sup> Cf. UN HRC, *General Comment no. 36, Article 6 (Right to Life)*, 3 September 2019, CCPR/C/GC/35, paragraph 27: "An important element of the protection afforded to the right to life by the [ICCPR] is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents".

## **Violation of the right not to be subject to forced labour**

- 19.** Korea Future finds the DPRK state responsible for gross violations of the right not to be subject to forced labour, in contravention of Article 8(3)(a) ICCPR and the 1930 Forced Labour Convention, among other human rights instruments. Although the ICCPR and the Forced Labour Convention do not prohibit the performance of work or service pursuant to conviction by a court of law,<sup>10</sup> Korea Future has identified cases of individuals being subject to forced labour following arbitrary detention, including detention that had not been authorised by judges or judicial officers. In total, Korea Future has documented **359 cases** of forced labour within DPRK's penal system.
- 20.** By way of specific example, despite her detention not being authorised by a judge or judicial officer, Ms. Yang (A1347) was subjected to forced labour<sup>11</sup> at North Hamgyong Provincial MPS Holding Centre (Nongpo) in 2004 and 2005. Ms. Yang began labour each day between 08:00 and 12:00 and resumed labour following lunch until 20:00.
- 21.** Following a trial and conviction in contravention of international human rights law (see further paragraph 28 below), interviewee A0909 (Ms. Choi) was subject to forced labour between January 2009 and September 2010 at Chongori Re-education Camp. Ms. Choi was forced to work for 12 hours each day between 05:00 and 20:00. According to Ms. Choi's testimony, detainees at the camp would be assigned to work parties, each of which comprised roughly 100 detainees and were overseen by one MPS officer, three or four correctional officers, and three or four detainees who were selected to oversee the work of other detainees.

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<sup>10</sup> Article 8(3) ICCPR; Article 2(2)(c) Forced Labour Convention.

<sup>11</sup> Being work exacted under the threat of penalty for which Ms. Yang had not offered herself voluntarily: Article 2(1) Forced Labour Convention.

## Violation of the right to health

**22.** Korea Future finds the DPRK state responsible for gross and systematic violations of the right to health, in contravention of Article 25 UDHR, Article 12 of the 1966 UN International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>12</sup> and Article 24 CRC, among other human rights instruments.

**23.** Korea Future has documented **1,047 cases** of detainees being denied access to physical, mental, maternal, and reproductive healthcare, together with **1,123 cases** of the denial of food and **956 cases** of the denial of drinking water. Detainees were held in unsanitary penal facilities (**1,034 cases**) and were prohibited by correctional officers from maintaining personal hygiene by washing their bodies and laundering their clothing (**1,095 cases**).

**24.** By way of specific example, Ms. Yang (A1347) recounted an absence of available medical care and medicine at North Hamgyong Provincial MPS Holding Centre (Nongpo). During her periods of detention, Ms. Yang could only drink water after having received permission from state agents at the holding centre. Ms. Yang also spoke of one pregnant detainee who had been so severely deprived of food that she stole and consumed dog food.<sup>13</sup> Ms. Yang was unable to maintain personal hygiene during her time in detention due to a lack of water and washing facilities in the holding centre.

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<sup>12</sup> DPRK is a state party to the ICESCR.

<sup>13</sup> It is worth noting in this regard that Article 25(2) UDHR provides that motherhood and childhood are entitled to special care and assistance insofar as the right to health is concerned.

## Violation of the right to freedom from arbitrary detention

**25.** Korea Future finds the DPRK state responsible for gross and systematic violations of the right to freedom from arbitrary detention, in contravention of multiple international human rights instruments (including Articles 3 and 9 UDHR and Article 9 ICCPR) and customary international law.<sup>14</sup>

**26.** Korea Future has documented **512 cases** of detainees being arbitrarily deprived of their liberty, including:

- **152 cases** in which persons were detained without being promptly informed of charges against them, in contravention of Article 9(2) ICCPR;
- **160 cases** in which detention was not authorised by a judge or judicial officer, in contravention of Article 9(3) ICCPR; and
- **212 cases** of unlawful detention where proceedings for release were not initiated by judicial actors, in contravention of Article 9(4) ICCPR.

**27.** By way of specific example, neither Ms. Kim (A0001), Ms. Yang (A1347), nor Ms. Lee (A0953)<sup>15</sup> were provided with evidence that their detentions had been authorised by judges or judicial officers. Despite this, no proceedings were instituted for their release from arbitrary detention and, contrary to Article 9(4) ICCPR, the women were unable to exercise their right to take proceedings before a court to challenge the manner in which they had been detained.

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<sup>14</sup> UN Human Rights Council, *Report of the Working Group on Arbitrary Detention*, 24 December 2012, A/HRC/22/44, paragraph 79: “*The Working Group finds that the prohibition of all forms of arbitrary deprivation of liberty constitutes part of customary international law and constitutes a peremptory norm or jus cogens*”.

<sup>15</sup> Ms. Lee was detained at North Hamgyong Provincial MSS Detention Centre between September 2009 and April 2011.



## Violation of the right to a fair trial

- 28.** Korea Future finds the DPRK responsible for gross violations of the right to a fair trial, in contravention of multiple international human rights instruments (including Articles 10 and 11 UDHR, Article 14 ICCPR, and Article 40 CRC) and customary international law.<sup>16</sup>
- 29.** Korea Future has documented **129 cases** of detainees not being heard by an independent and transparent judiciary or tribunal, **124 cases** of detainees being denied the presumption of innocence, and **114 cases** in which detainees were denied access to legal aid. Korea Future has identified **110 cases** of pre-trial detainees not being provided with adequate time and facilities to prepare their defence, as well as **64 cases** of compromised evidence extracted under duress being used against detainees.
- 30.** By way of specific example, Ms. Yang (A1347) was not afforded a trial prior to her detention at North Hamgyong Provincial MPS Holding Centre (Nongpo) in 2004 and 2005. The defence lawyer assigned to the case of Ms. Kim (A0001) requested monetary bribes from her. In contravention of Article 14(3)(g) ICCPR, Ms. Choi (A0909) was forcibly compelled to confess guilt by state agents during her pre-trial examinations at Chongjin City Ranam District MPS Detention Centre—evidence that was later used against her at trial. Ms. Choi was denied the right to have her conviction reviewed by a higher tribunal, in contravention of Article 14(5) ICCPR.

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<sup>16</sup> *Prosecutor v. Zlatko Aleksovski (Appeal Judgement)*, IT-95-14/1-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 24 March 2000, paragraph 104: “The right to a fair trial is, of course, a requirement of customary international law”.

## **Women and vulnerable detainees**

**31.** Women detainees, juvenile detainees, and detainees with disabilities are particularly vulnerable to human rights violations within DPRK's penal system. Korea Future has found that the DPRK is responsible for widespread violations of international human rights law protecting vulnerable detainee populations, including the 1979 Convention on the Elimination of All Forms of Discrimination against Women, the CRC, and the 2006 Convention on the Rights of Persons with Disabilities (CRPD).<sup>17</sup>

### ***Women***

**32.** Korea Future has documented cases of rape and other forms of sexual violence being committed against detainees within the DPRK penal system. Korea Future has found that cases of sexual violence assume a gendered role inside DPRK's penal system: although women and girls are not the only victims of sexual violence, the majority of victims identified in the NKPD as being subject to such acts are women.

**33.** The NKPD records multiple instances of detainees being subject to penetrative acts involving body parts (**16 cases**), as well as other forms of sexual assault (**20 cases**). The majority of cases of sexual violence documented by Korea Future are cases of unlawful or arbitrary body searches, including internal body cavity searches conducted in front of other detainees (**115 cases**).

### ***Other vulnerable detainees***

**34.** Korea Future has documented **97 cases** of juveniles (including those under the age of nine) being detained in cells with adults, and **35 cases** of them being subjected to instruments of restraint and force. In **32 cases**, juvenile

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<sup>17</sup> DPRK is a state party to the CRPD.

detainees were unable to maintain contact with their families during the course of their detention.

**35.**In addition, Korea Future has documented cases of detainees with disabilities being denied access to critical equipment and services, such as:

- wheelchairs, crutches, and medication (**31 cases**);
- accessible accommodation (**28 cases**); and
- specialist assistance according to their needs (**42 cases**).

**36.**Such failings on the part of the DPRK state amount to clear violations of international human rights law, including that enshrined in Article 14(2) CRPD (among other provisions).

#### **LETTER OF ALLEGATION REQUEST**

**37.**By way of this submission, and in light of the above findings, Korea Future respectfully requests that the UN Special Rapporteur on DPRK send a letter of allegation to the Supreme Leader of the DPRK, Kim Jong Un, and the ruling Workers' Party of Korea asking that it:

- take all appropriate action to investigate and address the events set out in this submission;
- communicate the results of such action to the UN Special Rapporteur on DPRK; and
- take all necessary measures to prevent the re-occurrence of the violations identified in this submission.

**38.**Korea Future is available at [contact@koreafuture.org](mailto:contact@koreafuture.org) to assist with any matters arising, and/or to provide further information.