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**Submission to the UN Special Rapporteur on Torture and Cruel, Inhuman, or Degrading Treatment of Detainees in Penal Facilities within Democratic People’s Republic of Korea**

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# 1. Executive Summary

This submission presents a review of institutional abuses in the Democratic People’s Republic of Korea’s (DPRK) penal system. Based on the experiences of Park Seo Yeon and data recorded by Korea Future (KF) which illustrates the systemic nature of these abuses, this report concludes that the DPRK has breached its responsibility to refrain from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CIDT). First, Section 3 will provide the political and legal context of the DPRK, outlining the institutional underpinnings which facilitate abuse in the DPRK’s penal system alongside the widespread abuses documented by KF in the DPRK’s detention facilities.  In Section 4 we set out the testimony of Park Seo Yeon who was detained in several detention facilities between 2007 and 2015. Section 5 examines the DPRK’s international legal obligations, including the prohibition on engaging in torture and CIDT. We conduct a thorough legal analysis of Park Seo Yeon’s testimony, concluding that her treatment in the DPRK’s detention facilities under the responsibility of the Ministry of People’s Security (MPS), the Ministry of State Security (MSS), and the prosecution office violates the DPRK’s obligation to refrain from torture and CIDT. For clarity and coherence with established legal standards, certain violations are summarised together to establish a cumulative standard of breach, in line with relevant case law.

The objective of this report is to present a review of the findings of KF regarding the conditions endured by those detained in the DPRK’s penal system.  The focus of the present submission is to establish that the experience of Park Seo Yeon constitutes torture and CIDT, as defined by the International Covenant on Civil and Political Rights (ICCPR), to which the DRPK is party. The report also presents summarised case statistics that demonstrate the structural pattern of abuses in the DPRK’s penal system.

This report provides an overview of the activities of the primary security agencies in the DPRK and facilities which they oversee. It does not seek to review all institutional objectives or responsibilities, but instead gives a general outlook on the accountability and leadership mechanisms relevant to Park Seo Yeon’s experience.  Thus, only key and illustrative developments and agency tasks will be described.

This submission was prepared in collaboration with The Amsterdam Law Clinics as part of the Law Faculty at the University of Amsterdam.

# 2. Methodology

Evidence presented in this report has been entirely sourced from primary investigations undertaken by KF. Legal experts with international prosecutorial and analytical expertise have contributed to the development of the investigation methods and comprehensively reviewed them. For this report, KF investigators undertook 259 detailed in-person interviews with survivors, perpetrators, and witnesses who either experienced, witnessed, or committed violations of international human rights law at penal facilities in the DPRK.  KF investigators also sourced other forms of evidence, including internal documents and photographic and video evidence from inside North Korea, geolocations and organisational maps, and information on chains of custody as part of their ongoing investigation.

KF analysed this evidence against relevant international standards on the prohibition on torture and CIDT. To systematise the evidence, KF created the North Korean Prison Database which enables them to link data on human rights violations to perpetrators, victims, penal facilities and other evidentiary materials. KF has concealed the identities of detainees on their database, using unique reference numbers assigned to each detainee and perpetrator in the database. Park Seo Yeon consented to disclosing her identity for the purposes of the present submission.

# 3. Facts: Political and Legal Context

The following section provides an overview of the relevant facts and context, laying the groundwork for the legal analysis in Section 5. First, the section sets out the international obligations of the DPRK relevant to torture and CIDT, finding that the DPRK is bound by the prohibition of torture under treaty law and under customary international law. We will expand upon the nature of such obligations in Section 5. Second, this section provides an outline of the DPRK’s penal system, and the relevant criminal codes and legislation. Third, we set out the widespread abuse occurring within the DPRK’s penal system as documented by KF. The section concludes that the legal and institutional framework perpetuates the systematic patterns of abuse in the DPRK’s penal system.

The facts presented in this section provide the necessary context for a finding that the DPRK, through the egregious abuses documented in the testimony and taken cumulatively, violated its international obligations pertaining to torture and CIDT in respect of Park Seo Yeon.

## 3.1 The DPRK’s International Obligations Relating to Torture and CIDT

### 3.1.1 International Treaty Obligations

As a Member State of the United Nations (UN) since 1991, the DPRK has committed to the promotion and protection of human rights as enshrined in the UN Charter and is legally bound by the Universal Declaration of Human Rights (UDHR) insofar as it represents customary international law.

The rights enshrined in the UDHR have been enunciated in legally binding international treaties. The DPRK is a State party to four of these treaties which contain the prohibition on torture and CIDT, having acceded to the ICCPR,[[1]](#footnote-1) International Covenant on Economic, Social and Cultural Rights (ICESCR),[[2]](#footnote-2) Convention on the Rights of the Child (CRC)[[3]](#footnote-3) and the Convention on the Rights of Persons with Disabilities (CRPD).[[4]](#footnote-4) The DPRK is bound by the prohibition of torture and CIDT under each of these treaties.

### 3.1.2 Customary International Law Obligations

Additionally, the prohibition of torture is a *jus cogens* norm, an imperative norm of international law from which no state can depart.[[5]](#footnote-5) Judicial authorities have further recognised that the prohibition on torture and CIDT constitutes a norm of customary international law.[[6]](#footnote-6) Thus, the DPRK is bound not to commit torture or CIDT irrespective of whether it has signed or ratified a treaty to this effect.[[7]](#footnote-7)

### 3.1.3 Obligations Under Soft Law Instruments

Though non-binding, soft law instruments are important in guiding the interpretation of a treaty obligation or bridging any gaps between treaties in force.[[8]](#footnote-8) With special regard to detainees, various soft law instruments have been adopted to specify the rights of persons deprived of their liberty and the positive and negative obligations of personnel exercising power over them. These include the Nelson Mandela Rules,[[9]](#footnote-9) and the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment.[[10]](#footnote-10) We will refer to these instruments in this report as they are indicative of interpretative standards regarding obligations to detainees.

## 3.2 The DPRK’s Penal System

This section provides information on the DPRK’s penal system, the state organisations administering it, and the criminal justice system. KF documented widespread human rights abuses in the DPRK’s penal system occurring under the direct responsibility of several state organisations, most notably the Ministry of Social Security (MPS) which was formerly known as the Ministry of People’s Security until May 2020,[[11]](#footnote-11) the Ministry of State Security (MSS), the People’s Committee of North Korea (PCNK), and the public prosecutor’s offices. The penal system is partly based on the fundamental legislative acts, the Criminal Code (CC) and the Criminal Procedure Code (CPC),[[12]](#footnote-12) which aid in perpetuating widespread human rights abuses. Aside from the CC and CPC, much of the penal system is dictated by different state agencies according to their internal policies.

### 3.2.1 State Agencies and Detention Facilities

KF gathered evidence which reveals a system of widespread abuse in the DPRK’s detention facilities perpetrated by various state agencies administering them. The UN Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea has stressed that the inaccessibility of detention facilities in the DPRK for human rights monitors indicates it is “unlikely that prisoners enjoy the necessary protection from abuse by prison officials”.[[13]](#footnote-13) Indeed, KF has documented human rights violations in 148 penal facilities under the responsibility of several state organisations.[[14]](#footnote-14) Most penal facilities are administered by the Ministry of Social Security, previously referred to as the Ministry of People’s Security (MPS), the Ministry of State Security (MSS), the People’s Committees of North Korea (PCNK) and the public prosecutor’s offices.[[15]](#footnote-15)

KF documented that the MPS committed human rights violations in 78 detention facilities across the DPRK.[[16]](#footnote-16) It operates as the state’s national police force,[[17]](#footnote-17) and is responsible for handling non-political crimes and overseeing the non-political prison system of the DPRK,[[18]](#footnote-18) although its remit is not limited to non-political crime. The MPS administers re-education camps (*kyohwaso*) to detain persons sentenced to re-education between one and fifteen years for non-political crimes – contrary to the MSS.[[19]](#footnote-19) Such detainees are deprived of their citizenship and party membership. The MPS and MSS may be responsible for administering detention centres **(***kuryujang*) on the city, county, district, provincial, and national level where detainees are held during pre-trial examination and prior to their transfer to another detention facility after being sentenced.[[20]](#footnote-20) Park Seo Yeon was detained in both of these facilities under MPS authority.

KF reported human rights violations in 28 penal facilities under the direct responsibility of the MSS.[[21]](#footnote-21) The MSS is an intelligence agency with an official mission to protect the Kim family and the political system by uncovering citizens and foreign nationals engaged in espionage, anti-party, or anti-revolutionary activities – commonly termed ‘political crimes’.[[22]](#footnote-22) The UN Commission of Inquiry on Human Rights in the DPRK has extensively documented human rights abuses within this system.[[23]](#footnote-23)

KF documented human rights violations in 22 detention facilities administered by the PCNK.[[24]](#footnote-24) The PCNK are administrative bodies operating at the city, county, provincial and national level. They are tasked with managing different penal facilities, namely labour training centres and *kkotjebi* relief stations which are facilities housing homeless people.[[25]](#footnote-25)

KF reported human rights violations in three penal facilities under the direct responsibility of a public prosecution office.[[26]](#footnote-26) The public prosecutor’s office is responsible for overseeing the integrity of MPS investigations and carrying out prosecutions.[[27]](#footnote-27) It is one of the country’s most powerful agencies, with the authority to audit other state organs.[[28]](#footnote-28) The prosecutor’s office is structured with a central prosecutor’s office, provincial, city, and local level offices, some of which contain holding cells or detention interrogation facilities.[[29]](#footnote-29) Park Seo Yeon was held in custody under the public prosecution office in one of these interrogation facilities.

### 3.2.2 Criminal Codes and Legislation

The criminal law of the DPRK, consisting partially of the Criminal Code (CC) and the Criminal Procedure Code (CPC), contains features which contribute to systemic abuse in the criminal justice system.  Notably, the law fails to adhere to international standards, lacking core safeguards for defendants and detainees. Where the law contains such safeguards, the DPRK authorities often disregard them in practice.

The DPRK’s criminal law generally fails to adhere to international standards pertaining to defendant and detainee rights,[[30]](#footnote-30) due to the absence of important safeguards.[[31]](#footnote-31) While the term ‘torture’ is not used, the CPC prohibits the use of force or inducements in gathering evidence.[[32]](#footnote-32) Testimonies obtained under inducement or duress are not permitted in court,[[33]](#footnote-33) and article 166 of the CPC prohibits a preliminary examiner from using “forceful methods to make the suspect admit the crime or to make a statement”.[[34]](#footnote-34) The criminal law, however, does not prohibit evidence which is gathered illegally, and does not include a presumption of innocence, the right to remain silent, or the right against self-incrimination.[[35]](#footnote-35) Instead, the CPC requires that the accused answer questions when asked.[[36]](#footnote-36) The law does not provide for judicial review of detention at the investigation or preliminary examination stages.[[37]](#footnote-37) Further, the CPC strictly limits the right to legal counsel, which it guarantees only after preliminary examination.[[38]](#footnote-38)

Where safeguards do exist in legislation, government officials and security officers often do not adhere to them in practice. The Commission of Inquiry into human rights in DPRK found that “the law and the justice system serve to legitimize violations… Even where the relevant checks have been incorporated into statutes, these can be disregarded with impunity”.[[39]](#footnote-39) This is partially due to the political function of the law and justice system,[[40]](#footnote-40) where decisions of the Workers’ Party of Korea and the Supreme Leader are generally considered to override formal laws and control the judiciary.[[41]](#footnote-41) Indeed, Human Rights Watch has noted that the law-based judicial system and party-based judicial system both exist in parallel in the DPRK and the latter “can supersede the official system in an opaque manner”.[[42]](#footnote-42) Further, the criminal law of the DPRK is articulated in broad and vague terms, maximising the discretion of governmental officials and security officers in how they decide to follow the law. The Commission of Inquiry observed that the CC defines ‘crimes against the state or the people’ in such broad and vague terms that “the exercise of any number of human rights can be prosecuted as a crime”.[[43]](#footnote-43)

## 3.3 Widespread Abuses in the DPRK’s Penal System

The following section provides information on the widespread physical and psychological abuses documented by KF within the DPRK’s penal system. The totality of this information reveals that the DPRK’s police and judicial agencies engage in systematic torture and wide-ranging acts of cruel, inhuman, or degrading treatment or punishment.[[44]](#footnote-44) In total, KF documented 730 cases of torture and other cruel, inhuman and degrading treatment or punishment across 115 penal facilities between 1993 and 2019, which could be linked to 86 identified perpetrators.[[45]](#footnote-45) These statistics confirm that ill-treatment of detainees is deeply embedded into the practices of the state agencies controlling detention facilities.

### 3.3.1. Positional Torture

KF recorded 321 cases of positional torture, where state agents forced detainees to remain in fixed standing or seated positions in their cells for more than twelve hours each day, leading to severe health consequences.[[46]](#footnote-46) Such positional torture was documented across 66 different penal facilities, with the largest number being recorded in Onsong County MSS Detention Centre. The MSS perpetrated 178 cases of positional torture, the MPS 116, and the PCNK 24.[[47]](#footnote-47)

### 3.3.2. Physical Assault and Corporal Punishment

KF documented 452 cases of severe physical assault, including corporal punishment. The evidence gathered demonstrates that the MPS,[[48]](#footnote-48) MSS,[[49]](#footnote-49) and PCNK[[50]](#footnote-50) are responsible for the majority of such acts. For example, MPS agents severely beat one detainee at North Hamgyong Provincial MPS Holding Centre (*Nongpo*) in 2005. In particular, she stated that MPS agents had beaten her “mercilessly with the most painful wooden sticks”.[[51]](#footnote-51) KF further gathered extensive evidence of correctional officers and pre-trial examiners beating detainees with 5x5cm angled wooden clubs, so called *o-seung-o-gak-ja*, in response to non-compliance with orders or testimonies considered to be incredible.[[52]](#footnote-52)

### 3.3.3. Psychological Torture

KF recorded 282 incidents of psychological torture across 73 penal facilities in the DPRK. Many instances occurred at the Onsong County MSS Detention Centre, the North Hamgyong Provincial MPS Holding Centre (*Nongpo*) and the Hoeryong City MSS Detention Centre North Pyongan, with 53, 20, and 18 recorded abuses respectively. The MSS perpetrated 127 cases of psychological abuse whilst the MPS perpetrated 120 cases.[[53]](#footnote-53) In one case, a MSS officer asked a detainee held at North Hamgyong Provincial MSS Detention Centre between 1 September 2009 and 30 April 2011 “How are you still alive?”, implying that he expected that she would perish following the torture she was subjected to.[[54]](#footnote-54)

### 3.3.4. Prolonged Denial of Food, Hygiene and Medical Assistance

KF documented prolonged denial of food, sufficient hygiene and medical assistance across 110 penal facilities in the DPRK. KF recorded 597 incidents of prolonged denial of food, 603 incidents of prolonged denial of sufficient hygiene, and 554 incidents of prolonged denial of medical assistance. KF attributed the prolonged denial of food, sufficient hygiene and medical assistance primarily to the MPS and MSS, being responsible for 320 and 226 incidents of abuse to these state entities respectively. In most of these cases, prolonged denial of food, hygiene and medical assistance occurred simultaneously, thereby exacerbating the suffering of detainees.[[55]](#footnote-55)

KF reported that vulnerable groups were significantly affected by poor nutritional quality. For example, they documented that a pregnant detainee stole dog food and was subsequently punished.[[56]](#footnote-56) Where provided, the food was often of poor nourishment, leading to malnutrition. KF reported that many female detainees suffered from amenorrhea due to malnutrition.[[57]](#footnote-57) One female detainee held at North Hamgyong Provincial MSS Detention Centre noted that daily food rations consisted of steamed corn kernels, including the husks, and harmful substances including small stones, that together amounted to 100 grams per meal. At the time of her release, she had lost 36 kilograms.[[58]](#footnote-58)

Where the prison guards allowed detainees to take showers, they did not receive materials such as soap, toothbrushes, or toothpaste, which resulted in several serious health-related consequences.[[59]](#footnote-59) One detainee held at North Hamgyong Provincial MSS Detention Centre reported that the prison guards denied her any means to maintain her personal hygiene and often denied her access to a toilet. Furthermore, MPS officers forced her to wear the clothing that she was first arrested in for the duration of her 22-month detention without being able to wash her clothing.[[60]](#footnote-60) Another detainee described how unhygienic conditions in Chongori Re-education Camp enabled infestations of scabies, lice and infectious diseases including typhoid fever, resulting in a high number of deaths.[[61]](#footnote-61)

### 3.3.5. Solitary Confinement

KF documented 67 instances of solitary confinement across 42 penal facilities in the DPRK.[[62]](#footnote-62) The MPS and the MSS were primarily responsible for the imposition of solitary confinement, with 31 and 29 instances being attributed to them respectively. Generally, the DPRK did not protect vulnerable groups of persons from solitary confinement. KF recorded that pregnant persons and one detainee with disabilities were placed in solitary confinement.[[63]](#footnote-63) Testimonies gathered by KF further highlight inhuman conditions of solitary confinement. For example, in the Hyesan City MPS Detention Centre, isolation cells had no toilets and measured only 60cm by 200cm with ceilings of 1.5 metres height, thereby preventing detainees from standing.[[64]](#footnote-64)

### 3.3.6. Sexual Violence

KF documented 16 acts of rape in 11 detention facilities in the DPRK. KF attributed such abuse to the MPS in 5 cases, to the MSS in 8 cases and to the PCNK in 3 cases respectively. KF further identified 196 instances of other forms of sexual violence, including verbal abuse, unlawful or arbitrary body searches, sexual assault, and the lack of appropriate medical advice, counselling, physical and mental health care, support and legal aid for sexual violence victims. KF attributed such abuses to the MSS in 88 cases and to the MPS in 38 cases respectively.[[65]](#footnote-65)

### 3.3.7. Forced Abortions

KF recorded forced abortions in 35 cases. Such abuses occurred across 17 detention facilities in the DPRK, the majority being recorded at the Onsong County MSS Detention Centre and the North Hamgyong Provincial MPS Holding Centre (*Nongpo*) with 9 and 5 instances respectively. The MPS and the MSS are responsible for 16 forced abortions each, while KF found the PCNK to be responsible for 3 forced abortions.[[66]](#footnote-66) One interviewee who was detained at North Hamgyong Provincial MPS Holding Centre (*Nongpo*) in the year 2000 stated that she accompanied and witnessed a fellow detainee, who was in her eighth month of pregnancy, being transported from North Hamgyong Provincial MPS Holding Centre (*Nongpo*) to a local hospital to undergo a forced abortion. Following the forced abortion, MPS agents drowned the infant, who had survived, in a basin of water.[[67]](#footnote-67)

# 4. Victim Testimony

The information in this section provides a detailed overview of the experiences of Park Seo Yeon, a North Korean citizen who was arrested and subjected to torture and CIDT by DPRK authorities, including the prosecutor’s office, Group 109, and the MPS. She is the complainant in this submission to the UN Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment (UNSR) and her testimony corroborates and confirms the widespread abuses documented in KF’s North Korean Prison database. KF carried out a detailed interview with Park Seo Yeon and has obtained informed consent to share this information with the UNSR.

Park Seo Yeon was born in Paekam county in 1967. In July 2007, she was arrested by the 109 Sangmu task force for the distribution of South Korean films. Between July 2007 and December 2007, Park Seo Yeon was held in the 109 Sangmu task force office, the Ryanggang Provincial Prosecution office, and the Ryanggang Provincial MPS Detention Centre. In December 2007, Park Seo Yeon was sentenced and, from March 2008, she was detained in the MPS affiliated Hamhung re-education camp for six years and one month. During all stages of her arrest and imprisonment, Park Seo Yeon was subjected to abuse including physical aggressions, psychological harm, solitary confinement and abusive conditions of detention such as the deprivation of food, hygiene and incommunicado detention.

## 4.1. Custody in the 109 Sangmu Task Force (July 2007)

In July 2007, Park Seo Yeon was arrested by 109 Sangmu task force agents. Group 109 is a specialist inter-agency surveillance group,[[68]](#footnote-68) specifically responsible for taking measures against the distribution of foreign movies,[[69]](#footnote-69) foreign media and foreign information content.[[70]](#footnote-70) According to a former State Security Department agent, Group 109 was made permanent in 2009.[[71]](#footnote-71) Park Seo Yeon detailed that the task force was composed of a province-level party committee member, a province-level prosecutor named Choi Seung Chul, an unidentified MSS official, and a male MPS general guidance officer identified by KF as Kim Young Seok. The task force was administered by a committee of six members.

### 4.1.1. General Conditions

Choi Seung Chul, Kim Young Seok, and the unidentified MSS official threatened Park Seo Yeon into following them without presenting an official arrest warrant, and detained her.[[72]](#footnote-72) As she had not been sentenced or charged with a criminal offence at this time, she was not held in a prison or detention centre but in a storage space in the 109 Sangmu task force office with several other detainees. Park Seo Yeon stated that this office was rented out from some other organisation, using their province or city level clearance authorities.

She was detained in this storage space for two weeks. Under these conditions, Park Seo Yeon was forced to write her testimony about her own offence and testify about other smugglers of South Korean films. Although Park Seo Yeon told the agents she did not commit an offence, they insisted that she did until she was too exasperated and simply wrote down what she was told.

Park Seo Yeon described how the 109 task force agents did not provide her food and she was only allowed to receive one meal per day from her family. This provision of food was the only thing that provided her with some perception of time.

### 4.1.2. Physical Assault

Park Seo Yeon described that throughout the two weeks of interrogations in the 109 Sangmu task force office, unidentified 109 Sangmu agents continuously beat her to obtain her confession. They repeatedly told her to write what she believed she was arrested for and when she would not comply, the agents beat her.

## 4.2. Custody in Ryanggang Provincial Prosecution Office (July 2007 – August 2007)

After interrogating Park Seo Yeon for two weeks, the 109 Sangmu task force agents sent her to prosecution custody at the Ryanggang Provincial Prosecution office where each prosecutor reserved a section of the office for detainees under investigation. Under prosecution custody, the prosecutor named Choi Seung Chul was responsible for interrogating Park Seo Yeon to investigate the crime she was arrested for.

### 4.2.1. Solitary Confinement

Park Seo Yeon described that during her one-month detention in the Ryanggang Province Prosecution office, the prosecutors held her in a cell without electric lighting, equipped with a chair and table. This cell constituted her living and sleeping quarters for the four weeks she spent there. The prosecutor only permitted her to have contact with her family towards the end of the prosecution investigation.

### 4.2.2. General Conditions

The prosecution did not allow hospital visits, regardless of how sick the detainees were.  While the Ryanggang Provincial MPS Detention Centre had a military doctor, this doctor only conducted verbal check-ups to see if there were any sick detainees.

Park Seo Yeon was not allowed to have any contact with her family during the month-long prosecution investigation. She was not allowed to write or receive letters, and prosecutors checked regularly whether detainees were slipping notes through food or other means.

**4.2.3. Physical Assault**

Park Seo Yeon stated that if detainees would not cooperate with interrogations, the prosecutors would physically abuse them. When the prosecutors discovered that she had not written anything in her testimony, they beat her until she did, throwing her to the floor and stomping on her with their feet. Interrogations usually spanned two hours and took place after midnight so detainees were sleep deprived.  She also heard sounds which other detainees made when they were physically assaulted and abused in the middle of the night. In addition, Park Seo Yeon stated that the prosecutors subjected her  and other detainees  to other physical aggression such as beatings for refusing to provide the desired answer during her interrogation.

### 4.2.4. Psychological Abuse Park Seo Yeon detailed that the interrogations lasted two hours and usually happened a couple of hours past midnight, to deprive detainees of sleep. During the interrogation hours, she heard the screams of other detainees who she believed were being beaten into submission by the male prosecutors. She described how the screams terrified her and understood from her cellmates that the torture threat induced other detainees to admit to crimes they did not even commit in fear of being subjected to beatings.

## 4.3.  Ryanggang Provincial MPS Detention Centre (August 2007 – December 2007)

After having spent 1.5 months in custody in the Ryanggang Provincial Prosecution office and the 109 Sangmu storage space, the prosecutor formally authorised Park Seo Yeon’s arrest warrant. The CPC, however, provides that such investigations in custody cannot occur before the authorisation of an arrest warrant.[[73]](#footnote-73)

After the authorisation, the prosecutor’s office formally transferred her to pre-trial examination custody in the Ryanggang Provincial MPS Detention Centre, where a male pre-trial interrogation officer named Choi Seung Ho, affiliated with the prosecution office, handled her case. Provincial detention centres, as opposed to city-level detention centres, are reserved for persons who commit major crimes.  Park Seo Yeon spent three months at this detention centre before being released on sick bail for three months.   
 **4.3.1. General conditions**

The MPS authorities did not allow Park Seo Yeon, along with other detainees, to eat food from outside the detention centre. However, pre-trial examiners made exceptions and allowed them to eat food brought by their families during interrogation times. They fed her cooked corn and beans, allotting 180 grains of beans per person and mixing them with corn. They also fed her salted cabbage. MPS authorities did not give her and other detainees proper cutlery. When she first entered the detention centre, Park Seo Yeon had to ask the correctional officers for permission to do anything. After a while, however, the correctional officers turned a blind eye to minor actions such as drinking water.

The MPS authorities provided Park Seo Yeon and other detainees with blankets that were dirty from unwashed blood, urine and faeces. Park Seo Yeon washed her clothes in water pails. As there was no clothesline to dry the clothes, Park Seo Yeon dried her clothes by flapping them around with her hands for hours, thereby hurting her hands.

The MPS authorities allowed Park Seo Yeon and other detainees’ families to visit once a month.

## 4.4. Trial at the City Court (December 2007)

The DPRK has a tri-level court system consisting of a Central Court, twelve provincial courts, and approximately one hundred city courts.[[74]](#footnote-74) Once the pre-trial examination was completed, Park Seo Yeon’s case was turned over to the city court for adjudication. Park Seo Yeon was tried in front of the Hyesan city court.

At trial, Park Seo Yeon was assigned a defence attorney who sided with the state and only met with her after all her pre-trial examination had been completed, as is stipulated in the CPC.[[75]](#footnote-75) All lawyers in the DPRK lack independence, as they operate under the oversight of party-controlled lawyers’ committees.[[76]](#footnote-76) The attorney merely asked whether she admitted to the crime and informed her when she would stand trial.

Park Seo Yeon did not have a public trial. The entire proceeding happened inside a small room without any public or family present. During this process, she met with her attorney only twice: on the day she received her court summons and on the day of the trial.

Park Seo Yeon stated that her original sentence of seven years re-education camp was later reduced to six years and one month.

## 4.5.  Hamhung Re-Education Camp (March 2008 – 2014)

After her trial, Park Seo Yeon was given a three month-long waiting period before leaving for the re-education camp on 6 March 2008. On 6 March, the correctional officers identified by KF as Kim Gang Bok, mr.[[77]](#footnote-77) Seung Chul, and mr. Il Nam escorted her and five other detainees to the MPS Hamhung re-education camp. Park Seo Yeon then spent her sentence of six years and one month in the MPS-affiliated Hamhung re-education camp.

### 4.5.1. General Conditions

In the re-education camp, cells were overcrowded with as many as hundred persons per cell. Park Seo Yeon observed many cases of diarrhoea and fever and witnessed a large number of vermin, lice, and flea infestations. Each cell had toilets with water pails to flush. Park Seo Yeon stated that these were just concrete pipes, and that the detainees emptied out septic tanks from time to time.

The cells were not equipped with showers, so Park Seo Yeon washed herself in the rivers as the guards watched. Although the prison officers claimed to let detainees wash once a week, Park Seo Yeon described that she was only allowed to wash once every couple of weeks or a month. When lice infestation got too bad, some guard officers, or the maintenance section chief, made the detainees wash up more frequently. Park Seo Yeon detailed that they used to sit in a row with the other detainees like apes and catch lice during lunch hours.

Given that the MPS authorities did not provide her with bedding, Park Seo Yeon made her own bedding out of stuffed rice packs they received from their family members. The officers provided Park Seo Yeon with two sets of uniforms, which were made from the clothes she had brought from home.

Park Seo Yeon described that the detainees were only allowed three sick days a year. It was understood by the detainees that taking more sick days led to your exclusion from potential pardons. The re-education camp had a military doctor and medical staff under this doctor, who checked people for high fever and provided medicine. Detainees were allowed to receive medicine from visiting family members. The doctor kept them and was supposed to distribute them according to need. She stated that these medicines were not distributed. She and all other detainees were subject to body searches in the re-education camp.

Park Seo Yeon described the food she received as inedible, making the comparison to food for animals. She received ‘block rice’, rice in water which had turned into a mushy substance. The guards did not provide anything else with it. During work, Park Seo Yeon received porridge made from salted cabbage with some cornmill as a snack.  Park Seo Yeon witnessed that in spring, the guards made the malnourished detainees, who could not perform labour, forage edible grass which was then provided to her and other detainees as snacks. Park Seo Yeon detailed that the provision of snacks was dependent on the guard’s temper, instead of according to the internal policy. This had a big impact on their nourishment. She stated that this made her significantly hungrier. The guards merely provided detainees with tap water from buckets for drinking.

Families were allowed to visit detainees in the re-education camp. Park Seo Yeon detailed that during these meetings, she was not allowed to write and slip notes to her family members. She recalled a re-education guidance officer standing guard by her side when she was having visits.

### 4.5.2. Forced Labour

In the re-education camp, the authorities forced detainees to work unpaid for twelve to fourteen hours a day, generally from seven o’clock in the morning until nine o’clock in the evening with an hour for lunch break. Park Seo Yeon worked as a general accounting labourer, which was the highest position a detainee could hold. She witnessed detainees in certain sectors, such as embroidery, working through the night to finish their work when they did not reach their daily quota. Park Seo Yeon detailed that correctional officers identified by KF as mr. Chul Sam,  mr. Chul Yong, ms. Geum Ok, ms. Soon Hee and ms. Young Hee beat her and other detainees “half to death” when they did not do the work.

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# 5. DPRK’s VIOLATION OF LEGAL STANDARDS RELATING TO REPORTED ABUSES

This section examines the DPRK’s international legal obligations and concludes that the DPRK has breached its responsibility to refrain from torture or CIDT. First, we examine how the DPRK is bound by several international treaties that prohibit torture, looking at both positive and negative obligations. We then assess the definitions of torture and CIDT.. Second, we provide a thorough legal analysis of Park Seo Yeon’s testimony, which reveals that her treatment in DPRK detention facilities by the MPS, Group 109, and the prosecution office, amounts to torture and CIDT.

## 5.1  DPRK is Bound by the Prohibition of Torture and CIDT

The prohibition of torture and CIDT is contained in both treaty law and customary international law. The DPRK acceded to the ICCPR on 14 September 1981 and is therefore bound by the provisions of the convention, including Article 7 which prohibits torture and CIDT. Moreover, the prohibition of torture is a norm of customary international law and has reached the status of *jus cogens,* which means that no state can derogate from this principle.[[78]](#footnote-78) As such, the DPRK is obligated to refrain from engaging in torture or CIDT irrespective of whether it has signed or ratified a treaty to this effect.[[79]](#footnote-79)

In this section, we firstly examine the definition of torture and CIDT and outline the full scope of the DPRK’s obligation not to engage in torture, which includes both positive and negative obligations. Second, we apply the facts shared by Park Seo Yeon to this definition. Our legal analysis reveals that the DPRK’s treatment of Park Seo Yeon amounts to torture and CIDT. Not only has the DPRK breached its obligation not to commit torture or CIDT, but it has also evaded its derivative responsibilities and to uphold the rights of detained persons.

### 5.1.1 The Nature of the DPRK’s Obligations Relating to Torture and CIDT

Article 2 ICCPR sets out the general obligations of State parties to the convention. Additionally, the Human Rights Committee (HRC) has elaborated on the nature of the obligations attached to the prohibition on torture and CIDT contained in Article 7 of the ICCPR. Specifically, the it has set out the absolute and non-derogable nature of the prohibition of torture and CIDT contained in Article 7.[[80]](#footnote-80)

**I. The Obligation to Refrain from Engaging in Torture and CIDT**

The HRC has delineated positive and negative obligations of State parties in relation to the prohibition on torture and CIDT, also indicating obligations specific to detained persons. Particularly relevant is the obligation to refrain from engaging in torture or CIDT. Article 2(1) ICCPR guarantees that each State party to the Covenant undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the Covenant.[[81]](#footnote-81) The HRC has affirmed this means that State parties must refrain from violation of the rights recognised by the Covenant.[[82]](#footnote-82) Thus, the DPRK is bound by treaty to ensure that its officials do not engage in torture or ill-treatment.

**II. The DPRK’s Specific Obligations Relating to Detained Persons**

The DPRK is further bound by certain additional treaty and soft law obligations relating specifically to its treatment of detained persons.

*Obligations under the ICCPR*

In addition to describing the specific steps taken to provide general protection against acts prohibited under Article 7 ICCPR, the HRC has noted that State parties should provide detailed information on safeguards for the special protection of particularly vulnerable persons, including those subjected to any form of arrest, detention or imprisonment.[[83]](#footnote-83) In particular, State parties should keep interrogation rules, instructions, methods, practices and arrangements for the custody and treatment of persons subjected to arrest, detention or imprisonment under consistent review. This systematic review constitutes an effective means of preventing cases of torture and ill-treatment.[[84]](#footnote-84)

The prohibition contained in Article 7 is complemented by the positive requirements of Article 10(1) ICCPR, which provides that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”. Article 10(1) imposes an obligation on State parties to ensure that persons deprived of their liberty, being “particularly vulnerable”, may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty. Furthermore, State parties are bound to respect the dignity of such persons, who must enjoy all the rights set forth in the Covenant subject to the restrictions that are unavoidable in a closed environment.[[85]](#footnote-85) Article 10 ICCPR is typically applied to ‘general conditions of detention’.[[86]](#footnote-86) Violations of Article 10(1) ICCPR have been found on the basis of, for example, isolation in an extremely small cell without outside contact,[[87]](#footnote-87) lack of bedding, shortage of hygiene products and open sewers in a cell,[[88]](#footnote-88) and the deprivation of food.[[89]](#footnote-89) There is clearly an overlap between Articles 7 and 10 ICCPR, however, and the HRC often finds a violation of the two together without distinguishing between the two.

*Obligations under Soft Law Instruments*

Various soft law instruments have been adopted with special regard to detainees. Pertinent to the DPRK’s treatment of Park Seo Yeon are the Nelson Mandela Rules and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment. The Nelson Mandela Rules set out the minimum standards relating to the protection of the rights of persons deprived of their liberty, including standards for the prohibition of torture, limits on solitary confinements, conditions of detention, access to legal aid, and release from prison. The Special Rapporteur has emphasised that “serious non-compliance with some rules or widespread non-compliance with some others may well result in a level of ill-treatment sufficient to constitute a violation of the [prohibition of torture and CIDT].”[[90]](#footnote-90) The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment reiterate the absolute prohibition of torture and CIDT and contains procedural and substantive rights of detainees relating to interrogation, medical treatment, and communication with the outside world.

Such soft law instruments are non-binding, reflecting political commitments rather than an intention to be legally bound.[[91]](#footnote-91) However, soft-law instruments play an important role in guiding the interpretation of a treaty obligation or filling in gaps in existing treaties in force. The HRC and other international bodies frequently draw on the standards set out in these soft law instruments to assess whether an act or omission meets the threshold of severity required for finding a violation of the prohibition of torture and CIDT.[[92]](#footnote-92) Further, the HRC considers the application of these soft law instruments as a relevant indicator for a state’s compliance with its obligation to respect the human dignity of detainees and to ensure their humane treatment in accordance with Article 10 ICCPR.[[93]](#footnote-93) Thus, the legal analysis refers to the standards stipulated in the above-mentioned soft law instruments to interpret the prohibition of torture and CIDT.

**5.1.2. The Definition and Scope of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

The ICCPR does not provide a list of acts that amount to torture or CIDT, instead leaving the scope of torture and CIDT open to interpretation by the HRC. Article 7 ICCPR simply states that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation”. Nevertheless, the HRC has provided guidance through its jurisprudence on the types of treatment that fall within the scope of Article 7. Generally, the HRC does not distinguish between torture and other forms of ill-treatment and refers to acts of torture or ill-treatment collectively as ‘violations of Article 7’.[[94]](#footnote-94)

The HRC has set out that the prohibition contained in Article 7 relates not only to acts and omissions causing physical pain, but also to acts causing mental suffering to the victim.[[95]](#footnote-95) Such acts might include beatings or severe physical assault,[[96]](#footnote-96) positional torture,[[97]](#footnote-97) or threats of violence or torture.[[98]](#footnote-98) It has further expressed the view that the prohibition in Article 7 extends to corporal punishment, “including excessive chastisement ordered as punishment for a crime”.[[99]](#footnote-99) Prolonged solitary confinement of a detained or imprisoned person can amount to a violation of Article 7.[[100]](#footnote-100) The HRC has also frequently found that conditions of detention and the deprivation of sleep, food, water, hygiene or medical care can amount to torture or CIDT.[[101]](#footnote-101) According to the HRC, conditions of detention must attain a minimum level of severity to constitute ill-treatment, which is usually reached with an accumulation of factors.[[102]](#footnote-102)  
  
**5.2 DPRK’s Treatment of Park Seo Yeon Amounts to Torture and CIDT**

The information provided by Park Seo Yeon on her detention in the DPRK’s penal facilities reveals that the MPS, Group 109, and the Ryanggang prosecution office are responsible for committing torture and CIDT pursuant to thresholds set out in the ICCPR and other international instruments. This section assesses the testimony of Park Seo Yeon against international standards relating to physical assault, psychological abuse, solitary confinement, and general conditions of detention.

In reality, torture victims are frequently subjected to a combination of methods and circumstances that are specifically created to cause them physical and mental suffering. Some of these methods and situations would not be considered torture if used in isolation or for a short period of time. Cumulatively, however, they have a devastating effect.[[103]](#footnote-103) Hence, a finding of torture may be based not just on specific methods or circumstances, but also on their cumulative effect, at times in combination with external stressors or individual vulnerabilities that are not under the control of the perpetrator and might not even be instrumentalized by them.[[104]](#footnote-104)

The following analysis shows that Group 109, the MPS, and the prosecutor’s office subjected Park Seo Yeon to the following treatment which cumulatively amount to a violation of the DPRK’s obligation to refrain from torture and CIDT under Article 7 ICCPR and customary international law: (i) Exposing Park Seo Yeon to severe and systematic beatings and other acts of physical torture and ill-treatment during her detention at 109 Sangmu task force office for a period of two weeks, at the Ryanggang Provincial Prosecution office for a period of four weeks, for the purpose of extracting confessions and at the MPS-affiliated Hamhung Re-education camp when she refused work; (ii) inflicting severe mental suffering on Park Seo Yeon, including for the purpose of coercing confessions, through depriving her from sleep and withholding beddings, light, and food during her detention at 109 Sangmu task force office under the authority of MSS for a period of four weeks, at the Ryanggang Provincial MPS Detention Centre for a duration of five months, and at the Ryanggang Provincial Prosecution Office for a period of four weeks; (iii) keeping Park Seo Yeon in solitary confinement in the Ryanggang Provincial Prosecution Office for a prolonged period of one month; and (iv) holding her in inhuman conditions of detention relating to physical conditions, hygiene, food, medical care, and incommunicado detention in Sangmu 109 task force office, in the Ryanggang Provincial Prosecution Office, in the Ryanggang Provincial MPS Detention Centre, and in the MPS-affiliated Hamhung re-education camp.

The analysis further discloses that the DPRK failed in its derivative obligation under Article 7 ICCPR to keep interrogation rules, instructions, methods, practices and arrangements for the custody and treatment of persons subjected to arrest, detention or imprisonment under consistent review in 109 Sangmu task force office, Ryanggang Provincial Prosecution Office, Ryanggang Provincial MPS Detention Centre, and H. Additionally, the DPRK violated its obligation under Article 10(1) ICCPR to treat persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person.

### 5.2.1. Physical Assault

Park Seo Yeon sustained severe and systematic beatings by the DPRK authorities in 109 Sangmu custody, Ryanggang Provincial Prosecution custody and Hamhung Re-education Camp custody which violate international standards prohibiting torture and CIDT. Article 7 ICCPR and other international instruments prohibit acts causing physical pain to the victim through beatings.[[105]](#footnote-105) In particular, the HRC and other international bodies consider that beating for the purpose of obtaining a confession, alongside other treatment, constitutes torture of CIDT.[[106]](#footnote-106) Moreover, Principle 21 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment stipulates that no detained person shall be subject to violence while being interrogated. The DPRK is thus bound to refrain from engaging in torture or CIDT through physical assault.

Throughout the two-week period when Park Seo Yeon was held in the 109 Sangmu task force custody, Sangmu task force agents beat her systematically during interrogations to obtain a confession. Similarly, during the four weeks she spent at Ryanggang Provincial Prosecution office, prosecution officers beat her severely during interrogations. She was grabbed by the hair and smashed to the ground, stomped on, and beaten to get her to provide her written testimonial detailing her alleged crimes. The correctional officers at the MPS-affiliated Hamhung Re-education Camp identified by KF as mr. Chul Sam, mr. Chul Yong, ms. Geum Ok, ms. Soon Hee and ms. Young Hee beat her and other detainees “half to death” when they did not complete their work.

The DPRK has clearly violated international standards on torture and CIDT binding on it by systematically and severely beating and physically assaulting Park Seo Yeon, including the specific obligation arising under Article 7 to keep interrogation rules, instructions, methods and practices under consistent review.[[107]](#footnote-107) This is supported by the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The DPRK authorities subjected Park Seo Yeon to such egregious physical assault for long periods of time to induce a confession, obtain a written testimonial or punish her for refusing to work. These instances of physical assault and abuse therefore violate the DPRK’s international obligations to refrain from engaging in torture and CIDT, taken cumulatively with the other abuses set out in this section.

### 5.2.2. Psychological Torture

Park Seo Yeon was subject to various techniques that constitute psychological torture in 109 Sangmu custody, Ryanggang provincial prosecution custody and the Hamhung re-education camp, contrary to the DPRK’s obligation under Article 7 ICCPR to refrain from inflicting mental suffering on the victim.[[108]](#footnote-108)

First, the purposeful infliction of fear constitutes psychological torture,[[109]](#footnote-109) such as threats of inflicting, repeating, or escalating acts of torture.[[110]](#footnote-110) In the Ryanggang Provincial Prosecution Office, Park Seo Yeon regularly heard the screams of other detainees being beaten by prosecutors during their interrogation. Park Seo Yeon described how these screams terrified her, instilling fear in her and led to other detainees confessing to crimes they had not committed.

Second, instilling in the victim a profound sense of helplessness, for instance by withholding or withdrawing access to information, personal items, clothing, bedding, light, food or water constitutes psychological torture.[[111]](#footnote-111) Multiple state organisations of the DPRK instilled in Park Seo Yeon such a sense of helplessness and total dependency. As the 109 Sangmu Task Force detained Park Seo Yeon in a storage space without electric lighting for two weeks, she lost all perception of time. The UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment interprets such loss of awareness of passing of time as constituting ill-treatment.[[112]](#footnote-112) Further, the fact that the prison guards partially deprived Park Seo Yeon of food, providing her with only one meal per day, exacerbated this sense of loss of control. In the Hamhung re-education camp, the MPS officers did not provide Park Seo Yeon with bedding which forced her to craft bedding herself out of stuffed rice packs. Moreover, MPS officers in Ryanggang Provincial MPS Detention Centre only provided her with dirty blankets stained with blood, urine, and faeces.

Third, psychological torture can be inflicted through techniques that avoid physical interaction, but still intentionally manipulate physiological needs, functions, and reactions to cause physical pain or suffering.[[113]](#footnote-113) Such acts include pain inflicted through threat-imposed stress positions, or powerful sensory or physiological irritation through extreme temperatures, loud noise, bright light or bad smells, and deprivation of sleep, food or drink. In particular, international bodies have identified sleep deprivation, capable of leading to severe mental suffering, as a form of psychological torture or CIDT.[[114]](#footnote-114) Sleep deprivation often occurs in the context of interrogation for the purpose of extracting confessions or information,[[115]](#footnote-115) and is commonly found to amount to torture or CIDT in combination with other interrogation practices.[[116]](#footnote-116) The testimony of Park Seo Yeon demonstrates that the DPRK intentionally inflicted mental suffering for the purpose of extracting her confessing to having distributed South Korean films.[[117]](#footnote-117) She was interrogated for two hours in the middle of the night every day, for four weeks consecutively during her detention in Ryanggang Provincial Prosecution Office. Combined with the absence of adequate bedding and washing facilities, the threats of torture, as well as the physical abuse she was subjected to, her lack of adequate sleep amounts to sleep deprivation.

The threats of inflicting pain and deprivation of sleep for the purpose of coercing confessions, the withholding of beddings, light, and food from Park Seo Yeon, disclose that the DPRK breached its obligation to refrain from torture and CIDT when taken together with other abuses set out in this section. In addition, the DPRK has violated the specific obligation under Article 7 to keep interrogation rules, instructions, methods and practices under consistent review.

**5.2.3. Solitary Confinement**

The prosecution officers at Ryanggang Provincial Prosecution office held Park Seo Yeon in solitary confinement under conditions contrary to international standards. Solitary confinement constitutes the physical isolation of detainees for 22 hours or more a day without meaningful human contact.[[118]](#footnote-118) International standards permit short-term segregation of detainees for specific reasons.[[119]](#footnote-119) Solitary confinement can, however, cause severe mental or physical pain or suffering. Thus, authorities may employ solitary confinement only in exceptional circumstances as a measure of last resort whilst observing due process guarantees and medical protection.[[120]](#footnote-120) Depending on the particular circumstances, including the duration, purpose and conditions of detention, solitary confinement may amount to torture or CIDT.[[121]](#footnote-121) Indefinite solitary confinement and prolonged solitary confinement, defined as isolation beyond 15 days, per se constitute torture or CIDT.[[122]](#footnote-122) In the Ryanggang Provincial Prosecution office, the prosecutors held Park Seo Yeon in solitary confinement for a prolonged period of one month; July2007. The physical conditions of the isolation cell, being characterised by a lack of minimum floor space and electric lighting, aggravated the suffering of Park Seo Yeon.[[123]](#footnote-123)

The solitary confinement of Park Seo Yeon in Ryanggang Provincial Prosecution office for the purpose of interrogation to induce a confession therefore violates the DPRK’s obligation to refrain from torture and CIDT under Article 7 ICCPR, taken cumulatively with other abuses set out in this section. Furthermore, the DPRK failed in its obligation to keep interrogation practices and methods, and arrangements for detained persons under systematic review.[[124]](#footnote-124)

### 5.2.4. General Conditions of Detention

Park Seo Yeon was held in inhuman conditions of detention that violated international standards relating to physical conditions of detention, hygiene, food, medical care, and incommunicado detention. International bodies have elaborated on minimum standards of detention, which are also codified in the Nelson Mandela Rules. While not each of these rules constitutes a legal obligation, serious or widespread non-compliance may amount to torture or CIDT.[[125]](#footnote-125)

**I. Physical Conditions of Detention**

The DPRK violated international standards on physical conditions of detention by detaining Park Seo Yeong in inhuman conditions. The HRC and other international bodies have found a situation of overcrowding, insufficient floor space per detainee, and artificial lighting all day without access to fresh air and daylight to be in breach of international standards prohibiting torture and CIDT, alongside other forms of abuse.[[126]](#footnote-126) Violating the inherent dignity of detainees, such conditions are in breach of Article 10(1) ICCPR.[[127]](#footnote-127) This also follows from Rule 13 of the Nelson Mandela Rules, to which the HRC has referred,[[128]](#footnote-128) which stipulates that the DPRK has the duty to ensure that the accommodation of detainees meets all requirements of health, paying due regard to climatic conditions, cubic content of air, a minimum floor space, lighting, heating and ventilation. This constitutes a minimum standard to be observed even in times of budgetary restraints.[[129]](#footnote-129)

Group 109, prosecution office, and MPS subjected Park Seo Yeon to physical conditions of detention violating these legal standards. During her interrogation at the 109 Sangmu task force office, the DPRK authorities held Park Seo Yeon along with other detainees in a storage space lacking light, such that there was no indication of time of day except the evening when she and the other detainees received their one meal per day. Thus, she had no access to fresh air or daylight, and had inadequate floor space available. In Ryanggang Provincial MPS Prosecution Detention Centre, she similarly had insufficient floor space, lighting, and open air. In the Hamhung re-education camp, MPS officials detained Park Seo Yeon in an overcrowded cell along with about hundred other detainees. By subjecting Park Seo Yeon to these conditions, the DPRK violated international standards on physical conditions of detention and failed to comply with its obligation under Article 10(1) ICCPR to treat Park Seo Yeon with humanity.

**II. Hygiene**

The DPRK violated international standards on torture and CIDT by detaining Park Seo Yeon in unhygienic conditions. Unhygienic conditions, the lack of sanitary facilities and denying or restricting access to toilets constitute conditions which violate the dignity of detainees in breach of Article 10(1) ICCPR and contribute to a finding of torture or CIDT.[[130]](#footnote-130) Toilet facilities must meet hygiene minimum standards. Toilets without water or dysfunctional flushing contribute to a finding of torture or CIDT.[[131]](#footnote-131) The Nelson Mandela Rules reiterate this, stating that states are responsible for ensuring adequate sanitary conditions in detention facilities including the provision of sanitary installations and water and toilet articles necessary for health and cleanliness.[[132]](#footnote-132) In the Hamhung re-education camp, the toilet facilities failed to meet such standards. There was no running water in the toilets and water pails were used to wash down the toilets.

Regarding washing facilities, the HRC and other international bodies have found the lack of physical availability of showers,[[133]](#footnote-133) restrictions of the use of showers,[[134]](#footnote-134) and the failure to provide detainees with hygienic products, alongside other abuses, to violate international standards prohibiting torture and CIDT.[[135]](#footnote-135) Such conditions violate the dignity of detainees and are thus prohibited under Article 10(1) ICCPR.[[136]](#footnote-136) According to the Nelson Mandela Rules, detention facilities must have adequate bathing and shower installations to allow detainees a decent shower or bathe at least once a week.[[137]](#footnote-137) During her detention, Park Seo Yeon was subjected to unhygienic conditions contrary to these standards. In the Ryanggang Provincial MPS Detention Centre, washing facilities were unavailable so that Park Seo Yeon and other detainees washed themselves with water from buckets. Similarly, the Hamhung re-education camp was not equipped with showers, and detainees were not provided with water to wash with. As outlined in Section 4.5.1, detainees could consequently only wash in the river or streams every two weeks or monthly. Further, the MPS officers did not provide detainees with soap which could only be bought from the authorities.

Unclean bedding and clothes or the complete deprivation thereof also subject detainees to hardship and contribute to a finding of torture and CIDT.[[138]](#footnote-138) The Nelson Mandela Rules accordingly require states to ensure that clothes and bedding provided to detainees are clean and in proper condition and changed and washed as often as necessary.[[139]](#footnote-139) During her detention, the MPS did not ensure the personal hygiene of Park Seo Yeon, contrary to these standards. In the Ryanggang Provincial MPS Detention Centre, the MPS provided her and other detainees with blankets that were unwashed and dirty with blood, urine and excrement. As shown in Section 4.3.1, detainees could only wash their clothes by hand in water pails, without any soap or cleaning agents. In the Hamhung re-education camp, detainees possessed only two sets of clothing so that detainees could not change them on a regular basis to ensure their health and cleanliness. This contributed to the widespread vermin, lice and ticks. The DPRK thus violated international standards on torture and CIDT by detaining Park Seo Yeon in unhygienic conditions in Ryanggang Provincial MPS Detention Centre and Hamhung re-education camp.

**III. Food**

By depriving Park Seo Yeon of adequate food, the DPRK violated international standards on torture and CIDT. Food deprivation consists of complete or partial deprivation or manipulation of food, and has long-lasting effects on the physical and mental health of a detainee. The complete denial of food,[[140]](#footnote-140) the provision of food that lacks nutritional value,[[141]](#footnote-141) or food containing inedible elements contribute to a violation of the prohibition of torture and CIDT.[[142]](#footnote-142) Such conditions constitute unnecessary hardship in breach of Article 10(1) ICCPR.[[143]](#footnote-143) The Nelson Mandela Rules accordingly prohibit the reduction of food or drinking water as a disciplinary sanction and affirm the DPRK’s obligation to provide detainees with food of nutritional value and drinking water adequate for health and strength that is well prepared and served. As these constitute minimum standards, states cannot be exempted from complying with these provisions on the basis of economic or budgetary considerations.[[144]](#footnote-144)

As outlined above, Group 109, and the MPS subjected Park Seo Yeon to food deprivation during her detention. In the 109 Sangmu task force office, task force officers partially deprived her of food as she only received one meal per day. In the Ryanggang Provincial MPS Detention Centre, the MPS provided Park Seo Yeon with food lacking nutritional value that consisted of cooked corn and beans along with grains and salted cabbage, thereby being comparable to animal food. Similarly, in the Hamhung re-education camp, MPS officers only provided Park Seo Yeon with food lacking nutritional value. As set out in Section 4.5.1, detainees received block rice as a meal and salted cabbage as a snack. This food led to mass malnourishment such that some detainees were forced to forage for edible grass. Such food of insufficient nutritional value contributed to the spread of diarrhoea. Further, snacks were withheld on the basis of the guards’ temper rather than the internal policy of the detention facility.

The HRC considers a degrading manner of providing food, alongside other abuses, as amounting to torture and CIDT.[[145]](#footnote-145) In the Ryanggang Provincial MPS Detention Centre, the MPS failed to act accordingly by not providing Park Seo Yeon with cutlery, thus not respecting her dignity. The DPRK hence violated international standards on the provision of food by subjecting Park Seo Yeon to these conditions.  
 **IV. Incommunicado Detention**

The DPRK violated Park Seo Yeon’s right to communicate with the outside world during her detention. Incommunicado detention refers to a situation in which a detainee is prevented from communicating with the outside world.[[146]](#footnote-146) The HRC considers that restricting detainees’ communication with family members, lawyers or doctors constitutes a violation of international standards prohibiting torture and CIDT.[[147]](#footnote-147) Hence, it urges states to adopt provisions and safeguards against incommunicado detention.[[148]](#footnote-148) The Nelson Mandela Rules reaffirm the right of detainees to communicate with their family and friends in writing, by using telecommunication, electronic, digital and other means, and by receiving visits.[[149]](#footnote-149) Further, states must ensure communication and consultation with a legal adviser or a legal aid provider of the detainee’s own choice, guaranteeing full confidentiality.[[150]](#footnote-150) In accordance with the Nelson Mandela Rules, authorities may under no circumstances make a detainee’s contact with the outside world dependent upon its cooperativeness or use its disciplinary sanction.[[151]](#footnote-151)

Under prosecution custody from July to August 2007, Park Seo Yeon was not allowed to contact her family for a period of one month. In the Ryanggang Provincial MPS Detention Centre, the prison authorities restricted the detainees in-person contact with their families, with visits being allowed only once a month or every six months.

The conditions of detention in relations to accommodation, hygiene, food and incommunicado detention to which Park Seo Yeon was subjected in the Sangmu 109 task force office, the Ryanggang Provincial Prosecution Office, the Ryanggang Provincial MPS Detention Centre, and the Hamhung re-education camp, taken cumulatively with other abuses set out in this section, reveal that the DPRK violated its obligation to refrain from torture and CIDT.

# 6. Conclusion

The experiences of Park Seo Yeon present a clear violation by the DPRK of its international obligations, specifically the duty to refrain from torture and CIDT. This report has demonstrated that during her detention, Park Seo Yeon was subjected to severe and systematic beatings and other acts of physical torture and ill-treatment, severe mental suffering including for the purpose of extracting confessions, solitary confinement, and inhuman conditions of detention. Our legal analysis proved that the abusive treatment she received during her detention cumulatively amounts to torture and CIDT. Through the use of crucial data from KF, it has been shown that Park Seo Yeon’s experience is illustrative of a typical detainee experience in DPRK penal facilities, where the aforementioned violations are systematic.

The DPRK has obligations, under both treaty and customary international law, to which it freely and willingly consented, to refrain from torture and CIDT. Though its penal system is opaque, the primary criminal legislation and the leadership structure of the various enforcement agencies speak to the blurred lines around regulation and accountability within the sphere, and this ambiguity can provide cover to various abuses. KF documented widespread abuses across facilities under different agencies, proving the pervasive nature of the violations.

There is an urgent need for the DPRK to be held accountable for its violations of international law regarding its treatment of Park Seo Yeon and for the DPRK to review its penal facilities and detention system to conform with its international obligations.

1. International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR); the DPRK acceded to the ICCPR on 14 September 1981. [↑](#footnote-ref-1)
2. International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 03 January 1976) 993 UNTS 3 (ICESCR); the DPRK acceded to the ICESCR on 14 September 1981. [↑](#footnote-ref-2)
3. Convention on the Right of the Child (adopted 20 November 1989, entered into force 02 September 1990) 1577 UNTS 3 (CRC); the DPRK ratified the CRC on 21 September 1990. [↑](#footnote-ref-3)
4. Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 03 May 2008) 2515 UNTS 3 (CRPD); the DPRK ratified the DRPD on 6 December 2016. [↑](#footnote-ref-4)
5. *Prosecutor v Zejnil Delalic and others* [1998] ICTY IT-96-21-T, para 454; *Al-Adsani v UK* [2001] ECtHR App no 35763/97; *Prosecutor v Anto Furundzija* [1998] ICTY IT-95-17/1-T. [↑](#footnote-ref-5)
6. Recognised as such in *Prosecutor v Anto Furundzija* [1998] ICTY IT-95-17/1-T. [↑](#footnote-ref-6)
7. Jordan J Paust, ‘The Absolute Prohibition of Torture and Necessary and Appropriate Sanctions Symposium - Torture Justifiable’ (2008) 43 Valparaiso University Law Review 1535, 1536. [↑](#footnote-ref-7)
8. Dinah L Shelton, ‘Soft Law’, in David Armstrong, Jutta Brunée, Michael Byers, John H. Jackson, David Kennedy (eds), *Handbook of International Law* (Routledge Press 2008). [↑](#footnote-ref-8)
9. UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners* (adopted 17 December 2015) A/RES/70/175 *(the Nelson Mandela Rules).* [↑](#footnote-ref-9)
10. UN General Assembly, *The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (adopted 9 December 1988) A/RES/43/173 (*the Body of Principles*). [↑](#footnote-ref-10)
11. Korea Future, ‘Ministry of People’s Security’ <<https://nkrf.io/en/entity/rejatm1a2q>> accessed 4 July 2022. [↑](#footnote-ref-11)
12. 형법 2015 [Criminal Law of the Democratic People's Republic of Korea (2015)] (*Law and North Korea*, translated by Daye Gang) <<https://www.lawandnorthkorea.com/laws/criminal-law-2015>> accessed 19 June 2022 (*Criminal Code*); 형사소송법 2012 [Criminal Procedure Law of the Democratic People's Republic of Korea (2012)] (*Law and North Korea*, translated by Daye Gang) <[https://www.lawandnorthkorea.com/laws/criminal-procedure-law-2012](https://www.lawandnorthkorea.com/laws/criminal-procedure-law-2012%3E)> accessed 19 June 2022 (*Criminal Procedure Code*). [↑](#footnote-ref-12)
13. UN Human Rights Council, ‘Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea’ (2018) UN Doc A/HRC/37/69, para 18. [↑](#footnote-ref-13)
14. Korea Future, ‘North Korean Prison Database’ (2022) Volume 1 <<https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database_+Volume+I.pdf>> accessed 03 July 2022, 12. [↑](#footnote-ref-14)
15. Ibid, 16. [↑](#footnote-ref-15)
16. Ibid [↑](#footnote-ref-16)
17. Ibid [↑](#footnote-ref-17)
18. Korea Future, ‘Organisations – Ministry of People’s Security’ <<https://nkrf.io/en/entity/rejatm1a2q>> accessed 26 May 2022; Ken Gause, ‘Coercion, Control, Surveillance and Punishment: An Examination of the North Korean Police State’ (*The Committee for Human Rights in North Korea*, 2012) <<https://www.hrnk.org/uploads/pdfs/HRNK_Ken-Gause_Web.pdf>> accessed 3 July 2022, 26. [↑](#footnote-ref-18)
19. Korea Future, ‘North Korean Prison Database’ (2022) Volume 1 <<https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database_+Volume+I.pdf>> accessed 03 July 2022, 22. [↑](#footnote-ref-19)
20. Ibid [↑](#footnote-ref-20)
21. Korea Future, ‘North Korean Prison Database’ (2022) Volume 1 <<https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database_+Volume+I.pdf>> accessed 03 July 2022, 17. [↑](#footnote-ref-21)
22. Article 47 DPRK Criminal Procedure Code; Korea Future, ‘North Korean Prison Database’ (2022) Volume 1 <<https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database_+Volume+I.pdf>> accessed 03 July 2022, 17. [↑](#footnote-ref-22)
23. UN General Assembly, ‘Report of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea’ (2014) UN Doc A/HRC/25/63. [↑](#footnote-ref-23)
24. Korea Future, ’North Korean Prison Database‘ (2022) Volume 1 <<https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database_+Volume+I.pdf>> accessed 03 July 2022, 17. [↑](#footnote-ref-24)
25. Ibid [↑](#footnote-ref-25)
26. Korea Future, ‘The North Korean Prison Database’ <https://nkpd.io/> accessed 3 July 2022. [↑](#footnote-ref-26)
27. Article 153, Constitution of the Democratic People’s Republic of Korea; Britannica, ‘North Korea. Government and society’ <<https://www.britannica.com/place/North-Korea/Local-government>> accessed 3 July 2022; North Korea Leadership Watch, ‘Centra Public Prosecutor’s Office’ <h[ttps://nkleadershipwatch.files.wordpress.com/2010/01/central-public-prosecutor.pdf](https://nkleadershipwatch.files.wordpress.com/2010/01/central-public-prosecutor.pdf)> accessed 3 July 2022. [↑](#footnote-ref-27)
28. Human Rights Watch, ‘“Worth Less Than an Animal”: Abuses and Due Process Violations in Pretrial Detention in North Korea’ (*Human Rights Watch,* 19 October 2020) <<https://www.hrw.org/report/2020/10/19/worth-less-animal/abuses-and-due-process-violations-pretrial-detention-north>> accessed 3 July 2022; see also Ken Gause, ‘Coercion, Control, Surveillance and Punishment: An Examination of the North Korean Police State’ (*The Committee for Human Rights in North Korea,* 2012) <<https://www.hrnk.org/uploads/pdfs/HRNK_Ken-Gause_Web.pdf>> accessed 3 July 2022, 93, 94. [↑](#footnote-ref-28)
29. Human Rights Watch, ‘“Worth Less Than an Animal”: Abuses and Due Process Violations in Pretrial Detention in North Korea’ (*Human Rights Watch,* 19 October 2020) <<https://www.hrw.org/report/2020/10/19/worth-less-animal/abuses-and-due-process-violations-pretrial-detention-north>> accessed 3 July 2022. [↑](#footnote-ref-29)
30. See, for example Article 14 ICCPR. [↑](#footnote-ref-30)
31. Human Rights Watch, ‘“Worth Less Than an Animal”: Abuses and Due Process Violations in Pretrial Detention in North Korea’ (*Human Rights Watch,* 19 October 2020) <https://www.hrw.org/report/2020/10/19/worth-less-animal/abuses-and-due-process-violations-pretrial-detention-north> accessed 3 July 2022; *the Body of Principles*; *the Nelson Mandela Rules*. [↑](#footnote-ref-31)
32. Article 37 and 166 DPRK Criminal Procedure Code. [↑](#footnote-ref-32)
33. Article 37 and 166 DPRK Criminal Procedure Code. [↑](#footnote-ref-33)
34. Article 166 Criminal Procedure Code. [↑](#footnote-ref-34)
35. Systemic abuses of detainees have been documented and linked to legal failures, see UN General Assembly, ‘Situation of human rights in the Democratic People’s Republic of Korea. Report of the Secretary General’ (2021) UN Doc A/76/242; see als Kyu-chang Lee, Sookyung Kim, Ji Sun Yee, Eun Mee Jeong, Yejoon Rim, ‘White Paper on Human Rights in North Korea 2020’ (Korea Institute for National Unification, September 2020) <https://www.kinu.or.kr/pyxis-api/1/digital-files/0217f31a-0405-4171-8c17-eb38de070a81> accessed 03 July 2022, 208; Tae-Ung Baik, ‘Nonjudicial Punishments of Political Offenses in North Korea – With a Focus on Kwanriso’ (2017) 64 Am J Comp Law 891, 895-896. [↑](#footnote-ref-35)
36. Article 283 DPRK Criminal Procedure Code. [↑](#footnote-ref-36)
37. Human Rights Watch, ‘“Worth Less Than an Animal”: Abuses and Due Process Violations in Pretrial Detention in North Korea’ (*Human Rights Watch,* 19 October 2020) <https://www.hrw.org/report/2020/10/19/worth-less-animal/abuses-and-due-process-violations-pretrial-detention-north> accessed 3 July 2022. [↑](#footnote-ref-37)
38. Article 158 DPRK Criminal Procedure Code. [↑](#footnote-ref-38)
39. UN Human Rights Council, ‘Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea’ (2014) UN Doc A/HRC/25/CRP.1, para 123. [↑](#footnote-ref-39)
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41. Article 11 and Article 109 Constitution of the Democratic People’s Republic of Korea. [↑](#footnote-ref-41)
42. Human Rights Watch, ‘“Worth Less Than an Animal”: Abuses and Due Process Violations in Pretrial Detention in North Korea’ (*Human Rights Watch,* 19 October 2020) <https://www.hrw.org/report/2020/10/19/worth-less-animal/abuses-and-due-process-violations-pretrial-detention-north> accessed 3 July 2022, 24. [↑](#footnote-ref-42)
43. UN Human Rights Council, ‘Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea’ (2014) UN Doc A/HRC/25/CRP.1, para 122. [↑](#footnote-ref-43)
44. Korea Future, ’North Korean Prison Database‘ (2022) Volume 1 <<https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database_+Volume+I.pdf>> accessed 03 July 2022, 6. [↑](#footnote-ref-44)
45. Ibid, 8. [↑](#footnote-ref-45)
46. Korea Future, ‘North Korean Prison Database’ (2021) Briefing Report, 30. [↑](#footnote-ref-46)
47. Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-47)
48. 221 cases of severe physical assault inclusive of corporal punishment are attributed to the MPS. See Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-48)
49. 174 cases of severe physical assault inclusive of corporal punishment are attributed to the MSS. See Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-49)
50. 45 cases of severe physical assault inclusive of corporal punishment are attributed to the People’s Committee of North Korea. See Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-50)
51. Korea Future, ’North Korean Prison Database‘ (2022) Volume 1 <https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database\_+Volume+I.pdf> accessed 03 July 2022, 59; Victim Case A1347 in Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-51)
52. Korea Future, ‘North Korean Prison Database’ (2021) Briefing Report, 30. [↑](#footnote-ref-52)
53. Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-53)
54. Korea Future, ’North Korean Prison Database‘ (2022) Volume 1 <https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database\_+Volume+I.pdf> accessed 03 July 2022, 49; Victim Case A0953 in Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-54)
55. Korea Future, ‘North Korean Prison Database’ (2021) Briefing Report, 6; Korea Future, ‘North Korean Prison Database’ (2022) Volume 1 <https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database\_+Volume+I.pdf> accessed 03 July 2022, 5. [↑](#footnote-ref-55)
56. Korea Future, ‘North Korean Prison Database’ (2022) Volume 1 <https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database\_+Volume+I.pdf> accessed 03 July 2022, 60; Victim Case A0953 and Victim Case A1347 in Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-56)
57. Korea Future, ‘North Korean Prison Database’ (2022) Volume 1 <https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database\_+Volume+I.pdf> accessed 03 July 2022, 38. [↑](#footnote-ref-57)
58. Korea Future, ’North Korean Prison Database‘ (2022) Volume 1 <https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database\_+Volume+I.pdf> accessed 03 July 2022, 50. [↑](#footnote-ref-58)
59. Korea Future, ‘North Korean Prison Database’ (2021) Briefing Report, 38. [↑](#footnote-ref-59)
60. Korea Future, ’North Korean Prison Database‘ (2022) Volume 1 <https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/623e3d6eb31389798c45fedf/1648246156325/North+Korean+Prison+Database\_+Volume+I.pdf> accessed 03 July 2022, 60. [↑](#footnote-ref-60)
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62. Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-62)
63. Korea Future, ‘North Korean Prison Database’ (2021) Briefing Report, 34; Victim Case A0798 in Korea Future, ‘The North Korean Prison Database’ <<https://nkpd.io/>> accessed 03 July 2022. [↑](#footnote-ref-63)
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66. Ibid [↑](#footnote-ref-66)
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69. UN Human Rights Council, ‘Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea’ (2014) UN Doc A/HRC/25/CRP.1, para 217; Robert King, ‘North Koreans Want External Information, But Kim Jong-Un Seeks to Limit Access’ (*Center for Strategic & International Studies*, 15 May 2019) <<https://www.csis.org/analysis/north-koreans-want-external-information-kim-jong-un-seeks-limit-access>> accessed 5 June 2022. [↑](#footnote-ref-69)
70. Robert King, North Koreans Want External Information, But Kim Jong-Un Seeks to Limit Access’ (*Center for Strategic & International Studies*, 15 May 2019) <<https://www.csis.org/analysis/north-koreans-want-external-information-kim-jong-un-seeks-limit-access>> accessed 5 June 2022. [↑](#footnote-ref-70)
71. UN Human Rights Council, ‘Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea’ (2014) UN Doc A/HRC/25/CRP.1, para 217. [↑](#footnote-ref-71)
72. See Article 179 DPRK Criminal procedure Code: “Arrest shall be done by the detective or investigator. Arrests may not be carried out without an arrest warrant.” [↑](#footnote-ref-72)
73. Article 181 DPRK Criminal Procedure Code. [↑](#footnote-ref-73)
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77. The first names of those perpetrators identified with mr./ms. are unknown to KF. [↑](#footnote-ref-77)
78. Recognised as such in *Prosecutor v Zejnil Delalic and others* [1998] ICTY IT-96-21-T, para 454; *Al-Adsani v UK* [2001] ECtHR App no 35763/97; *Prosecutor v Anto Furundzija* [1998] ICTY IT-95-17/1-T. [↑](#footnote-ref-78)
79. Jordan J Paust, ‘The Absolute Prohibition of Torture and Necessary and Appropriate Sanctions Symposium - Torture Justifiable’ (2008) 43 Valparaiso University Law Review 1535, 1536. [↑](#footnote-ref-79)
80. UN Human Rights Committee, ‘CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)’ (1992); Under Article 4 ICCPR, States may ‘derogate’ from, or suspend, their ICCPR duties in times of public emergency so long as such derogation is justified ‘by the exigencies of the situation’. Certain rights however may never be the subject of derogation, including Article 7. [↑](#footnote-ref-80)
81. See Article 2(1) ICCPR: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” [↑](#footnote-ref-81)
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83. UN Human Rights Committee, ‘CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)’ (1992), para 11. [↑](#footnote-ref-83)
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87. *Freemantle v Jamaica* [2000] UN Human Rights Committee Communication No 625/1995. [↑](#footnote-ref-87)
88. *Robinson v Jamaica* [2000] UN Human Rights Committee Communication No 731/1996. [↑](#footnote-ref-88)
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90. Nigel Rodley, Matt Pollard, *The Treatment of Prisoners under International Law* (Third edition, Oxford University Press 2011), 384. [↑](#footnote-ref-90)
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92. see, for example: *Womah Mukong v Cameroon* [1994] UN Human Rights Committee Communication No 458/1991; UN Human Rights Committee, ‘Concluding Observations on the fifth periodic report of Romania’ (2017) CCPR/C/ROU/CO/5, para 32; UN Human Rights Committee, ‘Concluding Observations on the fifth periodic report of Cameroon’ (2017) CCPR/C/CMR/CO/5, para 29; UN Human Rights Committee, ‘Concluding Observations on the fourth periodic report of the Democratic Republic of the Congo’ (2017) CCPR/C/ COD/CO/4, para 34. [↑](#footnote-ref-92)
93. UN Human Rights Committee, ‘CCPR General Comment No. 21: Article 10 (Humane Treatment of Persons Deprived of Their Liberty)’ (1992) UN Doc HRI/GEN/1/Rev.1, para 5. [↑](#footnote-ref-93)
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95. UN Human Rights Committee, ‘CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)’ (1992), para 5; UN Human Rights Council, ‘Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak’ (2010) UN Doc A/HRC/13/39, para 30. [↑](#footnote-ref-95)
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99. UN Human Rights Committee, ‘CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)’ (1992), para 5. [↑](#footnote-ref-99)
100. UN Human Rights Committee, ‘CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)’ (1992), para 6; see also UN Human Rights Committee, ‘Concluding Observations of the Human Rights Committee on Norway’ (2011) UN Doc CCPR/C/NOR/CO/6, para 11. [↑](#footnote-ref-100)
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106. *Maryam Khalilova v Tajikistan* [2005] UN Human Rights Committee Communication No 973/2001; *Yubraj Giri v Nepal* [2011] UN Human Rights Committee Communication No 1761/2008; *Khalmanmatov v Kyrgyzstan* [2020] UN Human Rights Committee Communication No 2384/2013; *Sbornov v Russian Federation* [2019] UN Human Rights Committee Communication No 2699/2015. [↑](#footnote-ref-106)
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     para. 8.3; *A.P. v Ukraine* [2012] UN Human rights Committee Communication No 1834/2008, para 8.4; *Miguel Angel Estrella v Uruguay* [1990] UN Human Rights Committee Communication No 74/1980, para 8.3; *Baldeón-García v Perú,* Inter-American Court of Human Rights SeriesC No 147 (6 April 2006) para 119; *Tibi v Ecuador,* Inter-American Court of Human Rights Series C No 114 (7 September 2004) paras 147–149; *Gäfgen v Germany* [2010] ECHR Application No 22978/05, para. 108; UN Committee against Torture, ‘Concluding observations of the Committee against Torture: Kazakhstan’ UN Doc CAT/C/KAZ/CO/2, para 7; UN Committee Against Torture, ‘Conclusions and recommendations of the Committee against Torture: United States of America’ (2006) CAT/C/USA/CO/2, para. 24. [↑](#footnote-ref-109)
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112. General clause, *the Body of Principles*. [↑](#footnote-ref-112)
113. UN Human Rights Council, ‘Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ (2020) A/HRC/43/49, para 26. [↑](#footnote-ref-113)
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115. The illustrative case in this regard is *Ireland v UK* Report of the Commission of 25 January 1976, ECHR Ser B, No. 23–1, 410, where the European Commission of Human Rights considered sleep deprivation as part of five torture techniques used “for the purpose of inducing a person to give information”. See also: UN Committee against Torture, [‘Report of the Committee Against Torture’ (1997)](https://opil-ouplaw-com.proxy.uba.uva.nl/view/10.1093/law/9780198846178.001.0001/law-9780198846178-bibliography-1#law-9780198846178-bibliography-1-bibItem-848) UN Doc A/52/44, para 56; UN Committee against Torture, ‘Report on Israel’ (1998) UN Doc CAT/C/SR.336; UNSRT, ‘Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular: torture and other cruel, inhuman or degrading treatment or punishment’ (1997) UN Doc E/CN.4/1997/7, paras 27, 121 and 162. [↑](#footnote-ref-115)
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117. Ibid [↑](#footnote-ref-117)
118. Rule 44 *the Nelson Mandela Rules*. [↑](#footnote-ref-118)
119. Juan E. Méndez, ‘Torture, Solitary Confinement, and International Law’ in Jules Lobel and Peter Scharff Smith (eds), *Solitary Confinement: Effects, Practices, and Pathway toward Reform* (Oxford University Press 2020), 117-118. [↑](#footnote-ref-119)
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121. UNGA ‘Interim report of the Special Rapporteur of the Human Rights council on torture and other cruel, inhuman or degrading treatment or punishment’ (2011) UN Doc A/66/268, para 75. [↑](#footnote-ref-121)
122. Rule 43 para 1 (a) and (b), Rule 44 *the Nelson Mandela Rules*; see also UNGA ‘Interim report of the Special Rapporteur of the Human Rights council on torture and other cruel, inhuman or degrading treatment or punishment’ (2011) UN Doc A/66/268, para 87; UN Human Rights Committee, ‘CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)’ (1992), para 6. [↑](#footnote-ref-122)
123. Rule 13 *the Nelson Mandela Rules*. [↑](#footnote-ref-123)
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     *Déogratias Niyonzima v. Burundi* [2014] UN Committee Against Torture Communication No 514/2012, para 2.7, 2.14; *Nevmerzhitsky v. Ukraine* [2005] ECtHR Application No. 54825/00, paras 32, 83, 86; *Neshkov and others v Bulgaria* [2015] ECtHR Applications nos 36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13, paras 246-256. [↑](#footnote-ref-126)
127. *Carmen Amendola Massiotti v Uruguay* [1982] UN Human Rights Committee Communication N. 25/1978, paras 11, 13; *Polay Campos v Peru* [1997] UN Human Rights Committee Communication No 577/1994, para 8.7; *Giri v Nepal* [2011] UN Human Rights Committee Communication No 1761/2008, paras 7.3, 7.9. [↑](#footnote-ref-127)
128. *Womah Mukong v Cameroon* [1994] UN Human Rights Committee Communication No 458/1991, para 7.5. [↑](#footnote-ref-128)
129. *Womah Mukong v Cameroon* [1994] UN Human Rights Committee Communication No 458/1991, para 9.3. [↑](#footnote-ref-129)
130. *Womah Mukong v Cameroon* [1994] UN Human Rights Committee Communication No 458/1991, para 9.3 and 9.1; *Carmen Amendola Massiotti v. Uruguay* [1982] UN Human Rights Committee Communication No 25/1978, paras 11, 13; see also *Sergei Kirsanov v Russian Federation* [2014] UN Committee Against Torture Communication No 478/2011, para 11.2; *Danilo Dimitrijevic v. Serbia and Montenegro* [2005] UN Committee Against Torture Communication No 172/2000, paras 2.2, 7.1. [↑](#footnote-ref-130)
131. *Giri v Nepal* [2011] UN Human Rights Committee Communication no. 1761/2008, 7.3, 7.6; see also *Déogratias Niyonzima v Burundi* [2014] Committee Against Torture Communication No. 514/2012, 2.7, 8.8; *Nevmerzhitsky v. Ukraine* [2005] ECtHR Application no. 54825/00, paras 32, 66, 86; *Neshkov and others v. Bulgaria* [2015] ECtHR Applications nos 36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13, paras 246-256. [↑](#footnote-ref-131)
132. Rules 15 and 18 *the Nelson Mandela Rules*. [↑](#footnote-ref-132)
133. *Carmen Amendola Massiotti v. Uruguay* [1982] UN Human Rights Committee Communication No 25/1978, paras 11, 13; see also *Déogratias Niyonzima v Burundi* [2014] Committee Against Torture Communication No 514/2012, para 2.7. [↑](#footnote-ref-133)
134. *Giri v Nepal* [2011] UN Human Rights Committee Communication No 1761/2008, paras 7.3, 7.6; see also *Danilo Dimitrijevic v. Serbia and Montenegro* [2005] UN Committee Against Torture Communication No 172/2000, para 2.2; *Déogratias Niyonzima v Burundi* [2014] Committee Against Torture Communication No 514/2012, para 2.14; *Nevmerzhitsky v. Ukraine* [2005] ECtHR Application no 54825/00, paras 32, 66, 86. [↑](#footnote-ref-134)
135. *Prosecutor v. Kvocka* [2001] ICTY IT-98-30/1-T, 58, 67; *Vélez Loor v. Panama,* Inter-American Court of Human Rights Series C No 132 (23 November 2010) 212; *Nevmerzhitsky v. Ukraine* [2005] ECtHR Application no. 54825/3 EHHR, paras 32, 66, 86. [↑](#footnote-ref-135)
136. *Carmen Amendola Massiotti v. Uruguay* [1982] UN Human Rights Committee Communication No 25/1978, paras 11, 13; *Giri v Nepal* [2011] UN Human Rights Committee Communication No 1761/2008, paras 7.3, 7.6. [↑](#footnote-ref-136)
137. Rule 15 and 16 *the Nelson Mandela Rules*. [↑](#footnote-ref-137)
138. *Womah Mukong v Cameroon* [1994] UN Human Rights Committee Communication No 458/1991, para 9.1; *Sergei Kirsanov v Russian Federation* [2014] Communication No 478/2011 CAT/C/52/D/478/2011, para 11.2; *Nevmerzhitsky v. Ukraine* [2005] EHHR 32, para 66, 86; *Neshkov and others v. Bulgaria* [2015] ECHR Applications nos 36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13, paras 246-256. [↑](#footnote-ref-138)
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140. *Womah Mukong v Cameroon* [1994] UN Human Rights Committee Communication No 458/1991, para 9.1; *Danilo Dimitrijevic v. Serbia and Montenegro* [2005] UN Committee Against Torture Communication No 172/2000, para 2.2. [↑](#footnote-ref-140)
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142. *Déogratias Niyonzima v Burundi* [2014] Committee Against Torture Communication No. 514/2012, para 2.7. [↑](#footnote-ref-142)
143. *Cariboni v Uruguay* [1987] UN Human Rights Committee Communication No 159/1983, paras 4, 10; *Carmen Amendola Massiotti v Uruguay* [1982] UN Human Rights Committee Communication No 25/1978, paras 11, 13. [↑](#footnote-ref-143)
144. *Womah Mukong v Cameroon* [1994] UN Human Rights Committee Communication No 458/1991, para 9.1. [↑](#footnote-ref-144)
145. *Cariboni v. Uruguay* [1987] UN Human Rights Committee Communication No 159/1983, paras, 4, 10; *Giri v Nepal* [2011] UN Human Rights Committee Communication No 1761/2008, paras 7.3, 7.6. [↑](#footnote-ref-145)
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147. *El-Megrisi v. Libya* [1994] UN Human Rights Committee Communication No 440/1990; *MacCallum v South Africa* [2010] UN Human Rights Committee Communication No 1818/2008; *Ennaâma Asfar v Morocco* [2016] Communication No 606/2014, para 13.9; *Celis Laureano v Peru* [1996] UN Human Rights Committee Communication No 540/1993, para 8.5; *Alwani v Libyan Arab Jamahiriya* [2007] UN Human Rights Committee Communication No 1295/2004, para 6.5. [↑](#footnote-ref-147)
148. UN Human Rights Committee, ‘CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)’ (1992). [↑](#footnote-ref-148)
149. Rule 58 *the Nelson Mandela Rules*. [↑](#footnote-ref-149)
150. Rule 61 *the Nelson Mandela Rules.*  [↑](#footnote-ref-150)
151. Rule 43 (3) *the Nelson Mandela Rules*; UN General Assembly ‘Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment’ (2013) UN Doc A/68/295, para 41. [↑](#footnote-ref-151)