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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by US Committee for Human Rights in North Korea, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 May 2021]

* Issued as received, in the language(s) of submission only.



HRNK submission

The US Committee for Human Rights in North Korea (HRNK) wishes to thank you for your work on combating trafficking in persons. We ask to bring your attention to the plight of North Korean women and children in particular, who are victims of trafficking based on the policies and practices of the Democratic People's Republic of Korea (DPRK) and the People's Republic of China (PRC). This remains a serious and life-threatening concern for vulnerable North Koreans now more than ever during the pandemic.

As you know, the definition of "trafficking in persons" according to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking in Persons Protocol)¹ provides that exploitation is the express purpose of trafficking in persons. Exploitation includes forms of sexual exploitation and forced labor. Based on twenty years of experience as a Civil Society Organization (CSO) focusing on DPRK human rights, we see a continued pattern of exploitation by the DPRK and PRC against vulnerable DPRK persons, especially women and children.

The DPRK acceded to the United Nations Convention against Transnational Organized Crime and the Protocols Thereto (Palermo Convention)² on 17 June 2016 but has not acceded to or ratified the Trafficking in Persons Protocol.³ Regardless, the General Assembly adopted the Trafficking in Persons Protocol as part of the Palermo Convention as per paragraph 2. Based on the DPRK's agreed upon international human rights covenants, the DPRK has a positive obligation to protect individuals from human rights abuses by private actors and an obligation to respect human rights. However, in the case of the DPRK, it also acts as an "organized criminal group," particularly regarding the use of forced labor or modern-day slavery.⁴ The DPRK is not only a perpetrator of modern-day slavery, but it maintains the highest prevalence of slavery in the world.⁵

The DPRK ratified the International Covenant on Civil and Political Rights (ICCPR) that states at Article 8(3)(a), "No one shall be required to perform forced or compulsory labour." While this article does not preclude hard labor as a punishment for a crime, international human rights law prohibits the arbitrary detention and inhumane treatment of prisoners. The UN Commission of Inquiry on human rights in the DPRK has established that the DPRK has been committing crimes against humanity, including against prisoners in DPRK prison camps.⁶ The state imprisons those suspected of disloyalty as political prisoners and forces them to engage in labor that has repeatedly been reported as causing death and disease.

We draw your attention to the DPRK's criminal code. Article 221 of the DPRK's 2015 Criminal Law makes it a crime to "illegally" cross the border. Except for the few privileged elites with exceptional songbun (loyalty-based social-political class) in the DPRK, the

¹ Available at <https://ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

² United Nations Convention against Transnational Organized Crime and the Protocols Thereto, entry into force 29 September 2003, https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THEREO.pdf.

³ Available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en.

⁴ For a discussion of the DPRK's practice of forced labor overseas, see HRNK Executive Director Greg Scarlatoiu's statement to the U.S. Congress in 2015 at <https://hrnk.org/events/congressional-hearings-view.php?id=11>.

⁵ Available at https://downloads.globalslaveryindex.org/ephemeral/GSI-2018_FNL_190828_CO_DIGITAL_P-1621963158.pdf.

⁶ Human Rights Council, Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People's Republic of Korea -A/HRC/25/CRP.1, 7 February 2014, <https://ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/CommissionInquiryonHRinDPRK.aspx>.

people are prohibited from traveling within their country and abroad. This is a violation of the right to liberty of movement under Article 12 of the ICCPR.

Under Article 63 (Treason to State), a North Korean who “defects to a foreign country in betrayal of the country...shall be committed to more than five years of reform through labor.” Reform through labor for an indefinite period or the death penalty and confiscation of property can also be imposed “in case of an extremely grave crime.” In fact, these laws amount to political discrimination at the highest levels and have led to death through forced labor due to the harsh punishment meted out by the DPRK’s internal security forces operating its prison facilities. North Koreans who are caught attempting to flee their country, or worse, arrested in China by PRC security officials and forcibly repatriated are deemed traitors to their country.

Since 2018 HRNK has conducted a project with the International Bar Association to document evidence of crimes against humanity in North Korea’s detention facilities. Of the 55 former DPRK prisoners interviewed, women who had stayed in the PRC, as evidenced by their language skills, by having children in the PRC, or being pregnant upon forcible repatriation from the PRC, were seen as traitors to the DPRK state by the Ministry of State Security (MSS) and at times treated more harshly. Prisoners repeated the sentiment from prison officials that women with ‘half-Chinese’ babies or “Chinese seed” were traitors to their country. Prisoners recalled forced abortions and/or times when pregnant women were forced to work in the fields despite needing medical care.

If there is evidence indicating a woman might have tried to flee the DPRK to the Republic of Korea (ROK) or was in contact with a Christian church, the more likely she is to be deemed a political traitor to Kim Jong-un. As a result, she is more likely to undergo extensive and brutal interrogation by the MSS, including a forced pregnancy test and forced abortion if she is pregnant by a man from the PRC. She may then be disappeared to one of the DPRK’s six known political prison camps.

In these camps, prisoners are almost never released and serve life sentences until they succumb to crimes against humanity perpetrated inside the prisons. Family members of these prisoners may be sent to these prisons too, regardless of the DPRK’s legislation known to the international community. Even if the Criminal Law is adhered to, serving a year or less in a mobile labor brigade, for example, is known to result in prisoner deaths due to the previously mentioned lack of food and medicine, harsh forced labor, grossly inadequate prison conditions, and prisoner abuse, including torture, sexual violence, and inhumane treatment.

HRNK has interviewed hundreds of North Korean refugees who had no choice but to escape their country, although they faced forcible repatriation by the PRC and interrogation, torture, and imprisonment upon return to the DPRK as highlighted above. Many North Korean refugees have been women and children. Women have assumed primary responsibility for the survival of their families after the collapse of the DPRK’s public distribution system in the 1990s. That was the time of the famine referred to as the “Arduous March.” Difficult circumstances have continued to define the lives of North Koreans since that time.

Due to this vulnerability, the DPRK’s domestic legislation that contravenes its own international human rights obligations, and its known policies and practices that result in crimes against humanity, it is especially women and children who have been exploited by human traffickers on both sides of the Sino-DPRK border.

Many of these women and girls’ stories reference sexual and gender-based violence (SGBV) at the hands of the trafficker, the Chinese ‘husband,’ or the Chinese husband’s family (and sometimes all three). A major contributor is the lack of options in China to be recognized with any legal status and/or apply for asylum despite China’s international legal obligations, namely the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. If forcibly returned to the DPRK, North Korean refugees face a credible fear of persecution, involving harsh interrogation, torture, imprisonment, and in some cases death. For trafficking victims and those escapees on the run, this causes their existence in the PRC to be highly secretive, only known to the trafficker and his or her buyers and perhaps some in the rural villages where the North Korean women and girls now live.

In the midst of today's coronavirus pandemic and in light of the Chinese Communist Party's crackdown on ROK CSOs and churches in the PRC that had been assisting North Koreans in crisis, women and girls face a heightened risk of SGBV as they have fewer options to escape. They have likely been pushed deeper into isolation, hiding, and confinement due, in part, to the coronavirus as well as discriminatory and oppressive DPRK and PRC policies.⁷

The DPRK must reconsider Articles 63 and 221 of its criminal code and must cease and desist those state policies and practices that contribute to this cycle of oppression and violence affecting North Koreans. In addition, the PRC acceded to the Trafficking in Persons Protocol on 8 February 2010.⁸ Under Article 7, the PRC should "consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in [its] territory, temporarily or permanently, in appropriate cases" and "shall give appropriate consideration to humanitarian and compassionate factors."

HRNK calls for a continued human rights-based approach to combating trafficking in persons, especially women and children, in the DPRK and the PRC.

⁷ Available at <https://unhcr.org/uk/news/press/2020/4/5e998aca4/displaced-stateless-women-girls-heightened-risk-gender-based-violence-coronavirus.html>.

⁸ Available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en#1.