

CORI

country of origin research and information

CORI Country Report Democratic People's Republic of Korea, October 2012

Commissioned by the United Nations High Commissioner for Refugees, Division of International Protection.
Any views expressed in this paper are those of the author and are not necessarily those of UNHCR.



Preface

Country of Origin Information (COI) is required within Refugee Status Determination (RSD) to provide objective evidence on conditions in refugee producing countries to support decision making. Quality information about human rights, legal provisions, politics, culture, society, religion and healthcare in countries of origin is essential in establishing whether or not a person's fear of persecution is well founded.

CORI Country Reports are designed to aid decision making within RSD. They are not intended to be general reports on human rights conditions. They serve a specific purpose, collating legally relevant information on conditions in countries of origin, pertinent to the assessment of claims for asylum. Categories of COI included within this report are based on the most common issues arising from asylum applications made by nationals from the Democratic People's Republic of Korea. This report covers events up to 10 October 2012.

COI is a specific discipline distinct from academic, journalistic or policy writing, with its own conventions and protocols of professional standards as outlined in international guidance such as The Common EU Guidelines on Processing Country of Origin Information, 2008 and UNHCR, Country of Origin Information: Towards Enhanced International Cooperation, 2004.

CORI provides information impartially and objectively, the inclusion of source material in this report does not equate to CORI agreeing with its content or reflect CORI's position on conditions in a country. It is acknowledged that all sources have a bias, it is for decision makers to place a weight on sources, assessing relevance to each individual application.

CORI Country Reports are prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced. Every effort has been taken to ensure accuracy and comprehensive coverage of the research issues, however as COI is reliant on publicly available documentation there may be instances where the required information is not available. Any translations made are unofficial translations made by CORI, as with all sources referenced, please see the full text of the original article. The reports are not, and do not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

CORI is an independent centre providing specialist research resources to support Refugee Status Determination.

CORI works internationally with all parties to RSD, including governments, legal representatives and NGOs, producing commissioned research reports and providing knowledge management services. CORI works to improve standards of COI production through capacity building and training.

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A. Background Information

1. Government structures and political system

a. Role of the President

In 2012 the NGO, *US Committee for Human Rights in Korea*, published a report by Robert Collins, a former US Department of Defense North Korea analyst stated that the role of the Supreme Leader was to lead the party which in turn lead the nation-state and that the personality cult of the Kim family dominated the political system and stood above all forms of law,

“[] the North Korean political system is dominated by the Kim family’s personality cult. Governance is based on Kim family orders, which stand above the law, including the Constitution, all forms of civil law, or regulations, and even above the more influential Korean Workers’ Party (KWP) Charter. The specific hierarchy of authority in North Korea is the words or personal directives of Kim Jong-il; followed by the Ten Great Principles of Monolithic Ideology, KWP directives—particularly the policy guidance of the KWP Secretariat’s Organization and Guidance Department; the KWP Charter and domestic civil laws; and finally the 2009 North Korean Constitution. This political system was developed by Kim Il-sung who established the position of Suryeong (supreme leader) as not only leading the party but also defining the interests of the nation-state as well, in accordance with what the Suryeong dictates.

[] The “Suryeong” system of leadership stems from North Korea’s Juche political philosophy of self-reliance. The role of the Suryeong is to lead the socialist revolution through a correct (Juche) philosophical vision. The Suryeong leads the party, the party leads the nation-state, and the people serve the interests of the nation-state as determined by the Suryeong and the party. The institutionalization of the Suryeong is supported by North Korea’s cult of personality as applied to both Kim Il-sung and Kim Jong-il.”¹

In 2012 the NGO, *US Committee for Human Rights in Korea* published a report by Robert Collins, a former US Department of Defense North Korea analyst stated that the Supreme Leader also acted as the General Secretary of the Korean Workers Party, Chairman of the National Defence Commission and Supreme Commander of the Korean People’s Army,

“The Supreme Leader, or Suryeong is directly responsible for all aspects of songbun policy and its implementation; he wears all the principal “hats” in the North Korean political structure. As the KWP General Secretary, Kim Jong-il controlled all party policies, priorities, procedures, and personnel, including party secretaries. Kim Jong-un is likely to play a similar role. Local party secretaries implement songbun-related actions in their jurisdiction including investigations and songbun-related resource allocations such as jobs, housing, and medical treatment. The Suryeong provides instructions (or “guidance”) to the North Korean legal system in determining court judgments. As the Chairman of the National Defense Commission, Kim Jong-il controlled the Ministry of Public Security (MPS) which conducts periodic songbun investigations of every North Korean citizen and the State Security Department (SSD) which applies songbun as a factor in political crimes. As the Supreme Commander of the Korean People’s Army (KPA), Kim Jong-il controlled the system that assigns songbun categories within the military.”²

¹ Robert Collins, Marked for Life: Songbun, North Korea’s Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

² Robert Collins, Marked for Life: Songbun, North Korea’s Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

The 2011 *USDOS* country report on human rights practices stated that security forces report to the supreme leader of the DPRK who also fulfils the role of Supreme Commander of the Korean People's Army,

"The Democratic People's Republic of Korea (DPRK or North Korea) is an authoritarian state led by the Kim family for more than 60 years. On December 30, Kim Jong Un was named supreme commander of the Korean People's Army following the December 17 death of his father Kim Jong Il.

[] Security forces report to the supreme leader of North Korea, Kim Jong Un, and to the civilians and military officers that form the National Defense Commission, the supreme ruling body of the state."³

In August 2012 the *BBC Asia Pacific* North Korea Profile stated that Kim Jong-Un had succeeded his father Kim Jong-Il as leader of the Korean Worker's Party and First Chairman of the National Defence Commission,

"Kim Jong-un was groomed for power for several years before his father's death. In 2010 he had already been unveiled as Kim Jong-il's heir apparent, and was made a four-star general despite lacking any military experience.

Soon after the death of his father, North Korean state media lauded Kim Jong-un, the newly-appointed army supreme commander, as "a great person born of heaven" and anointed him the "Great Successor" of the philosophy of *juche* (self-reliance), signalling a continuation of the personality cult of the Kim family into a third generation.

In April 2012 he formally took over as leader of the ruling Workers Party, with the new title of First Secretary, as his late father became "Eternal General Secretary". He also became First Chairman of the highly-important National Defence Commission, with his late father promoted to "eternal chairman". His grandfather Kim Il-sung, who died in 1994, is the country's "Eternal President."⁴

b. Structure, power position and role of Korean Workers Party, including role and power of the Politbureau of the Central People's Committee

In 2012 the NGO, *US Committee for Human Rights in Korea* published a report by Robert Collins, a former US Department of Defense North Korea analyst stated that the Korean Worker's Party manages all aspects of the government and society and its authority exceeds that of all government statutes including the Constitution,

"The KWP, while maintaining the dominant political role within the North Korean party-state, came to serve the leader in primacy above all other political entities. As in other communist political systems, the state and society serve the party, and civil laws do not bind the party. In service to the *Suryeong*, the KWP manages all aspects of the government and society, and its authority is designed to exceed that of all government statutes, including the national Constitution in all five versions—1948, 1972, 1992, 1998, and 2009. The highest priorities of North Korea's dictatorship are the security of the leader and regime."⁵

³ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, 10 September 2012

⁴ BBC Asia Pacific, North Korea Profile, 7 August 2012, <http://www.bbc.co.uk/news/world-asia-pacific-15258881>, accessed 10 September 2010

⁵ The Committee for Human Rights in North Korea "Marked for Life: SONGBUN, North Korea's Social Classification System" by Robert Collins, 2011, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 08 September 2012

In 2012 a report by the *US Committee for Human Rights in North Korea* also stated that the Political Bureau exists outside the chief of staff chain of command and is responsible for monitoring members of the Korean Worker's Party,

"The Political Bureau exists outside of the chief of staff chain of command and is responsible for various party related functions. It reports directly to the minister, as does the Ministry's Security Department. [] North Korean press coverage identified Kim Po-kyong as a vice minister and Ri Pyong-sam as the director of the ministry's political bureau.

[] The Political Bureau is responsible for monitoring the lives and activities of party members. The bureau consists of approximately 10 departments, led by the organization, propaganda, and cadre departments. While the Political Bureau exists within the ministry chain of command, it is also under the control and guidance of the KWP Organization Guidance Department."⁶

In January 2011 the research and analysis blogsite *North Korean Leadership Watch* authored by Michael Madden, an expert on DPRK politics and history,⁷ stated that the Political Bureau is responsible for managing the Korean Worker's Party's political activities and is intended to be an interim authority between Party Central Committee plenums,

"The Central Committee of the Korean Workers' Party (CC KWP) is the KWP's chief policymaking body. It has the power to approve political and ideological campaigns and deliberates and advises on government policies (subsequently ratified by the Supreme People's Assembly or the Cabinet). The Central Committee also vets and approves personnel appointments in the Cabinet and Party, as well as military promotions. To establish the KWP's power monopoly in the DPRK, the Central Committee's Secretariat has at least 20 subordinate departments which manage paperwork, provide human resources functions and ensure political security.

[] The Political Bureau (Politburo) of the Party Central Committee is technically responsible for managing and coordinating the KWP's political activities, as well as deliberating on current events and policies, between Central Committee plenums (which are technically supposed to be held every six months). According to the KWP's by-laws the Political Bureau is required to meet once a month. The CC KWP General Affairs Department is responsible for the Political Bureau's paperwork and communications traffic, in coordination with the CC KWP Document #120 Office and Kim Jong Il's Personal Secretariat.

The Political Bureau is intended by the Party's by-laws to be an interim authority between Party Central Committee plenums ("direct all party work on behalf of the Central Committee between plenary meetings"). From the CC KWP's last plenum in December, 1993 to its September Plenary Meeting in September, 2010, Kim Jong Il utilized meetings of the Political Bureau (full and candidate members) to deliberate and devise party policy, in lieu of convening CC KWP plenums.

According to section 25 of Chapter 3 of the KWP Charter:

25. The Political Bureau and its Presidium of the party Central Committee organize and direct all party work on behalf of the party Central Committee between plenary meetings. The Political Bureau of the party Central Committee shall meet at least once every month."⁸

⁶ Committee for Human Rights in North Korea, *Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State*, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 12 September 2012

⁷ Michael Madden's biography can be found on the schedule for the Centre for Korean Research's event 'U.S. Approaches to New Leadership in the Koreas' <http://www.iar.ubc.ca/LinkClick.aspx?fileticket=V3HGvDmmTPQ%3D&tabid=297>, accessed 22 October 2012

⁸ North Korea Leadership Watch, *The Party, Political Bureau*, 23 January 2011, <http://nkleadershipwatch.wordpress.com/the-party/political-bureau/>, accessed 12 September 2012

In April 2012 the *USDOS* stated that the Political Bureau is the highest policy making body of the KWP,

“The Politburo of the Central People's Committee is the top policymaking body of the KWP, which also plays a role as the dominant social institution in North Korea.”⁹

c. Role, power and relevance of other political parties (including Korean Social Democratic Party and Chondoist Chongu Party)

In 2012 the NGO, *US Committee for Human Rights in Korea* published a report by Robert Collins, a former US Department of Defense North Korea analyst stated that all political parties other than the Korean Worker's Party have no political function or power in DPRK,

“The Korean Workers' Party is the ruling party of North Korea. Four other parties exist in North Korea: the Communist Party, the South Korean Labor Party, the Korean Social Democratic Party and the Chondoist Chongu Party, which serve as front parties for external relations with other nations' parties but have no other political function or power in North Korea.”¹⁰

In April 2012 the *USDOS* stated that several “minority parties” had been created by the government and that the concept of competition between parties had been regularly criticised by the government,

“The government has created several “minority parties.” Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. The government regularly criticized the concept of free elections and competition among political parties as an “artifact” of “capitalist decay.”¹¹

d. Role and power of the State Administration Council (SAC)

In April 2012 the *USDOS* stated that the State Administration Council was one of three key entities which controlled the government,

“Three key entities control the government of the D.P.R.K. The cabinet, formerly known as the State Administration Council (SAC), administers the ministries and has a significant role in implementing policy. The cabinet is headed by the premier and is the dominant administrative and executive agency.”¹²

In July 2012 news agency *Reuters* stated that the State Administration Council or cabinet under Kim Jong-Un had created both a “political bureau” and an “economic reform group” in order to attempt to revive the economy,

“North Korea's cabinet has created a "political bureau" which will wrest power from the 1.2 million-strong military to run the economy which has been in shambles after a crippling famine in the 1990s, the source said.

⁹ US Department of State, Background Note: North Korea, 4 April 2012, <http://www.state.gov/r/pa/ei/bgn/2792.htm>, 9 September 2012

¹⁰ The Committee for Human Rights in North Korea, Marked for Life: SONGBUN, North Korea's Social Classification System, Robert Collins, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 12 September 2012

¹¹ US Department of State, Background Note: North Korea, 4 April 2012, <http://www.state.gov/r/pa/ei/bgn/2792.htm>, accessed 9 September 2012

¹² US Department of State, Background Note: North Korea, 4 April 2012, <http://www.state.gov/r/pa/ei/bgn/2792.htm>, accessed 9 September 2012

[] Kim Jong-un has set up an "economic reform group" in the ruling Workers' Party to look at agricultural and economic reforms, the source said, adding that North Korea will learn from its giant neighbour and solitary benefactor, China.

Beijing leaders are thought to have been pressing Pyongyang to do more to reform the economy, worried that a collapse of the North could send refugees streaming across its border and the loss of a strategic buffer to South Korea and the large contingent of U.S. troops which help protect it. It was unclear who will head the cabinet's "political bureau" and the party's "economic reform group", but change was inevitable, the source said."¹³

e. Role and power of the Supreme People's Assembly (SPA)

In April 2012 the *USDOS* stated that while officially the Supreme People's Assembly was officially the highest organ of state power, in reality it served only to ratify decisions made by the Korean Worker's Party,

"Officially, the D.P.R.K.'s legislature, the Supreme People's Assembly, is the highest organ of state power. Its members are elected every 4 years. The SPA usually holds only two meetings annually, each lasting a few days. A standing committee elected by the SPA performs legislative functions when the Assembly is not in session. In reality, the SPA serves only to ratify decisions made by the ruling KWP.

North Korea's judiciary is "accountable" to the SPA and the president. The SPA's standing committee also appoints judges to the highest court for 4-year terms concurrent with those of the Assembly."¹⁴

In 2012 the report "Worst of the Worst: The World's Most Repressive Societies", by US NGO, *Freedom House*, stated that all candidates for office in the Supreme People's Assembly were preselected by the Korean Worker's Party and ran unopposed,

"North Korea's parliament, the Supreme People's Assembly, is a rubber-stamp institution that meets irregularly for only a few days each year. All candidates for office, who run unopposed, are preselected by the ruling Korean Workers' Party and two subordinate minor parties. A delegates' meeting of the Korean Workers' Party convened in September 2010, the first such gathering since 1966, and took actions including the promotion of several members of the Kim family. Kim Jong-un was elected as vice chairman of the Central Military Commission, and was subsequently appointed to the party's Central Committee. Corruption is believed to be endemic at all levels of the state and economy."¹⁵

2. Military structures

[\[See also Section C, Security Forces/Military/Intelligence\]](#)

a. Internal Security (including the Ministry of Public Security (MPS) amongst others responsible for police functions and for the border guards, and the State Security Department (SSD))

¹³ Reuters UK Edition, Exclusive - Kim plans economic changes in North Korea after purge, 20 July 2012 <http://uk.reuters.com/article/2012/07/20/uk-korea-north-idUKBRE86J08Y20120720> , accessed 10 September

¹⁴ US Department of State, Background Note: North Korea, 4 April 2012, <http://www.state.gov/r/pa/ei/bgn/2792.htm>, accessed 9 September 2012

¹⁵ Freedom House: The Worst of the Worst 2012, the World's Most Repressive Societies, 2012, <http://www.freedomhouse.org/sites/default/files/Worst%20of%20the%20Worst%202012%20final%20report.pdf>, accessed 7 September 2012

The 2011 *USDOS* country report on human rights practices stated that the Ministry of People's Security was responsible for internal security and social control and was one of the most powerful organisations in the country,

"The internal security apparatus includes the Ministry of People's Security (MPS) and the Ministry of State Security (MSS). The security forces do not have adequate mechanisms to investigate possible security force abuses. There was no information that the government took action to reform the security forces.

The MPS, responsible for internal security, social control, and basic police functions, is one of the most powerful organizations in the country. It controlled an estimated 144,000 public security personnel. The MPS maintains law and order, investigates common criminal cases, manages the prison system, controls traffic, monitors citizens' political attitudes, conducts background investigations, has responsibility for the census and civil registration, controls individual travel, manages the government's classified documents, protects government and party officials, and patrols government buildings and some government and party construction activities. Border Guards are the paramilitary force of the MPS and are primarily concerned with monitoring the border and with internal security."¹⁶

In 2012 a report by the *US Committee for Human Rights in North Korea* stated that the Ministry of People's Security functioned primarily as the national police and is tasked with defending the socialist system of the DPRK,

"The Ministry of People's Security (In-min Bo-an-bu) functions primarily as the national police in North Korea. According to the Public Security Regulation Law, adopted by the Supreme People's Assembly (SPA) in 1992 and modified in 1999, the ministry is tasked with defending the sovereignty and socialist system of North Korea, as well as protecting the constitutional rights, lives, and assets of the people. Within this broad mandate, the Ministry's normal police missions range from maintaining law and order, investigating common criminal cases, and controlling traffic, to overseeing the country's non-political prison system. It also maintains organizations responsible for protecting the country's railroads, key government facilities and officials, as well as resident registration (birth, death, marriage, change of address), the preservation and management of secret documents, and construction and security of sensitive and national infrastructure projects. Like the SSD, the ministry is also responsible for conducting political surveillance, though political suspects are remanded to the SSD for processing. In 2009, the KWP Administration Department expanded the ministry's criminal jurisdiction to include the investigation of offenses committed by the military, SSD, public prosecutors, and cadres of courts in every field except anti-regime crimes."¹⁷

In January 2011 the research and analysis blogsite *North Korean Leadership Watch* authored by Michael Madden, an expert on DPRK politics and history,¹⁸ stated that the State Security Department functions as one of the chief security and intelligence agencies and forms a secret police tasked with enforcing the ideological system of the regime,

"The State Security Department is one of the DPRK's chief security and intelligence agencies. Within the DPRK, the SSD constitute a secret police tasked with enforcing the monolithic ideological system (which establishes Kim Family rule in the country) through surveillance and investigations of political and some economic crimes. SSD monitors the population's political or public activities that contradict or contravene the regime. SSD also

¹⁶ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

¹⁷ Committee for Human Rights in North Korea, Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 08 September 2012

¹⁸ Michael Madden's biography can be found on the schedule for the Centre for Korean Research's event 'U.S. Approaches to New Leadership in the Koreas' <http://www.iar.ubc.ca/LinkClick.aspx?fileticket=V3HGvDmmTPQ%3D&tabid=297>, accessed 22 October 2012

has certain border policing functions and is the primary agency that monitors DPRK citizens traveling to and from China. SSD also monitors telephone (including cellular) communications at the country's borders.

[] The State Security Department also has subordinate bureaus that manage training and education, the SSD hospital and general administrative and logistical support. [] Since 1998, the State Security Department has been technically subordinate to the National Defense Commission. SSD links to the Guard Command to provide security escort service for DPRK leaders. It links to the Ministry of Foreign Affairs to provide diplomatic security, and the Ministry of Post and Telecom for the purposes of electronic surveillance. SSD also links to the KPA General Staff Communications Bureau for intelligence collection. SSD links to the Ministry of People's Security, which is responsible for remanding political criminals to SSD. SSD also links to several departments subordinate to the Party Central Committee, including long-standing ties to the CC KWP Organization and Guidance Department, Office #35 and the United Front Department.

[] It is highly likely with the death of OGD Senior Deputy (Vice) Director Ri Je Gang in June 2010 that party control of SSD resides entirely with the CC KWP Administration Department. SSD was already tending toward consolidation, when the Ministry of People's Security was subordinated to the NDC in the spring of 2010. This arrangement concentrates the DPRK's political and domestic police in one place."¹⁹

In 2012 a report by the *US Committee for Human Rights in North Korea* also stated that the State Security Department was only comparatively recently acknowledged by the DPRK media and remains one of the country's most obscure institutions,

"The State Security Department (Gukga An-jeon Bo-wi-bu, SSD) is one of the most obscure institutions in the North Korean regime. Although its existence was known for years, it was not until 1987, at the time of SSD Director Ri Chin-su's funeral, that the North Korean media officially acknowledged the SSD's existence. The SSD is often referred to in the outside media as the Ministry of State Security or the State Political Security Department. Its military cover designation is allegedly KPA Unit 10215. The SSD's personnel numbers approximately 50,000. It is headquartered in Pyongyang, but has offices at the provincial, city, and local levels. The SSD carries out a wide range of counterintelligence and internal security functions normally associated with "secret police." It is charged with searching out anti-state criminals— those accused of anti-government and dissident activities, economic crimes, and disloyalty to the political leadership. It runs political prisons. It has counterintelligence and intelligence collection responsibilities. It monitors political attitudes and maintains surveillance of people who have returned from foreign areas. Department personnel escort high-ranking officials, guard national borders, and monitor international entry points. The degree of fear it inspires in the Political Security Bureaus of the KPA—which have representatives at all levels of command—is uncertain, but it occasionally takes actions against members of the elite."²⁰

b. Armed forces, including the National Defence Commission (NDC)

Article 106 of the *Constitution of the Democratic People's Republic of Korea* states that the National Defence Commission is "the supreme national defense guidance organ of state sovereignty"²¹. Article 109 of the Constitution states that the NDC's powers are to:

¹⁹ North Korea Leadership Watch, Security Apparatus State Security Department, 2012, <http://nkleadershipwatch.wordpress.com/dprk-security-apparatus/state-security-department/>, accessed 10 September 2012

²⁰ Committee for Human Rights in North Korea, Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 12 September 2012

²¹ Constitution of North Korea, Revised 2009, available at <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 10 September 2012

- “1. Establish important policies of the state for carrying out the military-first revolutionary line.
2. Guide the overall armed forces and defense-building work of the state.
3. Supervise the status of executing the orders of the chairman of the DPRK NDC and the decisions and directives of the NDC, and establish relevant measures.
4. Rescind the decisions and directives of state organs that run counter to the orders of the chairman of the DPRK NDC and to the decisions and directives of the NDC.
5. Establish or abolish central organs of the national defense sector.
6. Institute military titles and confer military titles above the general-grade officer rank.”²²

In January 2011 the research and analysis blogsite *North Korean Leadership Watch* authored by Michael Madden, an expert on DPRK politics and history,²³ stated that the Ministry of People's Armed Forces acted as the central organisational body of the Korean People's Army and that the General Staff Department commanded its conventional armed forces,

“[] The Ministry of People's Armed Forces [MPAF] is the central administrative and logistical organization for the KPA's service branches and commands. MPAF also contains the management agencies of military and political control in the KPA. The KPA General Staff Department [GSD] is responsible for command and control of the KPA's conventional ground, air and naval forces. GSD subordinate bureaus are responsible for military planning, operations, training as well as processing acquisition and procurement orders. The MPAF is directly subordinate to the NDC with the technical channels for orders and guidance originating with the NDC Chairman (concurrently the KPA Supreme Commander) to the MPAF to GSD.

The Ministry of State Security [MSS] directs political security (secret police) within the DPRK. MSS subordinate bureaus direct investigations and surveillance on DPRK citizens within the country for attitudes and behaviors. It monitors foreigners and DPRK citizens born outside the country (particularly the DPRK's near abroad in ROK, China and Japan). The MSS 7th Bureau or Prison Bureau, manages a network of labor camps, detention facilities and geographically isolated towns inhabited by DPRK citizens and their families for anti-state or unsanctioned political, economic or cultural activities. MSS has several units located outside the DPRK which are responsible for intelligence collection. It also provides guard service and personal security at DPRK embassies and missions abroad. MSS also links to the Military Security Command [MSC].

The Ministry of People's Security [MPS] directs the country's domestic law enforcement agencies, including the Korean People's Interior Security Forces [KPISF] and provincial and local police departments. It conducts criminal investigations and financial audits, household and lodging inspections (i.e., population surveillance), polices roads, guards public buildings and monuments and manages customs control. MPS construction units build tunnels and maintain roads. The MPS provides security for central and provincial members of the leadership. It also coordinates with Ministry of Post and Telecom to maintain and staff telephone lines used by party and government leaders in Pyongyang and the

²²Constitution of North Korea, Revised 2009, available at <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 10 September 2012

²³ Michael Madden's biography can be found on the schedule for the Centre for Korean Research's event 'U.S. Approaches to New Leadership in the Koreas' <http://www.iar.ubc.ca/LinkClick.aspx?fileticket=V3HGvDmmTPQ%3D&tabid=297>, accessed 22 October 2012

provinces. Guard Command [General Guards Bureau] provides personal security and other services for members of the Kim Family and key political leaders.”²⁴

In January 2011 the research and analysis blogsite *North Korean Leadership Watch* authored by Michael Madden, an expert on DPRK politics and history,²⁵ stated that the National Defence Commission formed the highest branch of the government and directed all military affairs,

“The National Defense Commission [NDC] is the DPRK’s highest branch of government and the country’s supreme policymaking organization. The NDC directs and guides all military, defense and security-related affairs including policies, planning, acquisition and procurement and personnel. The NDC also provides guidance and direction to seemingly non-military/non-defense-related matters including foreign policy/diplomacy, energy (oil/coal) and the civilian (or 1st) economy [a.k.a. the people’s economy].

[] The NDC consists of a Chairman, Vice-Chairmen and Members who are elected [appointed] by and hold the same term of office as the Supreme People’s Assembly [SPA] which has technically and traditionally been five [5] years. Since the 10th SPA in 1998 the NDC has operated as a collective body gathering senior principals of the DPRK’s national security community to deliberate and disseminate policy, particularly on major issues such as strategic weapons, succession planning (transfer of power) and foreign investment. However, it is not clear when or if the NDC convenes formal meetings. NDC Vice-Chairmen and Members are typically a combination of active duty KPA and civilians representing the KPA’s regular service commands, the political officer corps, internal security and military [munitions] industry.

“Within the NDC apparatus are several known departments and sections, including:

NDC Administration Department: The NDC Administration Department is responsible for the NDC’s daily administrative and financial management (including oversight of SOEs), and provides general guidance in these areas to the Ministry of People’s Armed Forces (MPAF) and the General Staff Department. NDC Administration may also coordinate interactions between the NDC, the DPRK Cabinet, State Planning Commission and Second Economy Commission. The previous director, Yi Myo’ng-su (KPA Gen), was appointed Minister of People’s Security after the 4th session of the 12th Supreme People’s Assembly. According to unconfirmed reports in ROK media, Yi was replaced by Kim Cho’ng-u’n.

NDC Standing Bureau (NDC Presidium): The NDC Standing Bureau coordinates logistical and security arrangements in support visits and inspections by Kim Cho’ng-il and members of the central leadership to KPA units, performances and economic production sites. The director of the Standing Bureau is Hyo’n Ch’o’l-hae (KPA Gen), regularly seen attending to Kim Cho’ng-il and previously a deputy director of the KPA General Political Department.

NDC Foreign Affairs Department: The NDC Foreign Affairs Department handles some foreign policymaking responsibilities. It also serves as Kim Cho’ng-il’s protocol office. The director is Cho’n Hu’i-ch’ong, previously KCI’s chief of protocol and a former DPRK diplomat.

NDC Reconnaissance General Bureau: The NDC RGB manages much of the DPRK’s intelligence community and links to the CC KWP United Front Department. It coordinates the DPRK’s intelligence collection and operations concerning the ROK and Japan.

²⁴ North Korea Leadership Watch, Security Apparatus State Security Department, 2012 <http://nkleadershipwatch.wordpress.com/dprk-security-apparatus/state-security-department/> , accessed 10 September 2012

²⁵ Michael Madden’s biography can be found on the schedule for the Centre for Korean Research’s event ‘U.S. Approaches to New Leadership in the Koreas’ <http://www.ikr.ubc.ca/LinkClick.aspx?fileticket=V3HGvDmmTPQ%3D&tabid=297> , accessed 22 October 2012

NDC Policy Department: The NDC Policy Department, which may reside in the RGB apparatus, produces and publicizes the NDC's policy statements. These policy statements are released through DPRK media outlets as written documents or as press conferences.

Taepu'ng International Investment Group: Taepu'ng was repurposed in 2010 to manage the DPRK's foreign investments. Prior to 2010, Taepu'ng was an energy contractor to the NDC."²⁶

In April 2012 the *USDOS* stated that the National Defence Commission is responsible for security and influences policy,

"The NDC is responsible for external and internal security, and under the leadership of Kim Jong-il, the NDC assumed a significant role in influencing policy."²⁷

In 2012 a report by the *US Committee for Human Rights in North Korea* also stated that Jange Song-taek had been promoted to the position of vice chairman of the National Defence Commission at a special meeting of the Supreme People's Assembly in 2010,

"In June 2010, Kim Jong-il continued to fortify the state of the internal security apparatus. At a special meeting of the Supreme People's Assembly, the delegates rubber stamped the promotion of Jang Song-taek to the position of vice chairman of the NDC. His promotion to one of only four vice chairmen—a post previously held only by military leaders—not only strengthened the command and control of the internal security forces in a time of dissent within the regime following the currency revaluation debacle, but most likely signified an elevation in the status of police forces vis-a-vis the party and the military."²⁸

c. Intelligence Services

In August 2011 a report by the Republic of Korea think tank, the *Korea Institute for National Unification (KINU)*, stated that DPRK intelligence agencies had dispatched "search and arrest" missions to China against defectors living there,

"North Korean military intelligence agencies, working together with the National Security Agency, have dispatched a large number of special agents to various parts of China on "search and arrest" missions against North Korean defectors hiding there. The level of interrogation and punishment for deported defectors has also intensified. The families of defectors are segregated from the society, banished to places like Yanggang Province. In an effort to guarantee a smooth transition during the hereditary succession, the North Korean authorities appear to have opted for hard-line policies internally and externally, thus exacerbating the human rights situation.

[] Former high-ranking KWP official and defector Hwang Jang-yop testified that North Korean intelligence agencies conduct much closer surveillance over the Party cadres than over the general public, and that eavesdropping devices are mobilized to monitor the cadres every word and every move. He explained that one of the reasons the high-ranking cadres were watched so closely was that they had the highest potential to rebel against Kim Jong-il. Defectors XXX and XYZ also testified that the North Korean authorities are setting up eavesdropping devices in the houses of major Party cadres and in public places in order to prevent any anti-regime activities from taking place. Defector XXX testified that

²⁶ North Korea Leadership Watch, Security Apparatus, National Defence Commission, revised 2 February 2012, <http://nkleadershipwatch.wordpress.com/dprk-security-apparatus/national-defense-commission/>, accessed 08 September 2012

²⁷ US Department of State, Background Note: North Korea, April 4 2012, <http://www.state.gov/r/pa/ei/bgn/2792.htm>, accessed 9 September 2012

²⁸ Committee for Human Rights in North Korea, Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php> accessed 12 September 2012

“eavesdropping” activities are conducted by Bureau 13 of the National Security Protective Agency.”

In January 2011 the research and analysis blogsite *North Korean Leadership Watch* authored by Michael Madden, an expert on DPRK politics and history,²⁹ stated that outside of the country the State Security Department is an active intelligence collection organisation and is responsible for the surveillance of foreigners,

“Outside the DPRK, SSD is an active intelligence collection organization, as well as a protective service for DPRK diplomats, embassies and other missions. SSD own two foreign trading corporations that have operated in Japan, as well as the border area between the DPRK, PRC and Russian Federation.

The State Security Department's personnel who reside and operate inside the DPRK are dispersed in official and unofficial capacities throughout the country: from provincial cities, to cooperative farms and factories. SSD's 2nd Bureau is responsible for the surveillance of foreigners. For a number of years SSD was responsible for monitoring Japanese and ROK citizens repatriated to the DPRK. SSD has certain policy responsibilities with the country's dealings with ROK. SSD's 7th Bureau is responsible for the management and operation of the DPRK's notorious political prison system. The 16th Bureau manages (in coordination with NDC agencies) electronic eavesdropping, which includes active surveillance on members of the country's leadership.”³⁰

3. The Judicial System

In February 2010 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*, Vitit Muntarbhorn, stated that the justice system lacked independence and was subservient to the State,

“The justice system is subservient to the State, and judges, prosecutors, lawyers and juries are part of the State machinery, far removed from the international rule of law, thus lacking in independence of the judiciary and safeguards for the accused. Capital punishment ensues from a broad range of crimes against the State as listed and extended periodically by the Criminal Code. At times, there are also public trials to teach the general population a lesson.

[] Juvenile justice is sadly lacking in a system that incarcerates children all too easily in substandard institutions and that instrumentalizes children for political ends.”³¹

In January 2012 *Human Rights Watch* stated that all those involved in the judicial system were appointed and controlled by the Korean Worker's Party,

“North Korea's judiciary is neither transparent nor independent. All personnel involved in the judiciary—including judges, prosecutors, lawyers, court clerks, and jury members—are appointed and tightly controlled by the ruling Workers' Party of Korea. In cases designated as political crimes, suspects are not even sent through a nominal judicial process; after

²⁹ Michael Madden's biography can be found on the schedule for the Centre for Korean Research's event 'U.S. Approaches to New Leadership in the Koreas' <http://www.iar.ubc.ca/LinkClick.aspx?fileticket=V3HGvDmmTPQ%3D&tabid=297>, accessed 22 October 2012

³⁰North Korea Leadership Watch, Security Apparatus, State Security Department, 2012 <http://nkleadershipwatch.wordpress.com/dprk-security-apparatus/state-security-department/>, accessed 12 September 2012

³¹ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Vitit Muntarbhorn, February 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-47.pdf> accessed 05 September 2012

interrogation they are either executed or sent to a forced labor camp, often with their entire families.”³²

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that problems persist in trial procedures despite recent reforms and that “on-site” public trials violate human rights,

“North Korea streamlined its trial procedures in May 2004 with a major revision of its Criminal Procedure Law and made partial revisions in July 2005 and October 2006. However, various problems persist in its criminal trial procedures. Under North Korea’s criminal law, a judge and “people’s jurors” must participate in all trials. But in many cases the level of punishment is determined during the pre-trial or investigation stage, precluding formal trial procedures as well as judges and people’s jurors. Some defectors testified that many trials are conducted based on documents only, and very often the right to a speedy trial is violated during the investigation or pre-trial stages. On the other hand, there are some cases in which criminal trial procedures are carefully followed as stipulated in the Penal Code, Criminal Procedures Law, Court Composition Law, and other laws. The right to a speedy trial is also sometimes observed during the trial, pre-trial or investigation stages.

In an attempt to prevent crimes and keep the masses alert, the North Korean authorities continue to enforce a unique practice known as “on-site public trials.” A typical example of this system is the so-called “public execution” practice. Naturally, this type of trial procedure opens up possibilities for flagrant violations of human rights. Most North Koreans do not know that they are entitled to the participation of judges, prosecutors, and people’s jurors at “public trial” procedures. In many cases, a decision is made before the actual “on-site public trial,” and only the sentencing is carried out “on-site.” The “public trials” are by definition a form of human rights violation. They are all the more inhumane since the accused is not provided with legal assistance from an attorney. During public trials, defense attorneys participate as a formality. In most cases the defense attorney does not defend his client, and in some cases the attorney even emphasizes the client’s criminality or reveals additional crimes.”³³

In May 2011 a research paper by the *Korea Institute for National Unification (KINU)* stated that the principles of the Korean Worker’s Party now form “supralegal” structures and that much of the meaning of criminal law has been lost as a result,

“[] the teachings of Kim Il Sung, the words of Kim Jong Il, and the precepts and principles of the Party have come to function as supralegal structures. In criminal trials as well, the words of Kim Jong Il and the Party’s guiding principles have been used in the form of pronouncements by the People’s Safety Agency. Because of this actual criminal law has lost much of its meaning. The directives of official successor Kim Jong Eun have also taken on supralegal applications. His directives have been used most prominently in cracking down on and punishing defectors. North Korea’s formal trial system is characterized by the Party’s control and guidance of trials, a jury system, an expedient jurisdiction system, and observation of trials by prosecutors. Among the defectors who have reached South Korea to date, none have been prosecutors, judges, jury members, or lawyers, so it is difficult for us to ascertain the actual trial procedures. According to defector testimony, there have been cases in which trials proceeded in accordance with the Criminal Law, the Criminal Procedure Law, the Court Composition Law, etc. There is also testimony of trials that took

³² Human Rights Watch, World Report 2012: North Korea, 2012 <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 10 September 2012

³³ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 10 September 2012

place only on paper. In the trial of Eunna Lee the provisions of the Criminal Prosecution Law were generally observed."³⁴

In May 2011 a research paper by the *Korea Institute for National Unification (KINU)* also stated that trial procedures were not conducted by formal organisations but by a quasi trial system formed of judgement by both the State Security Agency and by the peers of the accused,

"One major feature of the North Korean legal system is that trial procedures are conducted not by formal trial organizations but according to a quasi trial system. In the quasi trial system, there is the State Security Agency which passes judgements on political crimes, along with the system of judgement by ones peers (judgement by the masses) and the Socialist Judicial Life Guidance Committee. In the case of political crimes instead of formal trial procedures the Prosecutorial Office of the State Security Agency performs the role of a court, according to defector testimony. However we have not yet been able to find a clear legal basis for the, SSA's judgement of political crimes.

The targets of trial by peers are 1) failure to properly uphold the Party's unitary ideology, inadequate class consciousness and absence of revolutionary spirit; 2) neglect of study of the teachings of Kim Il Sung and Kim Jong Il and the Party's policies; 3) unintentional criticism of the Party's policies and the teachings; 4) distortion of the teachings and Party policies; 5) small-scale economic crimes such as reaping inappropriate benefits/private possession of public goods/ causing damage through careless management or mistakes; or 6) lax discipline and other immoral behavior causing "minor infringements of the unitary ideology, minor crimes or moral corruption." At trial by peers, people who have committed the above-mentioned crimes can be given a reprimand, a severe warning, or just a warning. Reprimands can lead to referral to a formal trial, revocation of Party membership, up to 6 months of unpaid labor, administrative punishment in cases where the crime caused economic losses by withholding 10 to 20 times the amount from the perpetrator's wages, termination of administrative rights, etc. In the military if recommended by the political guidance officer the perpetrator can be subjected to a self-criticism session at which his/her peers decide the punishment, which is usually some sort of chore like cleaning bathrooms. Regarding the relationship to regular trials, there is contradictory testimony; some have said that peer trials are done simply to reinforce the sense of reprimand after judgement has been handed down by a regular trial, while others say that the real trial to determine guilt occurs after the peer trial."³⁵

a. The functioning in law and in practice of the Central Court and Central Procurator systems

The *Constitution of the Democratic Peoples Republic of Korea*, revised in 2009 states that the Central Court is the supreme judicial organ of the DPRK which supervises all other courts and is accountable to the Supreme People's Assembly,

"Article 159. Judicial proceedings shall be conducted by the Central Court, provincial (municipality directly under the central authority) courts, and municipal (district) and county people's courts, and by special courts. Verdicts shall be delivered in the name of the DPRK.

[] Article 161. The president and judges of the special court are appointed or dismissed by the Central Court. The people's assessors of the special court are elected by the servicepersons or employees of the unit concerned at their meetings.

³⁴ Korea Institute for National Unification (KINU) , The North Korean Criminal Trial System: Characteristics and Actual Practice, January 2012, http://www.kinu.or.kr/eng/pub/pub_02_01.jsp?bid=DATA05&page=1&num=94&mode=view&category=2676, accessed September 2012

³⁵ Korea Institute for National Unification (KINU) , The North Korean Criminal Trial System: Characteristics and Actual Practice, January 2012, http://www.kinu.or.kr/eng/pub/pub_02_01.jsp?bid=DATA05&page=1&num=94&mode=view&category=2676, accessed September 2012

Article 162. The duties of the court are to:

1. Protect the sovereignty of the DPRK, the socialist system, the property of the state and social cooperative organizations, and the constitutional rights, lives, and property of the people through judicial activities.
2. Ensure that all organs, enterprises, organizations, and citizens precisely observe the laws of the state and struggle actively against class enemies and all law offenders.
3. Execute decisions and judgments with regard to property and conduct notary work.

Article 167. The Central Court is the supreme judicial organ of the DPRK. The Central Court shall supervise the judicial activities of all courts.

Article 168. The Central Court shall be accountable for its work to the SPA, and to the SPA Presidium when the SPA is in recess."³⁶

The *Constitution of the Democratic Peoples Republic of Korea (2009)*, also states that the Central Prosecutor's Office shall monitor whether citizens precisely observe the laws of the state, expose criminals and law offenders and be held accountable to the Supreme People's Assembly,

"Article 153. Prosecution work shall be executed by the Central Prosecutor's Office, by provincial (municipality directly under the central authority), municipal (district), and county prosecutors' offices, and by the special prosecutor's office.

Article 155. Prosecutors shall be appointed or dismissed by the Central Prosecutor's Office.

Article 156. The prosecutor's office shall have the duties to:

1. Monitor whether organs, enterprises, organizations, and citizens precisely observe the laws of the state.
2. Monitor whether the decisions and directives of state organs run counter to the Constitution; to the laws, ordinances, and decisions of the SPA; to the orders of the chairman of the DPRK NDC; to the decisions and directives of the NDC; to the decrees, decisions, and to the directives of the SPA Presidium; and to the decisions and directives of the Cabinet.
3. Expose criminals and law offenders and call them to legal account in order to protect the sovereignty of the DPRK, the socialist system, the property of the state and social cooperative organizations, and the constitutional rights, lives, and property of the people.

Article 157. Prosecution work shall be executed under the unified guidance of the Central Prosecutor's Office, and all prosecutors' offices shall be subordinate to their higher offices and to the Central Prosecutor's Office.

Article 158. The Central Prosecutor's Office shall be accountable for its work to the SPA, and to the SPA Presidium when the SPA is in recess."³⁷

In February 2012 the *United Nations Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* stated that the Central Court is accountable to the Supreme People's Assembly and raised concerns over the independence and impartiality of the judicial system,

"As the court system currently stands in the Democratic People's Republic of Korea, the Central Court is accountable to the Supreme People's Assembly, pursuant to article 162 of the Criminal Code. Furthermore, article 129 of the Criminal Code subjects judges to

³⁶ Constitution of North Korea, Revised 2009, available at <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 10 September 2012. See also Socialist Constitution of the Democratic People's Republic of Korea, 5 September 1998, unofficial translation, available at: <http://www.unhcr.org/refworld/docid/3ae6b56d0.html>, accessed 1 October 2012

³⁷ Constitution of North Korea, Revised 2009, available at <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 10 September 2012

criminal liability for handing down “unjust judgements”. The Special Rapporteur is concerned that such provisions have an adverse impact on the protection of human rights guaranteed under the International Covenant on Civil and Political Rights and endanger the independence of the judiciary. Furthermore, he believes that the need to maintain the separation of powers, as required by article 14.1 of the Covenant is also compromised, seriously jeopardizing the rendering of independent and impartial justice. It is important to protect judges against conflicts of interests and intimidations in order to safeguard their independence.

In the Democratic People's Republic of Korea, both open court and closed court trials are practised. In general, there seems to be a lack of understanding among the people of why the open court principle is essential for the fairness of trials. In 2004, when the State revised its Criminal Procedure Code, it introduced a new provision requiring court trials to be open to the public (art. 271, sect. 1). The revised law contains, however, an exception, allowing certain trials to be conducted behind closed doors, if necessary to protect State secrets or if opening the trial to the public could have an adverse impact on society at large (art. 271, sect. 2). In practice, this means that ordinary citizens are tried in open courts and officials and party cadres are tried in closed ones. The Special Rapporteur recalls that article 14, paragraph 1, of the International Covenant on Civil and Political Rights proclaims that courts have the power to exclude all or part of the public for reasons of morals, public order or national security, or when the interest of the lives of the parties so required, or in special circumstances where publicity would be prejudicial to the interest of justice. Any other form of exception limiting open trials to a particular category of persons, such as in the case of the Democratic People's Republic of Korea, where officials and party cadres are tried in closed courts, is unacceptable. The Special Rapporteur furthermore points out that, even in cases where the public is excluded from the trial, the judgement, including the essential findings, evidence and legal reasoning must be made public, except where the interest of juvenile persons requires otherwise, or when the proceedings concern matrimonial disputes or the guardianship of children.”³⁸.

4. Characteristics of the government and state institutions

a. Professionalism of civil service

In March 2010 an article by the academic Marcus Holand for the German business newspaper *Handelsblatt* stated that the penal system is increasingly used for purposes of extortion by officials extracting bribes,

“Significant numbers of North Koreans are becoming ensnared in low-level penal facilities, where rates of abuse approximate those of the infamous political gulag. The penal system is increasingly used as an instrument not only for intimidating traders and entrepreneurs but also for extortion as officials extract bribes from market participants understandably eager to avoid incarceration. Personal employment in the establishment institutions of the party and officialdom is increasingly sought not out of patriotism but rather because such positions provide a platform for economic predation on the general populace.

This low-level corruption provides a safety-valve for the regime: allowing a Certain degree of predation obviates the need to fully compensate underpaid officials. But it also contributes to a fraying of the instruments of political control themselves as the parochial

³⁸ United Nations General Assembly Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, A/HRC/19/65 13 February 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, 12 September 2012

interests of individual officials may increasingly diverge from the policy objectives of the central authorities.”³⁹

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that the level of corruption among officials has increased as economic hardship has worsened and there are many who believe this to have contributed to the current economic state of the country,

“North Korea continues to suppress its citizens’ right to liberty in order to maintain its suryong (leader) system. Harsh punishments imposed on anyone who attempts to travel, relocate, assemble, or publish without the permission of the authorities. But as economic hardship has worsened the level of corruption has increased among low-level officials, and consequently citizens have become able to travel, communicate, and relocate through illegal means.

[] Another example of corruption [] is the offering of bribes for job assignments and job transfers. An example of “bribe assignment” or “face” assignment (a.k.a. “the buddy system”) is when individuals are assigned to “good” trading agency jobs where they can make some foreign currency income. Some defectors deplored this type of corrupt business dealing by ranking officials. They said there are many who believe that this type of corrupt practice has driven North Korea’s economy deeper into the mire, and this perception is widespread among the people.”⁴⁰

b. Bribery/corruption

In 2011 the NGO *Transparency International’s* Corruption Perceptions Index placed the DPRK and Somalia joint last out of the 183 countries assessed in its Corruption Perceptions Index which ranks countries and territories according to their perceived levels of public sector corruption.”⁴¹

In January 2012 *Human Rights Watch* stated that officials often torture individuals arrested on criminal charges in order to extract bribes,

“Testimony from escaped North Koreans indicates that individuals arrested on criminal charges often face torture by officials aiming to enforce obedience and extract bribes and information. Common forms of torture include sleep deprivation, beatings with iron rods or sticks, kicking and slapping, and enforced sitting or standing for hours.”⁴²

In 2012 the report by the *US Committee for Human rights in North Korea* stated that while corruption is now pervasive, the ability to bribe officials does not eliminate the negative impact of Songbun,

“There is no doubt that the general failure of the North Korean economy has created conditions for individual economic initiative and pervasive corruption. Tolerated market activity has provided alternatives to the regime’s PDS that once supplied most of the country with food and daily necessities.

³⁹ Peterson Institute for International Economics , North Korea Turns in a Widening Gyre by Marcus Noland, published in Handelsblatt as “Gescheiterte Reform destabilisiert Nordkorea” March 30, 2010, available at <http://www.piie.com/publications/opeds/oped.cfm?ResearchID=1532>, accessed 12 September 2012

⁴⁰ Korea Institute for National Unification (KINU) , White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672, accessed 10 September 2012

⁴¹ Transparency International, CORRUPTION PERCEPTIONS INDEX 2011, 2011, <http://cpi.transparency.org/cpi2011/results/>, accessed 12 September 2012

⁴² Human Rights Watch, World Report 2012: North Korea, 2012 <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 10 September 2012

[] Buying or bribing one's way out of police trouble or into colleges, receiving better medical attention, purchasing better housing, or obtaining food has not eliminated the negative impacts of songbun, but it has provided some alternative avenues for survival."⁴³

In July 2012 online news agency *Asia Times Online* stated that corruption is widespread but that without it many North Koreans would have died during the great famine as private agricultural and trade are technically crimes,

"Official corruption is endemic in many parts of the under-developed world, but it appears that North Korea is unique even in this regard - at least in East Asia.

[] Without widespread corruption, many more North Koreans would probably have perished in the great famine because there would have been no way to have private agriculture, and it would have been nearly impossible for private traders to move food across the country, delivering it to areas where the food situation was especially dire. After all, trade in grain and long-distance travel for commercial purposes are both technically crimes. No markets would be possible had the local bureaucracy been serious about enforcing a multitude of bans and restrictions on commercial activities."⁴⁴

In July 2012 *Asia Times Online* also stated that while corruption may have saved lives it may also create economic problems in the future,

"Over the past decade, the corruption and vested interests of low- and mid-level bureaucrats are the major reason the government has failed to succeed in its dangerous attempts to revive the Stalinist economy. These efforts failed because of the quiet sabotage of these officials, who saw no reason to eradicate their major source of income: private and market activities.

Nonetheless, one should not be too positive about North Korean corruption. It might have saved many lives in recent times, but is also likely to create major problems in future. Corruption has become an inseparable part of North Korean culture, and has come to be seen as part of standard operating procedure. One has to be naive to think that this ingrained habit will disappear overnight, even in the case of a dramatic political change."⁴⁵

The 2011 *USDOS* country report on human rights practices stated that corruption in the government and security forces was widespread and that it was not known whether a government agency was responsible for combating corruption,

"[] Corruption was reportedly widespread in all parts of the economy and society. Corruption in the security forces was endemic.

Reports of diversion of food to the military and government officials and bribery were indicative of corruption in the government and security forces.

It was not known whether public officials are subject to financial disclosure laws and whether a government agency is responsible for combating corruption. There are no known laws that provide for public access to government information."⁴⁶

In 2012 US think tank, the *Heritage Foundation's* Index of Economic Freedom stated that officials demanded bribes before distributing food aid,

⁴³ The Committee for Human Rights in North Korea, *Marked for Life: SONGBUN, North Korea's Social Classification System*, Robert Collins, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 12 September 2012

⁴⁴ *Asia Times Online*, "North Korea's culture of bribery", Andrei Lankov, July 13 2012, <http://www.atimes.com/atimes/Korea/NG13Dg01.html>, accessed 13 September 2012

⁴⁵ *Asia Times Online*, "North Korea's culture of bribery", Andrei Lankov, July 13 2012, <http://www.atimes.com/atimes/Korea/NG13Dg01.html>, accessed 13 September 2012

⁴⁶ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

“Corruption in the government and security forces remains rampant. Military and government officials reportedly divert food aid from international donors and demand bribes before distributing it.”⁴⁷

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that bribes were routinely used to obtain travel permits and to avoid incarceration,

“North Koreans routinely use bribes to obtain travel permits because the procedures are complicated and an extended period of time is required to get permits through official channels. Also, more and more houses are sold and bought unofficially (“sale by owner”). In the process, people bribe the officials responsible to gain approval. Those caught using mobile phones do not have to serve at a correctional center as long as it can be proven that there was no South Korean connection. Nevertheless, the offender may pay from 500,000 to one million won in bribes to avoid going to jail. Videos have been spreading and official control over this trend is tightening, if caught many people try to avoid jail terms by bribing the officials.”⁴⁸

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard stated that bribe costs increased with high costs of detention and incarceration,

“High levels of discretion with respect to arrest and sentencing and very high costs of detention, arrest, and incarceration have the effect of increasing bribe costs. The more arbitrary and painful the experience with the penal system, the easier it is for officials to extort money for avoiding it.

[] These features of the penal system could provide incentives and opportunities for corruption of the internal security apparatus. [] But predation on the part of officials in the security apparatus can also generate a divergence between the policy interest – and even survival interests- of the government and the private interests of security officials by generating more harsh repression and popular resentment than is optimal.”⁴⁹

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard also stated that while some forms of corruption can be seen as positive, others can impair contribution to growth.

“Corruption in some forms can be good, “greasing the wheels”, introducing a degree of flexibility in systems that would otherwise be self-debilitating. However, other forms of corruption-particularly “cascading” corruption, which drives up transaction costs all along the value chain-can impose large deadweight losses, impede the initiation of productivity enhancing activities and distort the allocation of resources. When such corruption takes the form of street-level extortion and sheer predation of almost unimaginable brutality documented in our surveys, it not only impairs the informal sector’s contribution to growth but surely undermines the credibility of and allegiance to the regime as well.”⁵⁰

5. Economic system

⁴⁷ Heritage Foundation 2012 Index of Economic Freedom, 2012, <http://www.heritage.org/index/country/northkorea>, accessed 13 September 2012

⁴⁸ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672, accessed 10 September 2012

⁴⁹ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011 p. 99

⁵⁰ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011 p. 124

In 2012 US think tank, the *Heritage Foundation's* Index of Economic Freedom stated that the DPRK's economy ranked last out of 41 countries in the Asia Pacific region and that state regulation had kept the economy near bankruptcy,

[] Based on limited available information, North Korea's economic freedom score is 1, making its economy the least free in the 2012 Index. North Korea is ranked last out of 41 countries in the Asia-Pacific region.

North Korea's dictatorial leadership remains unwilling to open or restructure its economy. It has experimented with a few market reforms but mainly adheres to the system of state command and control that has kept the country and its people in near bankruptcy for decades. The Communist Party controls every aspect of economic activity. The impoverished population is heavily dependent on food rations and government subsidies in housing. Deprivation is widespread. In recent years, the government has phased out or clamped down on existing private markets, reducing the already very limited free-market experimentation. The North Korean economy has contracted for two consecutive years, with a negative growth rate of 0.5 percent in 2010 estimated after a 0.9 percent decline in 2009. The Hermit Kingdom may be attempting to allow limited foreign direct investment, but the dominant military establishment and ongoing leadership change make any significant near-term change unlikely. Normal foreign trade is minimal, with China and South Korea being the most important trading partners.

[] The state continues to regulate the economy heavily through central planning and control. Entrepreneurial activity remains virtually impossible. As the main source of employment, the state determines wages. Since the 2002 economic reforms, factory managers have had limited autonomy to set wages and offer incentives, but the government controls the labor market. The botched currency reform in late 2009 has exacerbated monetary instability.

Formal trade is minimal. Most legitimate trade is de facto aid, mainly from North Korea's two main trading partners, China and South Korea. Inter-Korean trade remains constrained by North Korea's unwillingness to implement needed reform. Limited foreign participation is allowed in the economy through special economic zones where investment is approved on a case-by-case basis. The limited financial sector is tightly controlled by the state."⁵¹

According to the 2012 *CIA World Factbook* the DPRK has one of the least open economies in the world and the government has stated its 2012 goal of becoming a "strong and prosperous" nation,

"North Korea, one of the world's most centrally directed and least open economies, faces chronic economic problems. Industrial capital stock is nearly beyond repair as a result of years of underinvestment, shortages of spare parts, and poor maintenance. Large-scale military spending draws off resources needed for investment and civilian consumption. Industrial and power output have stagnated for years at a fraction of pre-1990 levels. Frequent weather-related crop failures aggravated chronic food shortages caused by ongoing systemic problems, including a lack of arable land, collective farming practices, poor soil quality, insufficient fertilization, and persistent shortages of tractors and fuel. Large-scale international food aid deliveries have allowed the people of North Korea to escape widespread starvation since famine threatened in 1995, but the population continues to suffer from prolonged malnutrition and poor living conditions.

[] In preparation for 2012, the 100th anniversary of KIM Il-sung's birthday, North Korea continued efforts to develop special economic zones with China and expressed willingness to permit construction of a trilateral gas pipeline that would carry Russian natural gas to South Korea. The North Korean government often highlights its 2012 goal of becoming a

⁵¹ Heritage Foundation 2012 Index of Economic Freedom, 2012, <http://www.heritage.org/index/country/northkorea>, accessed 13 September 2012

"strong and prosperous" nation and attracting foreign investment, a key factor for improving the overall standard of living. Nevertheless, firm political control remains the government's overriding concern, which likely will inhibit changes to North Korea's current economic system."⁵²

In July 2012 news agency *Reuters* stated that new president Kim Jong-un planned to initiate economic reforms having removed opponent Vice Marshal Ri Yong, an ardent supporter of Kim Jong-il's "military-first" economic policy

"Impoverished North Korea is gearing up to experiment with agricultural and economic reforms after young leader Kim Jong-un and his powerful uncle purged the country's top general for opposing change [] the cabinet had created a special bureau to take control of the decaying economy from the military - one of the world's largest - which under Kim's father was given pride of place in running the country. [] The downfall of Vice Marshal Ri Yong-ho and his allies gives the untested new leader and his uncle Jang Song-thaek,[] the mandate to try to save the battered economy and prevent the secretive regime's collapse.

[] The changes could herald the most significant reforms by the North in decades. Previous attempts at a more market driven economy have floundered, most recently a drastic currency redenomination in late 2009 which triggered outrage and is widely believed to have resulted in the execution of its chief proponent.

"Ri Yong-ho was the most ardent supporter of Kim Jong-il's 'military first' policy," the source told Reuters, [] The biggest problem was that he opposed the government taking over control of the economy from the military, the source said, requesting anonymity to avoid repercussions.

If the reforms do take root, North Korea would be the next Asian pariah state to open up after Myanmar, whose change last year to quasi-civilian government has suddenly started to bring it out from years of seclusion under harsh military rule.[] Jang has long been seen as a proponent of reform of an economy which through mismanagement has entirely missed out on the fruits of dramatic growth of neighbours like China and South Korea."⁵³

In July 2012 UK daily newspaper, *The Guardian*, stated that while the economy had recently grown the country's economy had been impacted by international sanctions, deteriorating ties with the Republic of Korea and the military's mismanagement of its command economy,

"The Bank of Korea in Seoul reported earlier this month that the North Korean economy had grown 0.8% last year due to construction projects and an agricultural recovery, having contracted 0.5% in 2010. But the north remains desperately poor. In 2009, its per capita income was 1.2m won, just 5% of that of its neighbour. In recent years it has paid the price for international sanctions, deteriorating economic ties with the south's hardline government and mismanagement of its command economy by the military.

[] The new information lends weight to the theory that Kim Jong-un, the third member of the Kim dynasty to rule North Korea, is seeking to reshape the country in his own image by replacing top officials loyal to his father."⁵⁴

In September 2012 US daily newspaper *The New York Times* stated that it was thought that Kim Jong-Un planned to give incentives to factories and collective farms in order to attempt to revitalise the economy,

⁵² Central Intelligence Agency World Factbook, North Korea, 24 August 2012 <https://www.cia.gov/library/publications/the-world-factbook/geos/kn.html>

⁵³ Reuters UK Edition, "Exclusive - Kim plans economic changes in North Korea after purge", 20 July 2012 <http://uk.reuters.com/article/2012/07/20/uk-korea-north-idUKBRE86J08Y20120720>, accessed 10 September

⁵⁴ The Guardian, North Korean leader Kim Jong-un wrests economic control from military, 20 July 2012 <http://www.guardian.co.uk/world/2012/jul/20/north-korean-economic-military>, accessed 07 September 2012

“North Korea said on Wednesday that it would convene its Parliament this month, an unusual session that South Korean analysts said might officially introduce a program by the country's leader, Kim Jong-un, to revitalize the North's moribund economy.

[] Since July, various news reports in South Korea have quoted anonymous sources in the North as saying that Mr. Kim planned to give factories and collective farms incentives aimed at increasing productivity. The state would let farmers keep 30 percent of their yield, the reports said; until now, it is believed that they could sell only a surplus beyond a government-set quota, which was rarely met. Factories would choose what to produce and how to market their wares, splitting any profits with the state and paying their own workers.

The changes, tested as pilot projects in selected farms and factories, will eventually be extended to the rest of North Korea and replace the country's dysfunctional state ration system, these reports said. Such changes, if confirmed, would be the North's latest — and perhaps its boldest — effort to overhaul its economy. A similar effort failed a decade ago.

[] Within collective farms, groups of four to six workers will be allowed to work as a unit to encourage competition, according to the Seoul bureau of Radio Free Asia, based in Washington, as well as Web sites in Seoul, which use sources in the North to collect news. Meanwhile, Jang Song-thaek, Mr. Kim's uncle and key policy adviser, visited China last month and won Beijing's commitment to help North Korea build two free economic zones on its border.

On Tuesday, a senior government official in Seoul, speaking anonymously to a group of reporters, confirmed one element of the reported plans. He said the North was taking the lucrative trading rights from its powerful military and returning them to the cabinet.”⁵⁵

In September 2012 US daily newspaper *The New York Times* stated that analysts remained divided over whether such attempts at change were genuine,

[] Analysts in South Korea remained divided over whether Mr. Kim was attempting a genuine economic change, of the kind his country's main ally, China, has pursued, or seeking more productivity only to make up for his dwindling state coffers. The regime has found it increasingly hard to earn hard currency in recent years as United Nations sanctions tightened and outside aid dwindled.”⁵⁶

In July 2012 online news agency, *Asia Times Online*, stated that unofficial private economic activities now accounted for the majority of the average North Korean's income,

“[] Estimates vary, but the consensus is that over the past 10-15 years, the average North Korean family has come to draw most of its income from what can be described as black-market activities. Actually the so-called black market is not particularly black, since the government - in spite of occasional crackdowns - has tacitly tolerated its existence since the mid-1990s. Nowadays North Koreans work on individual fields on steep mountain slopes, they establish private workshops to produce garments and assorted consumer goods, and they smuggle and trade.

The new and increasingly dominant unofficial economy is in essence capitalist. As such, it rewards those who are sufficiently industrious, greedy, intelligent, ruthless and disciplined - and in some cases, it rewards them handsomely.

⁵⁵New York Times, North Korea May Take Action to Jolt Economy, Analysts Say, 05 September 2012, <http://www.nytimes.com/2012/09/06/world/asia/north-korea-may-be-preparing-economic-reforms.html>, accessed 10 September 2012

⁵⁶New York Times, North Korea May Take Action to Jolt Economy, Analysts Say, 05 September 2012, <http://www.nytimes.com/2012/09/06/world/asia/north-korea-may-be-preparing-economic-reforms.html>, accessed 10 September 2012

[] The average North Korean gets most of his or her income (about 75%, if recent estimates are to be believed) from private economic activities - these include private agriculture, trade and small-scale household production, and myriad other things. Nonetheless, nearly all of these activities remain technically illegal. Unlike China, North Korea has never undertaken serious economic reform, so private economic activities are still considered crimes, even though they have long become, in practice, a universal norm (and without such activities many would be unable to stay alive).⁵⁷

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard stated that private economic activities were ubiquitous and possibly tolerated and deemed necessary by a state which is unable to provide for the basic needs of its citizens,

“Historically money and prices played little role in North Korea’s planned economy. Urban residents received monthly rations for household goods distributed at minimal prices; workers on agricultural cooperatives and state farms received a basket of consumer goods in return for agricultural output sold to the state at a trivial procurement price. A closer examination of the revenue, as well as expenditure, side of the household balance sheet in the South Korea-based survey finds the market playing an important role in income as well.

[] Engagement in private activities, particularly trading, is ubiquitous. More than 70 percent of respondents and more than 60 percent of their spouses reported that they had engaged in trading [] Fairly common also was participation in other private business activities.

[] The respondents were asked what share of household income came from private business activities at the time they left North Korea [] Nearly half the sample, the modal response, reported that *all* of their income came from private business activities at the time they left North Korea. More than two thirds of the respondents- 69 percent- reported that half or more of their income came from such activities. Only a handful of respondents- 4 percent- reported that none of their income came from the market

[] Moreover, the inability of the state sector to provide adequate income and even the most basic elements of the social contract, such as food, continues to create incentives for managers and households to exit the planned economy and enter the market. As this process continues and the state sector shrinks, it could at some point generate adequate constraints that some process of economic- if not political- reform of the state would be necessary for its very fiscal survival. Indeed, it could be that the revival of markets is tolerated because they have become necessary sources of revenue as some of the less privileged parts of the state grasp for “dedicated” revenue streams that they can control.”⁵⁸

⁵⁷ Asia Times Online, North Korea's culture of bribery, Andrei Lankov, July 13 2012, <http://www.atimes.com/atimes/Korea/NG13Dg01.html>, accessed 13 September 2012

⁵⁸ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011, p. 58-59 and 124

B. Main Political Developments (since January 2010)

In March 2012 the *UN Human Rights Council* expressed concern at widespread human rights abuses and extended the mandate of the Special Rapporteur, who has not been permitted entry to the DPRK,

“Regarding the situation of human rights in the Democratic People's Republic of Korea, the Council expressed very serious concern at the ongoing grave, widespread and systematic human rights violations in the Democratic People's Republic of Korea. The Council decided to extend the mandate of the Special Rapporteur for one year and urged the Government to cooperate fully with the Special Rapporteur and to permit him unrestricted access to visit the country.”⁵⁹

In April 2012 the *UN Human Rights Council* reported that the human rights situation was deteriorating, stating that it was,

“*Deeply concerned* at the persisting deterioration in the human rights situation in the Democratic People's Republic of Korea, at the continuing reports of systematic, widespread and grave violations of civil, political, economic, social and cultural rights in the country and at the unresolved questions of international concern relating to the abduction of nationals of other States, and urging the Government of the Democratic People's Republic of Korea to respect all human rights and fundamental freedoms fully[]”⁶⁰

In April 2012 the *UN Human Rights Council* stated that it was “*Alarmed* by the precarious humanitarian situation in the country, exacerbated by its national policy priorities[].”

In its 2012 world report, covering the events of 2011, *Human Rights Watch* reported that in March 2011 the UN passed a resolution against the DPRK expressing concern at systematic and widespread human rights abuses,

“The North Korean government continues to refuse to recognize the mandate of the UN special rapporteur on the situation of human rights in the DPRK or extend any modicum of cooperation to him. However, the government did permit a visit in May 2011 by Robert King, US special envoy for North Korean human rights issues, and during the visit released US citizen Eddie Jun after holding him for more than a year.

In March the UN General Assembly adopted a resolution against North Korea for the sixth straight year, citing member states' serious concerns about continuing reports of “systemic, widespread, and grave violations of civil, political, economic, social, and cultural rights” and concerns about “all-pervasive and severe restrictions on the freedoms of thought, conscience, religion, opinion and expression, peaceful assembly and association.” In the same month, the UN Human Rights Council (HRC) adopted a resolution against North Korea for the fourth year in a row for abysmal, systematic human rights violations. Both resolutions condemned North Korea's failure to state whether it accepted any of the 167 recommendations that it took under advisement from a HRC Universal Periodic Review session of its record in December 2009.

⁵⁹ UN OHCHR, Human Rights Council adopts 11 resolutions on Iran, Democratic People's Republic of Korea and Israeli settlements, 22 March 2012, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12004&LangID=E>, accessed 1 October 2012

⁶⁰ UN Human Rights Council, The Situation of human rights in the Democratic People's Republic of Korea, Resolution adopted by the Human Rights Council, 3 April 2012, A/HRC/RES/19/13, http://ap.ohchr.org/documents/dpage_e.aspx?c=50&su=59, accessed 2 October 2012

In July 2010 the European Parliament adopted a resolution calling for the European Union to sponsor a resolution to establish a UN commission of inquiry to assess past and present human rights violations in North Korea.”⁶¹

In 2012 *Freedom House* reported that high tensions between the Republic of Korea and the DPRK led to the stalling of all inter Korean cooperation activities except the Gaeseong Industrial Complex,

“The economy was disrupted further in early 2010 when the government banned the use of foreign currency. In February 2010, the government backtracked on the currency revaluation, issuing a rare formal apology and allowing markets to reopen.

In March 2010, a South Korean naval vessel, the *Cheonan*, was sunk in the West Sea, killing 46 crew members. While North Korea was widely believed to have perpetrated the attack, it never claimed responsibility. In May, an international group of experts concluded that the ship had been sunk by a North Korean torpedo. The findings triggered a series of escalatory provocations between the two Koreas.

While inter-Korean relations had begun to thaw only a few months after the *Cheonan* incident, North Korea responded to joint U.S.-South Korean live fire military exercises in the West Sea with a surprise attack on South Korea's Yeonpyeong Island on November 23. South Korea launched a counterattack, and the exchange lasted an hour; the shelling resulted in a number of South Korean casualties, including the first civilian deaths since the Korean War.

North Korean authorities also revealed to the international community that it had built a modern uranium enrichment facility, heightening fears that it would produce weapons grade uranium. This revelation sparked public debate in South Korea over whether it should pursue a nuclear weapons program of its own.

With inter-Korean tensions high, South Korea denounced North Korean requests for food aid in the beginning of 2011 and the United States followed suit. All inter-Korean cooperative activities were stalled except for the operation of the Gaeseong Industrial Complex, the joint North-South Korean economic venture.”⁶²

1. *Developments/power struggles relating to succession after Kim Jong-Il's death, [continuation of] personality cult, position of Kim Jong-Un*

In December 2011 Chinese online newspaper, the *China Daily*, reported that Kim Jong-il died on 17 December 2011,

“Kim Jong-il, top leader of the Democratic People's Republic of Korea (DPRK), passed away last Saturday at the age of 69, the DPRK's official KCNA news agency reported Monday.

Kim, who was general secretary of the Workers' Party of Korea (WPK), chairman of the DPRK National Defence Commission and supreme commander of the Korean People's

⁶¹ Human Rights Watch, World Report 2012, <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 1 October 2012

⁶² Freedom House, Freedom in the World 2012; North Korea, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/north-korea>, accessed 2 October 2012

Army (KPA), died "from a great mental and physical strain at 08:30 (2330 GMT Friday) on December 17, 2011, on a train during a field guidance tour," said the report."⁶³

In December 2011 UK daily newspaper, *The Telegraph*, reported speculations on a power struggle following the death of Kim Jong-il involving three factions,

"Three factions may now be taking shape behind the new leader. Perhaps the most significant is led by Chang Sung-taek, a pillar of the regime who serves as vice-chairman of the National Defence Commission. His wife, Kim Kyong-hui, is the younger sister of the late leader.

[]

Mr Kim may well rely on the guidance of this powerful couple, his aunt and uncle-by-marriage, both more than 30 years his senior. Their influence became clear last week when they were photographed accompanying the late dictator on a visit to a state supermarket in Pyongyang that turned out to be his final engagement.

[]

Mr Chang, 65, benefits from a significant power base on the National Defence Commission, which amounts to North Korea's supreme decision-making body. He is judged to be a pragmatist rather than an ideologue, sympathetic to modest economic reform, in line with proposals made by China.

Yet earlier in his career, Mr Chang was purged from the Central Committee and effectively consigned to the political wilderness, where he remained for three years until returning to prominence in 2007 as vice-director of the Workers' Party.

If he does try to become North Korea's de facto Regent, Mr Chang will probably face important rivals. Kim Sul-song, the 36-year-old daughter of the late leader, was close to her father and still holds an important position in the state's propaganda department.

Meanwhile, Kim Jong-nam, the former dictator's eldest son, may also seek to rebuild his influence. Originally viewed as the most likely successor, the 40-year-old fell out of favour when he tried to leave the country and make a clandestine trip to Japan in 2001.

But there are signs that he subsequently restored some of his reputation: in 2008, he called the doctors who treated the late leader after a stroke. He was occasionally allowed to speak on behalf of his father in meetings with foreign visitors.

Each of these three figures may try to be the power behind the throne. In the meantime, the official propaganda machine has sought to link the new leader with his grandfather, Kim Il-sung, the founder of North Korea who is still the country's official head of state despite having died in 1994."⁶⁴

In 2012 US NGO *Freedom House* reported that Kim Jong-un succeeded his father without a major power struggle,

"Kim Jong-un, Kim Jong-il's son and heir apparent, succeeded his father as the country's leader without a major power struggle, though it was unclear how much he had consolidated his hold on power."⁶⁵

⁶³ China Daily, DPRK top leader Kim Jong-il passes away, 19 December 2011, http://www.chinadaily.com.cn/world/2011-12/19/content_14287241.htm, accessed 1 October 2012

⁶⁴ The Telegraph, Kim Jong-il dead: Power struggle begins between three factions, 20 December 2011, <http://www.telegraph.co.uk/news/worldnews/asia/northkorea/8968827/Kim-Jong-il-dead-power-struggle-begins-between-three-factions.html>, accessed 1 October 2012

⁶⁵ Freedom House, Freedom in the World 2012; North Korea, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/north-korea>, accessed 2 October 2012

In March 2012 the *UN Special Rapporteur on the situation of human rights in the Democratic Republic of Korea*, reported that following succession Kim Jong-Un has been bestowed with titles such as the Great Successor, the Supreme Leader and the Sagacious Leader,

“In early 2011, Kim Jong-Un was made a four-star general and appointed deputy chairman of the Central Military Commission of the Workers’ Party, which was seen by many international observers as a part of the power transition from his father, Kim Jong-il. In December 2011, the death of Kim Jong-il led to the succession of Kim Jong-Un as the new leader of the Democratic People’s Republic of Korea. Since his succession in December 2011, State media have bestowed on him a number of new titles, such as the “Great Successor”, the “Supreme Leader” and the “Sagacious Leader”. In the light of the succession, different views were shared with the Special Rapporteur on how the country might proceed in its approach to engaging with the international community and addressing human rights concerns. The Special Rapporteur is of the opinion that the ramifications of this change on the people of Democratic People’s Republic of Korea and on the international community will only unfold in the coming months.”⁶⁶

In July 2012 US funded NGO, *Radio Free Asia*, stated that a top military official was removed from his post, reporting that it may indicate a power struggle,

“The removal of a top military official points to jockeying for power, but not so much over policy, in the reclusive nation.[]

Seven months after the death of North Korea's dictator Kim Jong Il, a power struggle appears to be taking place in Pyongyang, reigniting concerns about the future of the nuclear-armed regime.

Indications of a scramble for power stemmed from the abrupt removal at the weekend of North Korea's veteran military chief Ri Yong Ho and the subsequent promotion of a relatively new general, Hyon Yong Chol, to become a vice marshal in the 1.2 million strong Korean People's Army, among the world's largest.

And Kim's successor son Kim Jong Un, already the supreme military commander, was on Wednesday made marshal in a move clearly seen as aimed at beefing up his authority over the military and tightening his grip on power.

While Ri's dismissal, decided at a rare weekend meeting of the ruling Workers' Party of Korea, is the first purge of a senior figure since Kim Jong Un assumed full power last April, it is less clear who stands to gain from the move or whether it would trigger more changes.

[]
The announcement on Ri's dismissal was made by the two key organs that the young Kim is head of—the Workers Party's Central Military Commission and the National Defense Commission.

"I think it is fairly easy to see this as a manifestation of his exercising of his power over appointment and dismissal," Revere said.

The official announcement cited "illness" as the reason for Ri's removal, but he was seen with Kim and senior military officials paying tribute to North Korean founder Kim Il Sung just a week before—on the July 8 anniversary of his death in 1994.

⁶⁶ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, 13 February 2012, A/HRC/19/65, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, accessed 2 October 2012

It is highly unusual for anybody in the hierarchy in North Korea to be removed for health reasons."⁶⁷

In August 2012 China based daily newspaper, *China Daily*, reported that Kim Jong-un adhere's to the 'military first' policy but is also focusing on economic development, stating that his leadership is more transparent than Kim Jong-il's,

"The death of Kim Jong-il and changes in the leadership of some Northeast Asian countries in 2011 added to the uncertainties on the Korean Peninsula. But till now, the Peninsula has remained stable.

To consolidate his leadership and emphasize his adherence to the "military first" policy, new Democratic People's Republic of Korea leader Kim Jong-un has interacted frequently with the military and launched a satellite in April despite rising international pressure not to do so. The DPRK has also indicated that reforms and opening-up are not on its priority list at least now.

But the DPRK's new leadership has been paying greater attention to economic development and improvement of people's livelihood. For example, Kim Jong-un went on inspection tours of the military before May. After that his focus has shifted to factories and enterprises, amusement parks and facilities related to people's livelihood.

By doing so, he can consolidate his leadership, which is absolutely necessary for starting economic adjustments and reforms. Besides, the development of the economy and improvement of people's livelihood can also make the government stronger.

The existing political and economic system in the DPRK is the product of the past more than half a century. And given the country's traditional "military first" policy, the new leadership needs time to consolidate its administration to prevent reforms from backfiring. Also, by making public the DPRK leader's speech and family situation, and publicly acknowledging the failure of the satellite launch, the new leadership seems to be more transparent than the earlier one."⁶⁸

In July 2012 US based daily newspaper, the *New York Daily News*, reported that Kim Jong-un had relaxed restrictions on women's dress, outlawed foods, leisure activities and cell phone availability,

"North Korea is calling for a revolution — of the fashion variety.

Supreme leader Kim Jong-un appears to be loosening the government's grip on how women dress by allowing them to wear pants, platform shoes and earrings, ABC News reported.

Previously, pants were only permitted as uniforms for females in the factories or the fields — and not for making a fashion statement.

"If caught, sometimes they would cut your pants right there in public to make it into a skirt," Park Ye-Kyong, who defected to South Korea in 2004, told ABC News. That doesn't mean North Korean women don't enjoy preening, Park added.

"Yes, we were hungry but desire to look beautiful lies in any woman," she said. But clothing isn't the only lifestyle choice that the North Korean despot has reportedly eased up on: Kim apparently allows people to nosh on previously outlawed food, such as

⁶⁷ Radio Free Asia, Power struggle in North Korea?, 18 July 2012, <http://www.rfa.org/english/east-asia-beat/power-07182012014020.html>, accessed 1 October 2012

⁶⁸ China Daily, Stability for peninsula, 31 August 2012, http://www.chinadaily.com.cn/opinion/2012-08/31/content_15722764.htm, accessed 1 October 2012

burgers and fries; encourages trips to zoos and amusement parks; and is steadily making more cell phones available.

Telegraph North Korea's state television is ramping up coverage of Kim Jong-un's visits with the people in an apparent attempt to help the untested young leader bolster popular support.

"He's clearly been on a kind of campaign with an emphasis on children and youth," Marcus Noland, a senior fellow at the Peterson Institute for International Economics, told the Daily News on Monday.

"He seems much more gregarious than his father (Kim Jong-il), too. He's going out in public. He's doing photo ops," said Noland, author of "Korea after Kim Jong-il." Telegraph The new North Korean leader's outgoing style is in sharp contrast with his father's reclusive nature. []

But none of this means North Korea is starting to peel away its totalitarian rule. []

Reuters reported earlier this year that the government was still threatening to shoot defectors attempting to flee into China.

Kim "does have this youth campaign, and he's easing up on some petty stuff," Noland said, "but there's still a disconnect between what's going on in the capital city and the tough situation that people are going through in the countryside."⁶⁹

2. Reunification efforts

In March 2012 *Kim Myong Chol*, a Phd who the Hong Kong based Asia Times reports has been referred to as an unofficial spokesman for Kim Jong-il and North Korea, stated that a bi-system reunification is a policy goal of the DPRK but that the US military presence and South Korean National Security Law are obstacles,

"The neutralization and termination of the American military presence will remove the biggest stumbling block to the territorial integration of Korea. It will pull the American rug from under the hard-core conservatives and put in place the physical environment for the repeal of Seoul's notorious National Security Law (NSL).

An all-purpose institutional instrument, the NSL brands North Korea as an enemy and outlaws inter-Korean cooperation and reconciliation. The NSL is readily invoked to crack down on anti-government protests. Whatever agreements are concluded with North Korea, there is no legal guarantee for their fulfillment.

With all their good intentions, the two democratic governments of Kim Dae-jung and Roh Mu-hyun failed to abrogate the NSL.

The taming of the US will enable the Kim Jong-eun administration to take the initiative in completing the policy goals left unfinished by Kim Il-sung and Kim Jong-il: a bi-system reunification of the Land of Morning Calm.

Public opinion in the South will overwhelmingly turn in favor of Kim Jong-eun. With hat in hand, most of the South Korean business leaders and military will salute Kim Jong-eun for taming the US. Kim Jong-eun will be magnanimous enough to embrace the most conservative people into his parental benevolent fold, as long as they remain Korean

⁶⁹ New York Daily News, North Korean leader Kim Jung-un eases fashion, food restrictions, 3 July 2012, http://articles.nydailynews.com/2012-07-03/news/32527467_1_kim-jong-il-supreme-leader-kim-hermit-kingdom, accessed 1 October 2012

nationalists. They will have nobody to turn to except him, since the Americans have been totally neutralized.

A bi-system reunification will enable Kim Jong-eun to provide South Korean business leaders with new greater access to abundant underground mineral sources in North Korea, valued at not less than US\$7-9 trillion, for the sake of a millennium of co-prosperity for a reunified Korea.”⁷⁰

In September 2012 UK daily newspaper, *The Telegraph*, reported that the South Korean president had stated that reunification was inevitable,

““We are the only divided nation in the world and it is inevitable that we (will) come to peaceful reunification at some point,” Mr Lee said during a visit to Oslo.

“Nuclear weapons or military might is not a way for North Korea to overcome the current problem,” he said, urging Pyongyang to renounce its nuclear programme as demanded by the United Nations.

The two Koreas have remained technically at war since the Korean War ended in 1953 with a truce rather than a peace treaty.

The death on December 17 of North Korean leader Kim Jong-il and his replacement by his son Kim Jong-un have relaunched debate in South Korea about the chances of reunification, though it is seen as being far off given the persisting tension between the two countries.

Last month, Seoul announced the creation of a fund for a potential reunification, with estimates predicting it could cost up to 249 trillion won (£137 billion) – almost one-quarter of the South's 2010 national economic output – for the first year alone if medical costs, pensions and other benefits were factored in.”⁷¹

In October 2012 German newspaper *Spiegel* published an interview with the South Korean unification minister, Yu Woo-ik,

“SPIEGEL ONLINE: Minister Yu, Russian government advisers believe Korea will reunite within the next 20 years. Do you share this belief?

Yu: Of course we have that firm goal, but the point in time is unimportant. What is important now is that we not lose our belief that Pyongyang will overcome its doubts about our honest intentions and negotiate seriously with us. No one here is hoping for a collapse of the regime or wants to simply swallow up the North. We want a peaceful reunification and to make it possible for all refugees to decide voluntarily where they want to live.

SPIEGEL ONLINE: The new regime in the north under Kim Jong Un, the young son of Kim Jong Il, who died in December, is also talking a lot about reunification right now. Is that talk credible?

Yu: We have to create mutual trust. For that to happen, we need a new channel of dialogue between the two countries that remains stable, independent of the respective current political situations.

⁷⁰ According to Asia Times “Kim Myong Chol is author of a number of books and papers in Korean, Japanese and English on North Korea, including Kim Jong-il's Strategy for Reunification. He has a PhD from the Democratic People's Republic of Korea's Academy of Social Sciences and is often called an "unofficial" spokesman of Kim Jong-il and North Korea.” Asia Times, Kim Jong-eun leads reunification drive, 7 March 2012, <http://www.atimes.com/atimes/Korea/NC07Dg03.html>, accessed 2 October 2012

⁷¹ The Telegraph, Korean unification 'inevitable', 12 September 2012, <http://www.telegraph.co.uk/news/worldnews/asia/southkorea/9538607/Korean-unification-inevitable.html>, accessed 2 October 2012

SPIEGEL ONLINE: Has the government in Pyongyang now opened the door to that, with its surprise announcement that it will stop uranium enrichment and halt nuclear tests?

Yu: North Korea has at least recognized that the nuclear issue has considerable influence on whether or not a common dialogue can advance -- and that an appropriate signal is important. Now we will have to see how dependable this announcement really is.

SPIEGEL ONLINE: Do you have doubts about its seriousness?

Yu: It is still too early to conclusively assess that. But it is a good signal that the government in the North is willing to move. If the announced steps are indeed implemented, then it will achieve the precondition for new talks -- also with an expanded number of parties, as we have always demanded."⁷²

3. Current status of the six-party talks on denuclearization of the Korean peninsula

In its 2012 world report, covering the events of 2011, *Human Rights Watch* reported that the six party talks between the DPRK, the Republic of Korea, China, Japan, the Russian Federation and the US had stalled,

"The six-party talks on denuclearizing the Korean peninsula—involving North and South Korea, China, Japan, Russia, and the US—remain stalled. The US and South Korea demanded that North Korea halt its uranium-enrichment program, freeze nuclear and missile tests, and allow international nuclear inspectors back into the country before talks could start, while North Korea insisted there be no pre-conditions to resumption of talks."⁷³

In February 2012 the *UN Special Rapporteur on the human rights situation in the Democratic People's Republic of Korea* stated that the six party talks were at a standstill,

"The six-party talks on the denuclearization of the Korean peninsula involving the Democratic People's Republic of Korea, the Republic of Korea, China, Japan, the Russian Federation and the United States of America are at a standstill. The Special Rapporteur was briefed on this important topic during his missions to both the Republic of Korea and to Japan. The Special Rapporteur believes that, although human rights is not one of the topics for discussion at the six-party talks, progress made during them will assist discussions on other issues, such as the human rights situation of the people of the Democratic People's Republic of Korea."⁷⁴

In 2012 US NGO, *Freedom House*, reported that denuclearizing talks broke down in December 2011,

"The DPRK withdrew from the Nuclear Non-Proliferation Treaty in 2003 and proceeded to test ballistic missiles and a nuclear device in 2006. In early 2007, the regime agreed to denuclearize in exchange for fuel aid and other concessions from its four neighbors—China, South Korea, Japan and Russia—and the United States, but further negotiations and implementation of the deal proceeded haltingly. In 2008, Pyongyang handed over its

⁷² Spiegel Online, No one wants to just swallow up the North, 3 October 2012, <http://www.spiegel.de/international/world/south-korea-s-unification-plan-no-one-wants-to-just-swallow-up-the-north-a-820577.html>, accessed 6 October 2012

⁷³ Human Rights Watch, World Report 2012, <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 1 October 2012

⁷⁴ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, 13 February 2012, A/HRC/19/65, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, accessed 2 October 2012

declaration of nuclear assets and disabled its Yongbyon nuclear plant, and the United States removed North Korea from its list of state sponsors of terrorism. The Six-Party Talks then broke down in December over the issue of verification.”⁷⁵

⁷⁵ Freedom House, Freedom in the World 2012; North Korea, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/north-korea>, accessed 2 October 2012

C. Security Forces/Military/Intelligence

1. *Impact of militarization of society on daily life; including impact of the 'military first' (Songun) policy*

[\[See also Section J. Further Human Rights Considerations, 2. Impact of the loyalty system on access to human rights\]](#)

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard stated that extreme militarisation has become a particular feature of North Korean communism,

“Extreme militarization has become an increasingly distinctive feature of both the political and economic systems, a particular feature of North Korean communism that has resulted from both external and internal developments.

[] By standard statistical measures such as the share of the population under arms or the share of national income devoted to the military, North Korea is the world's most militarized society. The bulk of its million strong army is forward-deployed along the demilitarised zone separating it from South Korea, a highly destabilizing military configuration.

[] Our surveys reveal widespread perceptions that the military is favoured, for example in the distribution of food. [] The refugees overwhelmingly believed that aid went primarily to the military [] these responses do not prove that the aid was diverted to the military and officials. But at a minimum, the responses attest both to the perceived power and centrality of the military in North Korean life and to the regime's control over information and resources.[] The refugees responses call into question the effectiveness of past aid programs in reaching intended targets.”⁷⁶

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard also stated that despite the perceived significance of “military-first” politics, the army was no longer seen by individuals as the best way of advancing within society,

“When asked the best way to get ahead in North Korea, officialdom (including both government and party) trumped both the military and engaging in business.

[] Interestingly, despite the proclamation of “military-first” politics, the army's appeal declined as an avenue to get ahead: While institutionally the military may have experienced rising influence, from an individual standpoint, the largely conscript army was not seen as a channel of advancement, with not a single in the most recent subsample citing it as the way to get ahead.”

In 2012 the NGO, *US Committee for Human Rights in Korea* published a report by Robert Collins, a former US Department of Defense North Korea analyst stated that under current policy the military plays the leading role in the ideology of songun (military-first),

“The current operative governing policy is governed by the “songun jeongchi,” or “military-first policy” promulgated by Kim Jong-il, a form of martial law in effect since 1998 that emphasizes military ideology, its political role, and gives priority to resources for the military and the security agencies. The function of the military and the security agencies is to maintain the safety and security of the regime. All regime policies, practices, and institutions serve to ensure that security. When there is a conflict with norms of international human rights conventions, regime security policies, of course, take precedence. In other words, they take precedence at all times.

⁷⁶ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011 p.57-58

[] In today's North Korea, the military plays the leading role in the ideology of *songbun* (military-first), established by Kim Jong-il. Unless you are from an important family, not having served in the military is particularly harmful to one's life occupation/career. Although this is not a problem for members of elite families, it is extremely difficult to gain membership in the Korean Workers' Party without military service. On the other hand, those who maintain core class *songbun* can easily become officers, and if they are members of the ruling elite, they are posted to easy (and often lucrative) assignments such as being border guards along the Chinese border, or they avoid service altogether. Those from the wavering class with marginal *songbun* can become officers but must be the best and brightest of their group. They can expect to rank no higher than colonel, though they may be better leaders and officers than their core class comrades."⁷⁷

In February 2011 *Asia Times Online* stated that the importance attached to *songbun* had declined in recent years,

"It is often overlooked how much North Korea has changed over the past 20 years. [] One of many significant changes has been the steady decline in the significance attached to family background (known as *songbun* in North Korean parlance) - once the single most important factor that determined the life of a North Korean.

[] Success in the emerging new economy is usually unrelated to one's *songbun*. In fact, sometimes it seems that people with bad *songbun* tend to be more successful nowadays - perhaps because back in the 1990s they had no expectations of the state and were the first to jump into the murky waters of the emerging North Korean market economy.

Of late, the previously attractive career avenues have lost much of their allure. For example, in the past, many North Koreans were willing to do their long and tedious military service, which lasted some seven to 10 years. This popularity was easy to explain: For a person with average *songbun*, this would be the only way to get into the bottom tiers of the bureaucracy. [] Such a job is still attractive, to be sure, but it seems preferable to become a smuggler or a merchant, whose income far exceeds that of a petty bureaucrat.

Still, on the very top, *songbun* is important, since the key administrative positions are held by those with good *songbun*, [] However, for a majority the emergence of markets opened a new, faster and more attractive (but also more risky) avenue of social mobility."⁷⁸

However, in 2012 the report by the *US Committee for Human Rights in North Korea* also stated that despite an increase in individual economic initiative the policy *songbun* remained significant and was unlikely to be abandoned by Kim Jong-Un,

"Some analysts suggest that *songbun* has weakened since the famine of the 1990s and the collapse of the Public Distribution System (PDS), and that money and bribery have replaced *songbun*'s dynamics. [] These burgeoning markets, born of necessity with the state's inability to feed its people, have indeed provided new opportunities and individuals in most categories of *songbun* have been able to earn some money through their own initiative. Purchasing power and ability to bribe have helped those of the lower *songbun* classes to overcome—to a limited degree—restrictions placed upon them by *songbun*.

[] Yet this does not change the significance of *songbun*. It does not change, for example, the assignment of lower *songbun* citizens to menial and heavy-labor jobs. It does not change how their parents experienced pervasive discrimination which influenced where they grew up in lower-class housing, nor does it change the poorer diet or medical care

⁷⁷ The Committee for Human Rights in North Korea, *Marked for Life: SONGBUN, North Korea's Social Classification System*, Robert Collins, 2012, <http://www.hrnk.org/publications/hrnk-publications.php> accessed 31 August 2012

⁷⁸ *Asia Times Online*, "North Korea's culture of bribery", Andrei Lankov, July 13 2012, <http://www.atimes.com/atimes/Korea/NG13Dg01.html>, accessed 13 September 2012

available to them their entire lives. It does not give lower *songbun* classes access to positions of influence. It does not change who makes policy or makes critical decisions—that remains the prerogative of those with high *songbun*. And it has not stopped *songbun* investigations of every single North Korean citizen and the resulting classification into a *songbun* category. It is still those of the higher *songbun* who decide distribution priorities, and it is high *songbun* people who receive the bribes. Worse, it does not change the fact that opportunity was and is denied them based on *songbun*.

[] *Songbun* has changed with the times, but the Kim regime has not abandoned this policy. In many ways [] it is even more insidious than before, now that all the information on each individual's *songbun* has been digitalized for use by the regime in integrating *songbun* data with social, legal, criminal, and political data. Furthermore, there is no indication whatsoever that after Kim Jong-il's death in December 2011 that the party-state's *songbun* policy will change and there were no changes during the three-year succession transition process prior to that. Changes in the *songbun* policy would undoubtedly be viewed as a direct threat to North Korea's elite who benefit most from the system. That would be highly detrimental to Kim Jong-un's power consolidation process. If anything, the Kim regime's new leadership has demonstrated entrenchment in domestic and foreign policies focused on regime security and survival."⁷⁹

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that the "military-first" policy was intended to designate the military as the main strike force of the revolution,

"The "military-first" idea was meant to complement *juche* ideology by designating the military as the main strike force of the revolution. The theory was that if the military took the lead and played an exemplary role in all sectors—political, economic, cultural, and ideological—the citizens' creative capabilities and activities would also be greatly enhanced. The doctrine of military-first politics asserted that North Korea's crisis stemmed from the aggressive policies of imperialist powers, so it was necessary to divert national finances and resources to reinforce its military power, including the development of missiles and nuclear weapons. Since the collapse of the Soviet Union and the Eastern European bloc, the North Korean economy has experienced chronic problems. Yet the Kim Jong-il regime made a poor policy choice by diverting major resources to reinforce military power, thus exacerbating the economic hardships. As a result, North Korea has become a "failed state" that cannot provide even the minimum standard of living for its citizens."⁸⁰

In February 2010 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*, Vitit Muntarbhorn, stated that the military first policy rendered the human rights in the Constitution illusory,

"On the home front, the mention of human rights in the Constitution is illusory, as the Constitution also now entrenches a "military first" policy. The preferred orientation, namely "people first", is absent from both the text and reality. [] Farmers were also reported to be suffering from the military pilfering or extorting a share of the farm produce.

[] A strategic framework between all United Nations agencies will also have to be worked out in the near future to ensure close coordination on all major aspects of development. What should not be forgotten, however, is that the country is not poor but suffers from an inequitable development process caused by the failings of the authorities. It has more mineral resources than its southern neighbour. Its trade with another neighbour has been in the billions of dollars in the past few years. Yet, the resources of the country are misspent,

⁷⁹ The Committee for Human Rights in North Korea, *Marked for Life: SONGBUN, North Korea's Social Classification System*, Robert Collins, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 31 August 2012

⁸⁰ Korea Institute for National Unification (KINU), *White Paper Human Rights*, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672, accessed 10 September 2012

misallocated and misused on the elite and the “military first” policy to the detriment of the populace. Such is the injustice – latent, patent and blatant.”⁸¹

2. Military Service/Treatment of military deserters/conscientious objectors/draft evaders

a. Military Service

Article 58 of the *Constitution of the Democratic Peoples Republic of Korea* states,

“The DPRK shall base itself on an all-people, nationwide defense system.”⁸²

Article 60 of the *Constitution of the Democratic Peoples Republic of Korea* states,

“The state shall carry out a self-defensive military line, the basic substance of which is to convert the entire army into a cadre army, modernize the entire army, arm all the people, and turn the whole country into a fortress, on the basis of arming the army and the people politically and ideologically.”⁸³

Article 61 of the *Constitution of the Democratic Peoples Republic of Korea* refers to military discipline,

“The state shall establish a revolutionary system of leading the army and military ethos; strengthen military discipline and mass discipline within the army; and promote the high display of the lofty traditional virtue of unity between officers and enlisted men, harmony between military and political [affairs], and unity between the army and the people.”⁸⁴

Article 86 of the *Constitution of the Democratic Peoples Republic of Korea* states that citizens shall service in the military as prescribed by law,

“Defending the fatherland is the supreme duty and honor of citizens. Citizens shall defend the fatherland and serve in the armed forces as prescribed by law.”⁸⁵

In its most recent global report (2008), *Child Soldiers International* stated that the general population of the DPRK is 22.5 million and that 1.1 million serve in the armed forces.⁸⁶ *Child Soldiers International* reported that conscription and voluntary ages were unclear, estimating compulsory recruitment age at 18 years and voluntary recruitment age at 16 or 17 years. According to *Child Soldiers International* DPRK government sources stated that there was no forced recruitment however NGO and US government sources stated that males were conscripted between the ages of 18-24 and 20-25, respectively. *Child Soldiers International* reported that women were not subject to regular military service but were required to undergo military training until the age of 40,

“In 2003 the government reported to the UN Committee on the Rights of the Child that the legal minimum age for voluntary enlistment in the armed forces was 16 – the age of

⁸¹ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Vítit Muntarborn, February 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-47.pdf>, accessed 5 September 2012

⁸² North Korean Constitution, April 2009, <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 30 November 2012

⁸³ North Korean Constitution, April 2009, <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 30 November 2012

⁸⁴ North Korean Constitution, April 2009, <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 30 November 2012

⁸⁵ North Korean Constitution, April 2009, <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 30 November 2012

⁸⁶ Child Soldiers International, Global Report 2008, Korea, Democratic People's Republic of, http://www.child-soldiers.org/user_uploads/pdf/2008globalreport1245411.pdf, accessed 30 November 2012

graduating from senior middle school – but in practice volunteers took an oath to respect the military code of conduct and began their regular military service only at the age of 17 after pre-service military education that lasted for six months or more, on a selective basis. The report went on to state that those selected were educated in full-time military or technical educational institutes for one to two years before being posted to units as servicemen on active duty. It emphasized that enlistment was on a voluntary basis and that there was no system of forced conscription.

Other reports claimed that there was widespread conscription. According to one source all men between the ages of 18 and 24 were liable for military service. Women were not liable for regular military service, but had to undergo annual and other military training until they were 40. Another source gave the conscription age as 20–25, followed by part-time compulsory service in the Worker-Peasant Red Guards until the age of 60.

Elsewhere it was claimed that ten years' service was mandatory for all conscripts and enlisted personnel, according to a directive issued by head of state Kim Jong-Il in April 1993, the system being revised in October 1996 to require service until the age of 30 for men and 26 for women. The source claimed that due to a decrease in the number of volunteers for work involving heavy labour, the government had introduced "labour service", whereby an individual could be exempted from military service in return for six to seven years' labour. Another source stated that all able-bodied men who did not go to college were conscripted into the military and that some were conscripted immediately after middle school, making them 17 or 18 years old. According to the same source, the duration of service depended on supply and demand and if the authorities determined there were insufficient new conscripts those who had already completed their terms were required to stay on. A reserve military training unit, of men aged 17–45 and unmarried women aged 17–30, consisted of approximately 1.7 million personnel.

Together with members of the Worker-Peasant Red Guards and Young Red Guards, the total number of available reserve personnel was estimated at 7 million.⁸⁷

In April 2012 online newspaper *News24* cited information from Daily NK, a South Korean based newspaper run by defectors from North Korea, reporting that military service was mandatory for able bodied males from 16 or 17 years of age and could last for 10 years, *News24* reported that women were also subject to conscription,

"All able-bodied North Korean males aged 16-17 must begin mandatory service that lasts about a decade. Women deemed fit must also serve for a shorter period in the 1.2 million-strong military, the world's fourth largest."⁸⁸

b. Treatment of military deserters/conscientious objectors/draft evaders

In 2012 *Hands off Cain*, an Italian NGO campaigning against the death penalty reported that 'deserters' have been shot, the source does not specify whether these individuals were military deserters,

"On March 1, 2006, North Korea issued a special decree calling for the maximum penalty of death for its citizens involved in manufacturing and trafficking drugs. North Korea said its use of the death penalty was based on "special domestic circumstances and the need to prevent crimes". People were reportedly condemned to death for such 'crimes' as

⁸⁷ Child Soldiers International, Global Report 2008, Korea, Democratic People's Republic of, http://www.child-soldiers.org/user_uploads/pdf/2008globalreport1245411.pdf, accessed 30 November 2012

⁸⁸ News24, N Korea cuts height for conscripts, 2 April 2012, <http://www.news24.com/World/News/N-Korea-cuts-height-for-conscripts-20120402>, accessed 30 November 2012. Article cites information from news source Daily NK, we were unable to source the original Daily NK article within the timeframe of this research

“ideological divergence”, “opposing socialism”, and “counterrevolutionary crimes”. Political prisoners, peaceful opponents, deserters or repatriated defectors, those who listened to foreign radio broadcasts and those found in possession of so-called “reactionary” material have been shot.”⁸⁹

We were not able to identify further information concerning the treatment of military deserters, conscientious objectors or draft evaders during the timeframe of this research.

3. Human rights abuses by the security forces

The 2011 *USDOS* country report on human rights practices stated that security forces arrested and reportedly transported citizens to prison camps without trial,

“The security forces do not have adequate mechanisms to investigate possible security force abuses. There was no information that the government took action to reform the security forces.

[] Members of the security forces arrested and reportedly transported citizens suspected of committing political crimes to prison camps without trial. According to one South Korean NGO, beginning in 2008, the PSA was authorized to handle criminal cases directly without the approval of prosecutors. The change was reportedly made because of corruption among prosecutors. One NGO reported that investigators could detain an individual for the purpose of investigation up to two months.”⁹⁰

In its 2012 annual report *Amnesty International* stated that the State Security Agency had detained over 200 officials,

“In apparent preparation for a succession of power, unconfirmed reports suggested that, in January, the State Security Agency detained over 200 officials, some of whom were feared executed, while others were sent to political prison camps.

[] In October, unconfirmed reports indicated that the National Security Agency had arrested at least 20 North Koreans in September in Shenyang, China. The 20 were forcibly returned to North Korea and detained at a National Security Agency facility in North Hamkyung province.”⁹¹

4. The role of “informers” and the (impact of) surveillance of citizens

The 2011 *USDOS* country report on human rights practices stated that informers existed throughout society and that surveillance of citizens was routine,

“The formal public security structure was augmented by a pervasive system of informers throughout the society. Surveillance of citizens, both physical and electronic, was routine.”⁹²

In January 2012 *Human Rights Watch* stated that media and publications are state-controlled and that a network of informants operated throughout the country,

⁸⁹ Hands Off Cain, North Korea, 2012, <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=23&nome=north%20korea>, accessed 30 November 2012

⁹⁰ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Viti Muntarhorn, February 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-47.pdf>, accessed 5 September 2012

⁹¹ Amnesty International World Report 2012, North Korea, 2012, <http://www.amnesty.org/en/annual-report/2012/downloads>, accessed 5 September 2012

⁹² U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

"North Korea operates a vast network of informants to monitor and punish persons for subversive behavior. All media and publications are state-controlled, and unauthorized access to non-state radio or TV broadcasts is severely punished. The government periodically investigates the "political background" of its citizens to assess their loyalty to the ruling party, and forces Pyongyang residents who fail such assessments to leave the capital."⁹³

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard stated that pervasive surveillance and coercive apparatus serve to reduce trust in society and limit platforms for dissent,

"There are reasons to doubt that a dramatic political unravelling will occur in North Korea any time soon; outside analysts have underestimated the regime's capacity to survive before. The regime has cultivated a core base of supporters in the army, party and state apparatus. The strength of the coercive apparatus is extraordinary, and the party provides the leadership a highly developed institution for social surveillance and monitoring. The North Korean regime not only has a highly developed propaganda apparatus but also jealously guards competitive source of outside information, including those gleaned from unauthorised exit from the country , in order to limit comparisons that might call its portrayal of material circumstances into question. Above all, the regime has aggressively forestalled independent forms of social organisation, permitting only state-sanctioned bodies such as youth leagues, which provide additional instruments of both elite recruitment and control. There are no independent unions, autonomous religious organizations or forums of intellectuals, all of which have served as platforms for organizing dissent in countries that have democratized in recent decades.

[] In North Korea, as in other highly repressive political systems, pervasive surveillance, a highly developed internal security and monitoring apparatus, and the liberal use of the penal system all serve to reduce trust in society as a whole. Even making jokes about the government is risky, let alone complaining, disparaging the leader or organising against the regime."⁹⁴

In 2012 a report by the *US Committee for Human Rights in North Korea* stated that informants are usually chosen amongst those who have a minor weakness since a person with such a background would not be suspected of working for the SSD and that informants are rewarded with small amounts of food or money,

"North Korea's internal security agencies rely on constant surveillance, a network of informants in every neighborhood, and the threat of punishment in North Korea's notorious prison camps to ensure the Kim regime's total control.

[] One of the reasons for political continuity despite economic deprivation is the total control the regime maintains over society. North Korea is a police state. Telephones and correspondence are monitored, radios are fixed to receive only government authorized stations, travel and activities are controlled, and people's thoughts are continually molded and monitored. Anyone not conforming to regime directives is considered suspicious and a potential enemy of the state.

[] These informants report on any suspicious activities, from political statements made by In-min-ban members, to private gatherings. They observe the neighbors' radio and television watching habits and use of foreign currency. These informants receive a small

⁹³ Human Rights Watch, World Report 2012: North Korea, 2012, <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 10 September 2012

⁹⁴ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011, p. 101-102 and 115

amount of food and money from the SSD or the police, and they receive a reward for special meritorious activities.

[] Informants are usually chosen amongst those who have a minor weakness, such as having a relative who had defected to South Korea or a grandfather who was close to the Japanese, since members of the In-min-ban would not suspect a person with such a background would be working for the SSD. This maximizes their ability to control the informant, who is already predisposed to be obedient and responsive to tasking.⁹⁵

In 2012 a report by the *US Committee for Human Rights in North Korea* stated that mass surveillance networks operated by the SSD allow control to be maintained over the country and that the Ministry of People's Security conducts routine home inspections,

"The SSD directs and maintains control over the mass surveillance networks organized across the nation. It rewards citizens who make reports with gifts. The mass surveillance networks operated by the SSD include a village (ri) surveillance network (bojeon) surveillance network, cultivated field, a school surveillance network and a student civil police unit (mingyeong-dae).

[] The village surveillance network is based on a system of the housewives or old people who live as dependents reporting to the SSD when they see suspicious people or incidents in the streets or the people's neighborhood units [] The cultivated field surveillance network is an organization set up to report to the SSD at once when the workers and farmers working in the factories and rural villages near the Demarcation Line and coastal and border areas detect abnormal signs or suspicious people who are infiltrating into or fleeing from the areas. [] The school surveillance network is a student organization for students to report any suspicious incidents they witness on the way to and from school.

[] Informants not only are responsible for reporting on their immediate surroundings, but are often tasked by their handlers to provide surveillance on specific individuals. Informants are required to report for debriefings and instructions at least on a monthly basis, and sometimes more often. The provincial SSD normally handles surveillance and monitoring of important North Korean government officials or government/research facilities.

[] The Ministry of People's Security conducts routine, but unannounced, home inspections. On occasion, the MPS's Overnight Inspection Group visits individual homes and carries out inspections between midnight and 3 AM to prevent such activities as unauthorized stays and adultery. This group frequently visits and searches homes without warning under the pretense of inspecting for illegal visitors. In other words, "bed checks" by security agents take place quite randomly.

[] Everyone watches everyone else in order to have something to discuss in these sessions. No one knows whom to trust, even among friends, or who reports to whom.⁹⁶

⁹⁵ Committee for Human Rights in North Korea, *Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State*, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 2 September 2012

⁹⁶ Committee for Human Rights in North Korea, *Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State*, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 2 September 2012

D. Rule of Law / Administration of Justice

a. Access to legal remedies, impunity

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard stated that the legal code and criminal trial process now contain a number of standard legal provisions but that these provisions are not honoured in practice,

“Perhaps due to a desire to conform-at least superficially-to international norms, revisions of the legal code have gradually included a number of standard legal protections. The law now [] stipulates that no arrest shall be made without a warrant, that only investigators and “pretrial agents” can make an arrest (Article 180), and that a pretrial agent making an arrest must apply for, and receive, pre-approval from a prosecutor (Article 181).

[] A similar set of provisions appears to pertain to the criminal trial process. [] revisions of the Criminal Procedure Law [] stipulate that “all criminal cases shall follow the principles, procedures and methods stipulated in the Criminal Procedure Law” and that “trials be conducted at appropriate levels of court, and the punishment levels shall be determined by court decisions”

Not surprisingly, these legal and procedural reforms do not seem to matter. Of the 102 respondents in the 2008 only 13 reported receiving any trial at all. [] Moreover, the absence of trial and conviction was by no means limited to those cases that ended up with detention in the *kwan-li-so* and *kyo-hwa-so*. On the contrary, the share of those reporting that they did not receive trials and convictions was even higher in the lower level penal institutions. [] The North Korean legal and penal system clearly retains an extraordinary level of discretion with respect to political crime and lower-level infractions such as economic crimes.”⁹⁷

In May 2011 a research paper by the Republic of Korea (ROK) think tank the *Korea Institute for National Unification (KINU)* stated that the purpose of the appeals system is to oversee the extent to which judgements faithfully reflect the policies of the Korean Worker's Party,

“In North Korea the main purpose of the appeals system is not to rectify errors in the original judgement, help those who are at a disadvantage, or unify legal interpretations, but rather to oversee the extent to which judgements faithfully reflected Kim Il Sung and Kim Jong Il's teachings and Party policy. Thus appeals do occur from time to time, but since appeals generally result in additional sentencing people do not often submit objections.”⁹⁸

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that appeals were exceptional and often resulted in additional penalties and that defence lawyers seldom assisted their clients,

“Sometimes the authorities are known to accept appeals and petitions, although such cases are exceptional. In North Korea, appeals or petitions could potentially have an adverse impact on the petitioner, often resulting in heavier penalties. North Korea's Constitution and the Attorney Law guarantee citizens' right to legal assistance. In reality, however, the right to an attorney is not guaranteed. In many cases, trials are conducted based on documentary evidence, making it impossible to get legal assistance, and even at actual

⁹⁷ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011, p. 89-91

⁹⁸ Korea Institute for National Unification (KINU) , *The North Korean Criminal Trial System: Characteristics and Actual Practice*, January 2012, http://www.kinu.or.kr/eng/pub/pub_02_01.jsp?bid=DATA05&page=1&num=94&mode=view&category=2676, accessed September 2012

trials it is common place for defense attorneys to be absent. Recently, however, many North Korean defectors testified that in most trials today defense attorneys do participate in trials. Even when they participate, however, they seldom assist their clients, nor do they actively provide legal advice. It is not surprising that most North Koreans are unaware of the proper role of attorneys at trials. North Korea's Administrative Penalty Law stipulates a variety of penalties, including warnings, stern warnings, unpaid labor, labor education, demotion, resignation or termination from one's job, suspension, reparation, confiscation, suspension of qualifications, reduced pay, and removal of qualifications. In many cases, demotion, resignation, unpaid labor, and fines are imposed. In recent years, criminal penalties such as correctional labor and labor training have been imposed in connection with the use of mobile phones, video circulation, illegal vending, etc, but in minor infraction cases fines are the most commonly imposed penalty."⁹⁹

In July 2012 online news agency *Asia Times Online* stated that under the current system corruption allows citizens to break laws with impunity,

"Present-day North Korea is often perceived as a tightly controlled Stalinist society whose life is arranged in strict accordance with countless regulations. That indeed used to be the case a couple of decades ago, but nowadays there are few countries where laws and regulations are broken with such ease and impunity. [] There are many factors that make this possible, and corruption is one of them."¹⁰⁰

The 2011 *USDOS* country report on human rights practices stated that the extent to which officials engaged in corruption with impunity was not known,

"It was not known whether the law provides criminal penalties for official corruption, whether the government implemented any such laws effectively, or how often officials engaged in corrupt practices with impunity."¹⁰¹

2. *Due process*

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard stated that political crimes appeared to fall outside of criminal statute and little pretence was made at due process,

"A distinctive feature of the management of political crimes is that there is little pretense of due process. Political crimes appear to fall outside of criminal statute altogether and are managed with a high level of discretion by the NSA [National Security Agency]. The NSA either apprehends those accused of political crimes directly or they are remanded to NSA custody; the NSA operates its own interim detention centers, including several dedicated to those caught attempting to cross the border or repatriated by Chinese authorities. Prisoners accused of political crimes are detained in these interim facilities and tortured to extract confessions.

Once a case is deemed political, the NSA assumes control of the detention process. A prosecutor from the NSA will hand down judgements in a closed door local court session in the name of the central court in Pyongyang, including the decision of whether the criminal's family will also be sent with him. Group punishment in the form of incarceration of extended family and confiscation of property is a distinctive feature of the management of political

⁹⁹ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 10 September 2012

¹⁰⁰ Asia Times Online, "North Korea's culture of bribery", Andrei Lankov, July 13 2012, <http://www.atimes.com/atimes/Korea/NG13Dg01.html>, accessed 13 September 2012

¹⁰¹ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

crimes and incarceration in the political penal-labor camps. But the prosecutorial process is completely opaque from the perspective of the victim; inmates report being unaware of the precise nature of their crimes, incarceration is not the result of any meaningful judicial process, and sentences are effectively equivalent to time ultimately served.”¹⁰²

In May 2011 a research paper by the *Korea Institute for National Unification (KINU)* stated that legislation allows sentencing people to forced labour without trial,

“[] Prisoners in labor training camps can be divided into two categories. The first is general prisoners who committed anti-socialist activities and did not get a trial, and the second is prisoners who were sentenced at trial to labor training. The latter type work apart from the general prisoners and are managed separately. It is possible to find a basis in the Prosecutory Supervision Law and the Law on Sentences and Implementations of Decisions for sentencing people to forced labor in labor training camps without trial. Bribery is a widespread practice throughout North Korea, and criminal trials are no exception.”¹⁰³

In February 2012 the *Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* stated that a number of provisions in the Criminal Code do not meet due process standards,

“A number of constitutional and legislative provisions seriously endanger the impartiality and independence of the judiciary in the Democratic People's Republic of Korea. The Human Rights Committee, during its review of the country in 2001, raised concerns with regard to article 10 of the Criminal Code, pursuant to which punishment for an offence not provided for in the Code could be imposed in accordance with those provisions of the Code punishing offences similar in nature and gravity. The Committee found that the article was incompatible with the concept of *nullum crimen sine lege*, enshrined in article 15 of the International Covenant on Civil and Political Rights.

31. In 2004, the Democratic People's Republic of Korea revised its Criminal Code, deleting provisions that allowed for analogical interpretations, and accommodated the principle of *nullum crimen sine lege*. It also provided more clarity on a number of other crimes and removed terms such as “etc.” and “like”, which could have given scope for ambiguous interpretation. The revision instead described acts that would constitute various types of criminal behaviour and provided more clarity. The number of articles in the Criminal Code consequently increased from 118 to 245, with more specific definitions of the elements of crimes. The Special Rapporteur welcomes such initiatives.

32. As the court system currently stands in the Democratic People's Republic of Korea, the Central Court is accountable to the Supreme People's Assembly, pursuant to article 162 of the Criminal Code. Furthermore, article 129 of the Criminal Code subjects judges to criminal liability for handing down “unjust judgements”. The Special Rapporteur is concerned that such provisions have an adverse impact on the protection of human rights guaranteed under the International Covenant on Civil and Political Rights and endanger the independence of the judiciary. Furthermore, he believes that the need to maintain the separation of powers, as required by article 14.1 of the Covenant, is also compromised, seriously jeopardizing the rendering of independent and impartial justice. It is important to protect judges against conflicts of interests and intimidations in order to safeguard their independence.

In the Democratic People's Republic of Korea, both open court and closed court trials are practised. In general, there seems to be a lack of understanding among the people of why

¹⁰² Witness to Transformation: Refugee Insights into North Korea, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011 p. 87

¹⁰³ Korea Institute for National Unification (KINU) , The North Korean Criminal Trial System: Characteristics and Actual Practice, January 2012, http://www.kinu.or.kr/eng/pub/pub_02_01.jsp?bid=DATA05&page=1&num=94&mode=view&category=2676 , accessed September 2012

the open court principle is essential for the fairness of trials. In 2004, when the State revised its Criminal Procedure Code, it introduced a new provision requiring court trials to be open to the public (art. 271, sect. 1). The revised law contains, however, an exception, allowing certain trials to be conducted behind closed doors, if necessary to protect State secrets or if opening the trial to the public could have an adverse impact on society at large (art. 271, sect. 2). In practice, this means that ordinary citizens are tried in open courts and officials and party cadres are tried in closed ones. The Special Rapporteur recalls that article 14, paragraph 1, of the International Covenant on Civil and Political Rights proclaims that courts have the power to exclude all or part of the public for reasons of morals, public order or national security, or when the interest of the lives of the parties so required, or in special circumstances where publicity would be prejudicial to the interest of justice. Any other form of exception limiting open trials to a particular category of persons, such as in the case of the Democratic People's Republic of Korea, where officials and party cadres are tried in closed courts, is unacceptable. The Special Rapporteur furthermore points out that, even in cases where the public is excluded from the trial, the judgement, including the essential findings, evidence and legal reasoning must be made public, except where the interest of juvenile persons requires otherwise, or when the proceedings concern matrimonial disputes or the guardianship of children.

A number of other provisions in the Criminal Code fall below the standard required to ensure that due process of law is maintained and the rights of people are respected; for instance, the definition of "labour training" and "training detention facilities" remains unclear; the possibility of a broad interpretation of the category of "political crime" remains; and elements such as "crimes by association" are maintained in several parts of the Criminal Code. Similar vague terms, such as "extremely grave crime" and "reform through labour", are contained in an addendum to the Criminal Code, which was adopted on 19 December 2007"¹⁰⁴

The 2011 *USDOS* country report on human rights practices stated that it was not known whether complaints could be submitted by prisoners or whether ombudsmen acted on their behalf to improve conditions,

"No information was available on whether prisoners or detainees could submit complaints to judicial authorities without censorship or request investigation of credible allegations of inhumane conditions. It is also not known whether results of investigations were made public.

[] There was no information on whether there were ombudsmen to act on behalf of prisoners and detainees, consider such matters as alternatives to incarceration for nonviolent offenders, alleviate inhumane overcrowding, address the status and circumstances of confinement of juvenile offenders, improve the administration of pretrial detention, bail, and recordkeeping procedures, or ensure that prisoners did not serve beyond the maximum sentence for the charged offense."¹⁰⁵

In 2011 the *USDOS* country report on human rights practices stated that there were no restrictions on the government's ability to detain or imprison persons at will and that there was no known bail system or information on whether changes to the criminal code were incorporated in practice,

"Revisions to the criminal code and the criminal procedure code in 2004 and 2005 added shortened periods of detention during prosecution and trial, arrest by warrant, and prohibition of collecting evidence by forced confessions. There was no confirmation of whether these changes were incorporated in practice.

¹⁰⁴ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea., February 13 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, accessed 5 September 2012

¹⁰⁵ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

There were no restrictions on the government's ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons found it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review of detentions did not exist in law or in practice. There was no known bail system and no information on whether a lawyer was provided to detainees. During the year ROK NGOs reported the case of Shin Suk-ja, who was allegedly detained at the Yodok labor camp because her husband, Oh Kil-nam, defected to the ROK.¹⁰⁶

In May 2011 a research paper by the *Korea Institute for National Unification (KINU)* stated that on-site public trials were held to incite fear and that it was unclear whether the verdicts of such trials were decided beforehand,

"[] On-site public trials are held to incite fear among the general public, and they are usually held at places where a large number of people can gather such as school gymnasiums, markets, town halls, plazas in front of train stations, riverside parks, movie theaters, public stadiums, farmers' markets, etc. It is unclear whether the verdict is decided in a courtroom beforehand and simply read out at the public trial, or actually decided through the public trial. Some have testified that it is not possible to appeal a public trial decision."¹⁰⁷

3. Prison/detention centre/concentration camp/re-education camp conditions

In its 2012 world report, covering the events of 2011, *Human Rights Watch* reported that forced labour camps were notorious for their life threatening conditions and that death rates were extremely high,

"Testimony from escapees has established that persons accused of political offenses are usually sent to forced labor camps, known as gwalliso, operated by the National Security Agency. The government practices collective punishment, sending to forced labor camps not only the offender but also his or her parents, spouse, children, and even grandchildren. These camps are notorious for abysmal living conditions and abuse, including severe food shortages, little or no medical care, lack of proper housing and clothes, mistreatment and torture by guards, and executions. Forced labor at the gwalliso often involves difficult physical labor such as mining, logging, and agricultural work, all done with rudimentary tools in dangerous and harsh conditions. Death rates in these camps are reportedly extremely high. North Korea has never acknowledged that these camps exist, but US and South Korean officials estimate some 200,000 people may be imprisoned in them, including in camp No.14 in Kaechun, No. 15 in Yodok, No. 16 in Hwasung, No. 22 in Hoeryung, and No. 25 in Chungjin."¹⁰⁸

In its 2012 annual report, covering the events of 2011, *Amnesty International* reported that prisoners were tortured and a large number of people died in custody due to the harsh conditions in camps,

"Men, women and children in the camps were tortured and ill-treated, including by being forced to work in dangerous conditions. The combination of hazardous forced labour,

¹⁰⁶ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012,

¹⁰⁷ Korea Institute for National Unification (KINU), The North Korean Criminal Trial System: Characteristics and Actual Practice, January 2012, http://www.kinu.or.kr/eng/pub/pub_02_01.jsp?bid=DATA05&page=1&num=94&mode=view&category=2676, accessed September 2012

¹⁰⁸ Human Rights Watch, World Report 2012: North Korea, 2012 <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 10 September 2012

inadequate food, beatings, totally inadequate medical care and unhygienic living conditions, resulted in prisoners falling ill, and a large number died in custody or soon after release. The government continued to deny the existence of political prison camps."¹⁰⁹

In May 2011 *Amnesty International* stated that inmates of the camps were forced to work in conditions approaching slavery and that torture and other inhumane treatment was frequent,

"Amnesty International has published satellite imagery and new testimony that shed light on the horrific conditions in North Korea's network of political prison camps, which hold an estimated 200,000 people. According to former detainees at the political prison camp at Yodok, prisoners are forced to work in conditions approaching slavery and are frequently subjected to torture and other cruel, inhumane, and degrading treatment. All the detainees at Yodok have witnessed public executions.

Amnesty International believes the camps have been in operation since the 1950s, yet only three people are ever known to have escaped Total Control Zones and managed to leave North Korea. About 30 are known to have been released from the Revolutionary Zone at Political Prison Camp in Yodok and managed to leave North Korea. According to the testimony of a former detainee at the revolutionary zone in the political prison camp at Yodok, an estimated 40 per cent of inmates died from malnutrition between 1999 and 2001. Satellite images show four of the six camps occupying huge areas of land and located in vast wilderness sites in South Pyongan, South Hamkyung and North Hamkyung provinces, and producing products ranging from soy bean paste and sweets to coal and cement.

A comparison of the latest images with satellite imagery from 2001 indicates a significant increase in the scale of the camps. In just one camp, Kwanliso 15 at Yodok, thousands of people are believed to be held as "guilty-by-association" or sent to the camps simply because one of their relatives has been detained. The majority of prisoners, including some of those 'guilty-by-association', are held in areas known as 'Total Control Zones' from which they will never be released. A significant proportion of those sent to the camps don't even know what crimes they're accused of."¹¹⁰

In May 2011 *Amnesty International* also stated that former inmates of the camps had witnessed executions and were forced to work long hours doing manual labour with very little food,

"Amnesty International spoke to former detainees of the political prison camp known as Kwanliso 15 at Yodok. A former inmate, Kim, told Amnesty International: "Everyone in Kwanliso witnessed executions. When I was an inmate in Kwanliso15 at Yodok, all those who tried to escape were caught. They were interrogated for two to three months and then executed."

Jeong Kyoungil was first arrested in 1999 and detained in Yodok from 2000-2003. Amnesty International interviewed Jeong in Seoul in April 2011. "A room around 50m² in size, is where the 30 or 40 political prisoners sleep in. We sleep on some sort of bed made out of a wooden board with a blanket to cover. A day starts at 4am with an early shift, also called the 'pre-meal shift', until 7am. Then breakfast from 7am to 8am but the meal is only 200g of poorly prepared corn gruel for each meal. Then there is a morning shift from 8am to 12pm and a lunch until 1pm. Then work again from 1pm to 8pm and dinner from 8pm to 9pm. From 9pm to 11pm, it's time for ideology education. If we don't memorize the ten codes of ethics we would not be allowed to sleep. This is the daily schedule."

¹⁰⁹ Amnesty International, Annual Report 2012, North Korea, <http://www.amnesty.org/en/region/north-korea/report-2012>, accessed 1 October 2012

¹¹⁰ Amnesty International, News,3 May 2011, Images reveal scale of North Korean political prison camps <http://www.amnesty.org/en/news-and-updates/images-reveal-scale-north-korean-political-prison-camps-2011-05-03>, accessed 10 September

"200g of poorly prepared corn gruel in a bowl would only be given if we finish our daily tasks. If not, we would not be given any food. The daily task is sweeping off overgrown weeds on fields. Everyone would be assigned to 1157 m² of field and only the people who finish off their task would be given food. If you only finish half of your assigned task, you would only be given half of your food."

"Seeing people die happened frequently – every day. Frankly, unlike in a normal society, we would like it rather than feel sad because if you bring a dead body and bury it, you would be given another bowl of food. I used to take charge of burying dead people's bodies. When an officer told me to, I gathered some people and buried the bodies. After receiving extra food for the job, we felt glad rather than feeling sad."

The North Korean authorities are also known to use a cube 'torture cell', where it is impossible to either stand or lie down. "Disruptive inmates" are thrown in for at least one week, but Amnesty International is aware of one case of a child thrown into the cell for eight months. In most of the camps, no clothing is provided and prisoners face harsh winters. Inmates are also expected to work long hours undertaking strenuous and often pointless manual labour. Food in the camps is scarce. Amnesty International has been told of several accounts of people eating rats or picking corn kernels out of animal waste purely to survive, despite the risks – anyone caught risks solitary confinement or other torture."¹¹¹

In 2011 the *USDOS* country report on human rights practices stated that there were several types of prison camps and detention centres and that there were separate camps for political prisoners,

"NGO, refugee, and press reports indicated that there were several types of prisons, detention centers, and camps, including forced labor camps and separate camps for political prisoners.

[] Reports indicated that those sentenced to prison for nonpolitical crimes were typically sent to reeducation prisons where prisoners were subjected to intense forced labor. Those who were considered hostile to the government or who committed political crimes reportedly were sent to political prison camp indefinitely. In many cases family members were also detained if one member was accused or arrested. The government continued to deny the existence of political prison camps. Reports indicated that conditions in the prison camp and detention system were harsh and life threatening and that systematic and severe human rights abuses occurred. Many prisoners in political prison camps and the detention system were not expected to survive. Detainees and prisoners consistently reported violence and torture.

[] According to refugees, in some places of detention, prisoners received little or no food and were denied medical care. Sanitation was poor, and former labor camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing. An NGO reported that one reeducation center was so crowded that prisoners were forced to sleep on top of each other or sitting up. The same NGO reported that guards at a labor camp stole food brought for inmates by their family members. No information was available indicating whether prisoners and detainees had reasonable access to visitors. In past years defectors reported that Christian inmates were subjected to harsher punishment if their faith was made public.

[] There was no information on whether the government investigated or monitored prison and detention conditions. Neither the UN special rapporteur on the human rights situation in the DPRK nor the UN special rapporteur on torture have been allowed to independently

¹¹¹Amnesty International, 'Images reveal scale of North Korean political prison camps', 3 May 2011, <http://www.amnesty.org/en/news-and-updates/images-reveal-scale-north-korean-political-prison-camps-2011-05-03>, accessed 10 September

access conditions inside the country. The government did not permit human rights monitors to inspect prisons and detention facilities.”¹¹²

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard stated that conditions and types of camp or detention centre differed depending on the alleged offence,

“Inmates of the political penal-labor camps (*kwan-li-so*) are typically assigned to hard labour in mining, logging and farming enterprises in the highly inhospitable north and north-central part of the country; only in two political penal labour camps is there reported evidence of efforts at political re-education. Prisoners are also kept on starvation rations and many die of malnutrition and disease.

[] In addition to the political penal-labor camps, the government also maintains the *kyo-hwa-so* – literally, a “place to make someone better through education”- and sometimes translated as correctional or re-education centers. In fact, there is little evidence that these facilities perform correctional or re-education functions. [] As in the political penal-labor camps, prisoners [] are compelled to perform hard labor. [] Refugees with experience in them report that they were subjected to brutal treatment and torture and deprived of adequate medical care. Many inmates do not live to serve out their sentences and escape may be even more difficult than from the sprawling penal-labor camps.[] The third and fourth components of the North Korean penal system manage lower level crimes and misdemeanours. The *jip-kyul-so* (collection centers) house low or misdemeanour level criminals for periods of up to six months of hard labor.

[] There has been an explosive growth of *ro-dong-dan-ryeon-dae* (labor training centers) [] They constitute mobile labor brigades of relatively small numbers of prisoners-30 to 60-typically held for less than six months in small, minimally guarded and fenceless compounds. [] Sometimes the detainees in labor training centers are even allowed to go home for food or to recover from illness. Detainees do road repair, construction and substitute for the lack of other forms of energy and transportation in the face of shortages, for example, by pushing train cars.”¹¹³

In 2011 Marcus Noland and Stephan Haggard also stated in *Witness to Transformation, Refugee Insights into North Korea* that former inmates alleged that women had been subjected to forced abortions and believed that medical experiments were practiced,

“The conditions in the facilities are designed to be a powerful deterrent and even have a psychological impact, in effect terrorizing those who are detained. [] It has been alleged that women thought to be carrying children of Chinese paternity have been subject to forced abortions or infanticide; 5 percent of the respondents indicated that they had witnessed these practices.

[] When asked if they believed that prisoners were used in medical experimentation [] 55 percent of the respondents believed (but did not necessarily witness) that this had occurred at the facilities in which they were incarcerated. [] In both the lower-level criminal facilities [] and the labor training centers [] nearly half of all respondents reported seeing executions, roughly three quarters reported forced starvation and nearly a third reported deaths from beatings and torture.”¹¹⁴

¹¹² U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

¹¹³ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011 p. 89-91

¹¹⁴ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011 p. 94-99

4. Numbers of people in prison/detention centres/concentration camps/re-education camps

In April 2012 *Amnesty International* stated that an estimated 200,000 people were detained in six known prison camps,

"Today, hundreds of thousands of people deemed to oppose the state are detained in brutal prison camps, such as the notorious political prison camp at Yodok. [] The political prison camp at Yodok, home to around 50,000 men, women and children, is one of six known political prison camps in North Korea, in which a total estimated 200,000 political prisoners and their families are imprisoned without trial or following grossly unfair trials.

Testimonies from former guards and former inmates of Yodok have revealed that prisoners are frequently subjected to torture, forced labour and execution. Family members of those suspected of crimes are also sent to Yodok - a system of "guilt by association" used to silence dissent and control the population through fear."¹¹⁵

In January 2012 *Human Rights Watch* reported that an estimated 200,000 people were held in camps but that the government has never acknowledged the camps existence,

"North Korea has never acknowledged that these camps exist, but US and South Korean officials estimate some 200,000 people may be imprisoned in them, including in camp No.14 in Kaechun, No. 15 in Yodok, No. 16 in Hwasung, No. 22 in Hoeryung, and No. 25 in Chungjin."¹¹⁶

The 2011 *USDOS* country report on human rights practices reported estimates of between 130,000 and 200,000 people in labour camps,

"Based on satellite imagery and defector testimony, one kwan-li-so camp, Camp 22, was estimated to be 31 miles long and 25 miles wide and hold 50,000 inmates. Defectors claimed the kwan-li-so camps contained unmarked graves, barracks, worksites, and other prison facilities. Kwan-li-so penal-labor camps are administered by the Ministry of State Security (MSS); kyo-hwa-so reeducation centers are administered by the Ministry of People's Security (MPS). During the year an NGO reported that five kwan-li-so facilities remained under the command of the MSS, including Kaecheon (Camp14) in South Pyongan Province, Yodok (Camp 15) in South Hamkyung Province, Hwasung (Camp 16), Chongjin (Camp 25), and Hoiryong (Camp 22) in North Hamkyung Province. The same NGO reported the police began to dismantle the sixth facility, Bukchang (Camp 18) in South Pyongan Province, in 2006 and it was unclear if the camp remained in operation in 2011.

[] The South Korean and international press reported that kyo-hwa-so, or labor rehabilitation camps, hold populations of up to 10,000 political prisoners, economic criminals, and ordinary criminals.

Estimates of the total number of prisoners and detainees in the kwan-li-so camps ranged between 130,000-200,000. In July the ROK think tank Database Center on North Korean Human Rights reported that 138,000 people were being held in DPRK detention centers, with between 130,500 and 131,000 held in five active political prison camps, possibly 200-300 in the Bukchang facility, and the rest dispersed in more than 182 other locations. NGO and press reports estimated that there were between 182 and 490 detention facilities in the country.

¹¹⁵ Amnesty International, North Korea: Catastrophic human rights record overshadows 'Day of the Sun,' 12 April 2012, <http://www.amnesty.org/en/news/north-korea-catastrophic-human-rights-record-overshadows-day-sun-2012-04-12>

¹¹⁶ Human Rights Watch, World Report 2012: North Korea, 2012 <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 10 September 2012

[] Information on the number of women and juvenile prisoners was not available. Anecdotal reports from the Database Center on North Korean Human Rights indicated that in some prisons women were held in separate units from men, but no information was available on whether conditions varied for women. One NGO reported that political prisoners sent to punishment facilities were subject to torture without consideration of their gender.

One NGO reported that women make up the majority of prisoners in ro-dong dan-ryeon-dae, or labor-training centers; the majority of prisoners in these facilities were repatriated from China."¹¹⁷

5. Death penalty/public executions/other unlawful forms of deprivation of life by government

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that the DPRK has been carrying out public executions in violation of its own Penal Code and has administered death sentences for offences for which the death penalty is not stipulated by the Penal Code,

"Article 32 of the Court Sentence and Decision Implementation Law stipulates that death sentences shall be carried out by firing squad. Death sentences are usually carried out by firing squad, with nine shots normally fired, but hanging is also known to be used. Regarding the procedures of public execution, the "defectors" have testified as follows: The Republic's flag is draped in the background, and people from the Central Prosecutors' Office will come down to the site. Also participating will be the director of Provincial Safety, the director of the Provincial Security Agency, a court official, and others. The trial is conducted openly. A court official will read out criminal charges and then hand down the sentence. A defector testified that a court official would read out criminal charges and then pronounce that he was handing down the death sentence in accordance with such and such articles of the Penal Code of DPRK.

[] North Korea has been perpetrating "public executions" in violation of its own Penal Code. Many victims of public execution face a firing squad even though their crimes do not rise to the level of crime subject to the death penalty as stipulated in the Penal Code. Many North Korean defectors have testified that the right to life of ordinary North Korean citizens, not to mention political prisoners, is seriously jeopardized because the North Korean authorities impose death sentences not only for crimes stipulated in the Penal Code but also for minor social misdemeanors stemming from economic hardship.

Second, North Korean authorities are violating various provisions of Criminal Procedure Law in the process of carrying out public executions. According to North Korea's Criminal Procedure Law, the executing agency, after receipt of a copy of the court decision and the execution order, may carry out the execution only in the presence of a prosecutor and with the approval of the SPA Presidium (Art. 419, 421, 422). Also, the executing agency must notify the sentencing court of the implementation of the death sentence within three days of execution (Art. 423). Article 24 of Court Sentence and Decision Implementation Law, revised in 1998, stipulates that the agency in receipt of the death sentence execution order is responsible for the execution of the death sentence. Public executions are therefore clearly in violation of this provision."¹¹⁸

¹¹⁷ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

¹¹⁸ Korea Institute for National Unification (KINU), The North Korean Criminal Trial System: Characteristics and Actual Practice, January 2012, http://www.kinu.or.kr/eng/pub/pub_02_01.jsp?bid=DATA05&page=1&num=94&mode=view&category=2676, accessed September 2012

In May 2011 a research paper by the *Korea Institute for National Unification (KINU)* stated that it is uncertain whether procedures in the Penal Code are in fact followed for all public executions,

“In North Korea lawyers do act to protect the rights and interests of the defendant, but the essence of a lawyer's job is to cooperate with the court in the criminal trial process to carry out the legal policies of the Party. Even in the case of capital punishment, documents have been disclosed which indicate that the death penalty is handed down for only certain crimes specified by the North Korean Criminal Law and that certain procedures are followed in carrying out executions. However it is uncertain whether these procedures are in fact followed for all public executions.”¹¹⁹

In its 2012 annual report *Amnesty International* stated that there were unconfirmed reports that the authorities had either executed 30 officials by firing squad or staged traffic accidents,

“In July, there were unconfirmed reports that the authorities had either executed by firing squad or killed in staged traffic accidents 30 officials who had participated in inter-Korean talks or supervised bilateral dialogue. On 10 March, the Special Rapporteur on extrajudicial, summary or arbitrary executions wrote to the government regarding reported cases of executions between 2007 and 2010 for “financial crimes”.¹²⁰

In its 2012 world report *Human Rights Watch* stated that the crimes for which the death penalty could be applied were vaguely defined, and included a number of non-violent offences,

“North Korea's Criminal Code stipulates that the death penalty can be applied only for a small set of crimes, but these include vaguely defined offenses such as “crimes against the state” and “crimes against the people” that can be and are applied broadly. In addition, scholars and NGOs monitoring conditions in North Korea say that a December 2007 amendment to the penal code extended the death penalty to many more crimes, including non-violent offenses such as fraud and smuggling.”¹²¹

In February 2012 the *UN Special Rapporteur on the human rights situation in the Democratic People's Republic of Korea* stated that 16 articles of a 2007 addendum to the Criminal Code stipulate the death penalty for a number of crimes,

“On 19 December 2007, the Democratic People's Republic of Korea adopted a unique form of law, referred to as an “addendum to the Criminal Code for ordinary crimes”, which has gone largely unnoticed by the international community. The addendum is a very significant legislative act, given that was formally adopted by the Presidium of the Supreme People's Assembly as a Government directive. Since its adoption, the addendum has functioned as a complement to the Penal Code, and carried the same weight as other provisions of the Criminal Code. The addendum comprises a total of 23 articles, of which 16 stipulate the death penalty for a number of crimes, including smuggling and dealing in narcotics, seizing State property, currency counterfeiting and illicitly selling State resources. With the adoption of the addendum, the total number of crimes that carry the death penalty in the country stands at 22. Furthermore, the addendum contains a number of vague expressions, such as “the gravest cases” or “extremely serious cases”, which leave room for arbitrary decisions by the authorities. The addendum permits the application of capital punishment for various crimes as long as the authorities are able to establish that the crime in question was “extremely serious” and falls under one of the 16 listed crimes.[]

¹¹⁹ Korea Institute for National Unification (KINU) , The North Korean Criminal Trial System: Characteristics and Actual Practice, January 2012, http://www.kinu.or.kr/eng/pub/pub_02_01.jsp?bid=DATA05&page=1&num=94&mode=view&category=2676, accessed September 2012

¹²⁰ Amnesty International Annual Report 2012, North Korea, 2012, <http://www.amnesty.org/en/annual-report/2012/downloads>, accessed 05 September 2012

¹²¹ Human Rights Watch, World Report 2012: North Korea, 2012 <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 10 September 2012

Reports of execution continued to be shared with the Special Rapporteur; as many as 20 such executions were reported to have been carried out in 2011 alone. Some of the reasons for executions include drug trafficking, murder, sexual assault, espionage and large-scale distribution of information material from overseas.”¹²²

The 2011 *USDOS* country report on human rights practices stated that the government committed arbitrary and unlawful killings and that border guards reportedly had orders to shoot to kill potential defectors,

“There were numerous reports that the government committed arbitrary and unlawful killings. Defector and refugee reports indicated that in some instances the government executed political prisoners, opponents of the government, repatriated defectors, and others accused of crimes with no judicial process. The law prescribes the death penalty for the most “serious” or “grave” cases of “antistate” or “antination” crimes, including: participation in a coup or plotting to overthrow the state; acts of terrorism for an antistate purpose; treason, which includes defection or handing over state secrets; suppressing the people’s movement for national liberation; and “treacherous destruction.”

[] Border guards reportedly had orders to shoot to kill potential defectors, and prison guards were under orders to shoot to kill those attempting to escape from political prison camps. In November the press reported that border guards shot and killed an unidentified man as he attempted to cross the border near Hyesan.

During the year nongovernmental organizations (NGOs) reported that public executions continued, but no official statistics were available.”¹²³

In August 2011 a report by the *Korea Institute for National Unification (KINU)* also stated that those who have witnessed executions and other sentencing express that arbitrarily decided by authorities based on one’s background,

“For criminals facing the death penalty [] a final judgment on whether or not to reduce a sentence may depend upon the person’s family background. Criminals having inferior backgrounds or origins, including orphans, are usually sentenced to death without hesitation or consideration. People who have witnessed executions and various other sentencing express that they are unfair and arbitrarily decided by authorities based on one’s background. Defector XXX testified that during the investigation process at State Security, if a criminal charge is deemed to be warranted, the suspect’s family records are brought back from People’s Safety Agency bureau in the suspect’s hometown. The records are used as a reference in determining the terms of the penalty. In short, a person’s family background is considered when determining the level of punishment. If the suspect has many Party members in his family, the authorities may assume that the suspect can be reformed by dint of his good family environment. The SSA adheres to a set of standing regulations when handling cases. For example, if the suspect has more than 9 Party members in the family, he/she can get a three year reduction of punishment. If the suspect received a Kim Il-sung commendation or a meritorious service medal, the authorities may give that due consideration. Defector XXX testified that a “security meeting” is held prior to a trial. During this meeting, in which the fate of the accused is decided, if someone (the accused or his family) can produce a so-called “certificate of patriotism,” then the terms of the sentence are usually reduced.”¹²⁴

¹²² UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, 13 February 2012, A/HRC/19/65, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, accessed 2 October 2012

¹²³ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

¹²⁴ Korea Institute for National Unification (KINU) , The North Korean Criminal Trial System: Characteristics and Actual Practice, January 2012, http://www.kinu.or.kr/eng/pub/pub_02_01.jsp?bid=DATA05&page=1&num=94&mode=view&category=2676, accessed September 2012

In March 2012 South Korean daily newspaper, *Chosun Ilbo* reported that Kim Jong-Un had ordered the execution of "unsound" military officers,

"A bloody purge in North Korea following the sudden death of leader Kim Jong-il late last year saw barbaric methods including mortar rounds used to execute high-ranking military officials, a South Korean government source said Wednesday.

"When Kim Jong-un became North Korean leader following the mourning period for his father in late December, high-ranking military officers started disappearing," the source said. "From information compiled over the last month, we have concluded that dozens of military officers were purged." The source added Kim Jong-un ordered loyal officials to "get rid of" anyone caught misbehaving during the mourning period for Kim Jong-il.

But contrary to reports that an assistant chief of the Ministry of the People's Armed Forces was put in front of a firing squad for being drunk during the mourning period, he was executed using a mortar round in line with Kim's orders to leave "no trace of him behind, down to his hair."

The source said the official was placed on the spot where the round would hit, and the grisly execution obliterated him.

Besides the assistant chief and an assistant chief of the General Staff Department, frontline commanders were also executed, the source said."¹²⁵

6. *Disappearances*

The 2011 *USDOS* country report on human rights practices stated that reports indicated that the government was responsible for disappearances,

"NGO, think tank, and press reports indicated that the government was responsible for disappearances. There was no progress in the investigation into the cases of suspected abductions of Japanese nationals by DPRK government entities. The DPRK had agreed to reopen the investigation after discussions with the Japanese government in 2008.

ROK government and media reports indicated that the DPRK government also kidnapped other nationals from locations abroad in the 1970s and 1980s. However, the DPRK government continued to deny its involvement in the kidnappings. The ROK Ministry of Unification reported that approximately 517 of its civilians, abducted or detained by DPRK authorities since the end of the Korean War, remained in the DPRK. ROK NGOs estimated 20,000 civilians were abducted by the DPRK during the Korean War."¹²⁶

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that defectors testified to disappearances of alleged offenders and their families,

"Defector XXX testified that in 2000 the South Korean authorities arrested his neighbor's son, who had been engaged in military espionage activities in South Korea. Subsequently, the neighbor's son gave a press interview in South Korea. After that interview, his parents in the North were accused of "betrayal" and disappeared.

[] two entire families disappeared: one because a nine-year-old second grade elementary student in the family scribbled on the faces of the Kims in his text book; another because

¹²⁵ Chosun Ilbo, Kim Jong-un's barbaric purge of 'unsound' military brass, 22 March 2012, http://english.chosun.com/site/data/html_dir/2012/03/22/2012032200933.html, accessed 30 November 2012

¹²⁶ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 10 September 2012

the elderly grandmother used issues of the Rodong Shinmun—which contain pictures of Kim Il-sung and Kim Jong-il—as wallpaper.”¹²⁷

In 2012 a report by the *US Committee for Human Rights in North Korea* also stated that the government was responsible for untold numbers of disappearances,

“The North Korean regime is responsible for untold numbers of disappearances. According to defector reports, individuals suspected of political crimes are often taken from their homes by state security officials late at night and sent directly, without trial, to camps for political prisoners. The SSD is authorized in most political cases to determine the terms of punishment.

[] Secret political trials are still held and unpublished rules continue to sanction the disappearance of individuals deemed a threat to the regime. Evidence of public executions persists, as do a host of other abuses that take place, especially in the political prison camps.”¹²⁸

¹²⁷ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672, accessed 10 September 2012

¹²⁸ US Committee for Human Rights in North Korea, Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 31 August 2012

E. Freedom of Religion

1. Domestic legal framework

Article 66, 67 and 68 of the *Constitution of the Democratic Peoples Republic of Korea* (revised in April 2009) state that citizens have freedom of religion and association and that all citizens over the age of 17 have the right to vote and be elected, irrespective of their religious beliefs,

“Article 66. All citizens who have reached the age of 17 shall have the right to vote and the right to be elected, irrespective of sex, race, occupation, length of residence, property and intellectual level, party affiliation, political view, or religious belief. Citizens serving in the armed forces shall also have the right to vote and the right to be elected. Persons who have been disenfranchised by a court decision and persons who are insane shall not have the right to vote or the right to be elected.

Article 67. Citizens shall have freedom of speech, press, assembly, demonstration, and association. The state shall guarantee conditions for the free activities of democratic political parties and social organizations.

Article 68. Citizens shall have freedom of religion. This right shall be guaranteed by permitting the construction of religious buildings and the holding of religious ceremonies. Religion shall not be used in bringing in outside forces or in harming the state and social order.”¹²⁹

In August 2011 a report by the Republic of Korea based think tank, the Korea Institute for National Unification (KINU) stated that the Article 268 of the Penal Code stipulates that anyone sharing “superstition-based predictions” shall be sentenced to up to two years of “labour training”,

“North Korea’s Penal Code (as revised in 2004) stipulates in Article 268 (on promoting superstition), “Person(s) who have shared superstition-based predictions with others for profit or egotistical reasons shall be sentenced to up to two year of labor training.”¹³⁰

In 2012 US NGO, *Freedom House*, stated that although freedom of religion is guaranteed by the constitution, in practice it is precluded by state indoctrination,

“Although freedom of religion is guaranteed by the constitution, it does not exist in practice. State-sanctioned churches maintain a token presence in Pyongyang, and some North Koreans who live near the Chinese border are known to practice their faiths furtively. However, intense state indoctrination and repression preclude free exercise of religion as well as academic freedom. Nearly all forms of private communication are monitored by a huge network of informers.”¹³¹

In 2012 the *United States Commission on International Religious Freedom Annual Report* stated that the nationalist ideology propagated by the government is intended to replace religion,

“The government forcibly propagates a nationalist ideology based upon the cult of personality surrounding both Kim Il Sung and his son, Kim Jong Il. All citizens are required to adhere to this belief system, often called Juche, or face onerous fines and penalties. The government views any functioning religious belief or practice outside of Juche as a

¹²⁹ North Korean Constitution, April 2009, <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html> , accessed 26 September 2012

¹³⁰ Korea Institute for National Unification (KINU) , White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 10 September 2012

¹³¹ Freedom House, Freedom in the World 2012 - North Korea, 18 May 2012, <http://www.freedomhouse.org/report/freedom-world/2012/north-korea> , accessed 26 September 2012

challenge to the personality cult surrounding the Kim family, and thus to the regime's authority. Under this system, pictures of the "Great Leader" (Kim Il Sung) and the "Dear Leader" (Kim Jong Il) must be displayed on the walls of homes, schools, and workplaces. Every North Korean wears a lapel pin of the Great Leader, and students are required to study and memorize the "Ten Principles for the Establishment of the One-Ideology System of the Party." Juche's ideological education takes precedence over all other academic subjects in the nation's schools. Each North Korean community reportedly maintains a "Kim Il Sung Research Center" or similar institution where local citizens are required to attend weekly meetings to watch propaganda films, listen to educational sessions on the principles of Juche, and engage in public self-criticism sessions. There are an estimated 100,000 Juche "research centers" throughout the country.

It is unclear whether the personality cult of the Kim family will survive the transition to Kim Jong Il's son, Kim Jong Un. North Korean media has already dubbed Kim Jong Un as the "Supreme Leader." If the personality cult continues, it is unlikely there will be dramatic improvements in human rights or religious freedom. Any activity perceived to challenge Kim Jong Un's legitimacy, including clandestine religious activity, will continue to be viewed as a security threat.¹³²

In 2011 Republic of Korea based NGO, the *Database Center for North Korean Human Rights (NKDB)*, recorded 1,014 known human rights cases related to the restriction on religious practice in the DPRK. Of these cases, 466 were due to religious activities, 205 to the possession of religious items, 84 to religious propagation, 71 to contact with religious people, and 188 to other reasons.¹³³

In 2011 the *USDOS Report on International Religious Freedom* stated that the government had increased its persecution of unauthorized religious activity in recent years,

"Defector reports indicated that the government increased its investigation, repression, and persecution of unauthorized religious groups in recent years, but access to information on current conditions was limited. Despite these restrictions, reports indicated that contacts with religious personnel both inside the country and across the border in China appeared to be increasing. However, there was not enough data to determine the size and scope of religious activity. Reports from NGOs, refugees, defectors, and missionaries indicated that persons engaged in proselytizing or who had ties to overseas evangelical groups operating across the border in China have been arrested and subjected to harsh punishment.

[] Members of government-controlled religious groups did not appear to suffer discrimination, while members of underground churches or those connected to missionary activities were reportedly regarded as subversive elements. Some reports claimed, and circumstantial evidence suggested, that many if not most of the government-controlled religious organizations were created for propaganda and political purposes, including meeting with foreign religious visitors. There were also reports that the government channeled funds and goods donated to government-approved churches to the Korean Workers Party (the only political party in the country). There were unconfirmed reports that nonreligious children of religious believers may be employed in mid-level positions in the government. In the past, such individuals suffered broad discrimination with sometimes severe penalties or even imprisonment.

[] The government reportedly was concerned that faith-based South Korean relief and refugee assistance efforts along the northeast border of China had both humanitarian and political goals, including the overthrow of the government, and alleged that these groups were involved in intelligence gathering.

¹³² U.S. Commission on International Religious Freedom, Annual Report 2012, North Korea, March 2012, <http://www.uscirf.gov/images/2012ARChapters/north%20korea%202012%20two-pager.pdf>, accessed 27 September 2012

¹³³ Database Center for North Korean Human Rights/ North Korean Human Rights Archives, Prisoners in North Korea Today, November 30 2011, http://nkdb.org/bbs1/data/publication/Prisoners_in_North_Korea_Today.pdf, 30 September 2012

The Korean Workers Party newspaper criticized “imperialists and reactionaries” for trying to use ideological and cultural infiltration, including religion, to destroy socialism from within.

The government allowed some overseas faith-based aid organizations to operate inside the country to provide humanitarian assistance. Such organizations reported that they were not allowed to proselytize, their contact with nationals was limited and strictly monitored, and government escorts accompanied them at all times. During the reporting period, several faith-based NGOs were allowed to visit the country to provide humanitarian assistance. Former government security agents who defected to South Korea reported intensified police activity aimed at halting religious activity at the border.”¹³⁴

In 2012 the US NGO, the *US Committee for Human Rights in North Korea* stated that religious believers were regarded as enemies of the state and that the small number of churches and temples were entirely controlled by the government,

“Every religious believer is regarded as being an enemy of the state, a hostile and impure element, an agent of the United States (if they are Christian), and a counter-revolutionary for whom only discrimination, punishment, isolation, and even execution are the proper forms of treatment by the regime.

In recent years, after having virtually eliminated religion in society, the regime found it useful to establish a handful of churches and Buddhist temples that are controlled by local security agencies and the Party. [] The sermons in these religious gatherings actually reinforce regime policies.

[] For the past fifteen years, numerous South Korean and international human rights NGOs have documented the testimony of countless North Korean refugees who tell of underground believers trying to proselytize their faith and suffering horribly at the hands of the North Korean MPS and SSD agents and their prison guards and officials. According to a guard at a political prison camp who defected to South Korea, the North Korean authorities have continuously distributed special instructions, speeches, pamphlets, and textbooks stating that religion is a social evil.”¹³⁵

2. Treatment of members of religious groups

a. Buddhists

In 2012 the *United States Commission on Religious Freedom Annual Report* stated that Buddhist temples and shrines were maintained only as cultural heritage sites rather than for religious functions,

“The state-controlled press has reported on several occasions that Buddhist ceremonies had been carried out in various locations, although this is impossible to verify independently. According to former North Korean refugees, Buddhist temples and shrines are maintained as cultural heritage sites by gwalliwon (caretaker monks) who do not perform religious functions. The preservation of Buddhist temples, including the government's refurbishment of an existing site at Anbul, South Hamgyeong Province and the rebuilding of the Shingye Temple, is mainly a testament to North Korea's Buddhist culture; these sites are not currently functioning places of worship or pilgrimage”¹³⁶

¹³⁴ U.S. Department of State, 2011 Report on International Religious Freedom, 2012, <http://www.state.gov/documents/organization/192847.pdf> accessed 29 September 2012

¹³⁵ The Committee for Human Rights in North Korea, Marked for Life: SONGBUN, North Korea's Social Classification System, Robert Collins, 2012, <http://www.hrnk.org/publications/hrnk-publications.php> accessed 30 September 2012

¹³⁶ U.S. Commission on International Religious Freedom, Annual Report 2012, North Korea, March 2012, <http://www.uscifr.gov/images/2012ARChapters/north%20korea%202012%20two-pager.pdf> , accessed 27 September 2012

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that Buddhist temples have been destroyed and monks and nuns killed or forced to denounce their faith. However *KINU* also reported that the DPRK is taking steps to reconstruct Buddhist religious facilities across the country and some Buddhist ceremonies have been permitted,

“Only 60 out of a total of 400 or so Buddhist temples have survived. The 1,600 monks and nuns and their 35 thousand Buddhist followers have been either killed or forced to recant their faith.

[] it appears that North Korea is taking positive steps by permitting South Korean religious groups to reconstruct or newly construct various religious facilities in North Korea. The Buddhist temple restoration projects, such as those at the Shinkesa and Youngtongsa temples, are also under way as part of an effort to preserve traditional Korean culture. Since December 2002, massive redecoration projects have been under way at 59 Buddhist temples across the country.

[] The North Korean authorities have begun to permit religious ceremonies. Buddhist temples are allowed to conduct formal ceremonies on Buddha's birthday, as well as on major Buddhist holidays. Sometimes, even Buddhist ceremonies of a political nature—such as the Buddhist Prayer Meeting for the Unification of Fatherland have been permitted.¹³⁷

In August 2011 the *Korea Institute for National Unification (KINU)* stated that defectors testified they did not perceive the temples as religious facilities, but as tourist destinations,

“[] As for Buddhist temples, nobody regarded those as religious facilities, and no one believed Buddhist monks were performing any religious roles. “Defector XXX stated that the monks did not shave their heads and simply were guarding the temples and maintaining the “historical relics”.

Defector XXX testified that when he/she visited a temple in Kaesong, the monk simply guided them around the temples.

[] Defector XXX testified that he/she thought the temple in Mt. Myohyangsan was a sightseeing spot rather than a religious facility. Also, there was no monk at Bohyonsa Temple, but he/she saw Buddhist statues on TV.

– Defector XXX testified that he/she had been to a temple but thought it was a sightseeing spot where they offered explanations on cultural assets. The monks worked as guides at the temple and offered explanations to visitors, getting paid by the government.

– Defector XXX testified that he/she had never been to a Buddhist temple and had never seen a monk.

– Defector XXX said he/she had visited a temple in North Korea. The temple was empty and there was only one person supervising the facility, so he/she did not believe it was a religious facility.

– Defector XXX testified that there was a temple on Mt. Chilbo near his/her hometown. But there was no monk, and a professional guide provided explanations to the visitors. Thus, temples are regarded not as places of worship but as cultural relics.

[] – Defector XXX testified that he/she personally witnessed a neighbor, who was a Buddhist, being forcibly banished.

¹³⁷ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 25 September 2012

[] Most North Koreans have never seen a monk at a Buddhist temple and know nothing about their existence, but a few have found out about them through TV programs Defector XXX also said she saw monks only in movies and advertisements”¹³⁸

b. Christians

In 2012 the *United States Commission on Religious Freedom Annual Report* stated that the imprisonment of religious believers is common, with an estimated 6,000 Christians incarcerated in one prison camp alone,

“In May 2010, 23 Christians were reportedly arrested for belonging to an underground church in Kuwol-dong, Pyongsong City, South Pyongan Province. Three reportedly were executed, and the others sent to the Yoduk political prison camp.

[] Imprisoning religious believers remains a common practice, according to numerous reports of former North Korean refugees. While it is difficult to corroborate the exact number of prisoners, it is estimated that 150,000 to 200,000 prisoners currently may languish in North Korea's network of political prison camps, some for religious reasons. North Korea experts in South Korea, using testimony from refugees, estimate that there may be 6,000 Christians incarcerated in “Prison No. 15” in the northern part of the country. Former North Korean prison inmates and prison guards allege that religious prisoners are typically treated worse than other inmates. They are generally given the most dangerous tasks in the labor camps and are victims of constant abuse to force them to renounce their faith.

[] over the past few years, refugees report that the government is returning to harsher penalties for repatriated North Koreans, regardless of their reasons for fleeing. The harshest treatment reportedly is reserved for refugees suspected of becoming Christian, distributing illegal religious materials, or having ongoing contact with either South Korean humanitarian or religious organizations working in China. Increasingly, the North Korean government views refugees with religious beliefs or contacts as potential security threats. Refugees continue to provide credible evidence that security forces use torture during interrogation sessions. Those suspected of religious conversation or contacts are sent to hard labor facilities designated for political prisoners. The government reportedly offers rewards to its citizens for providing information that leads to the arrest of individuals suspected of involvement in cross-border missionary activities or the distribution of Bibles or other religious literature.”¹³⁹

In August 2011 a report by the Republic of Korea based think tank, the *Korea Institute for National Unification (KINU)* stated that the DPRK authorities claim there are a total of 14,000 Christians throughout the country, the majority of which worshipped in “family churches”,

“North Korea's Chosun Christians' League insisted that there were a total of 14,000 Christians, including 300 at Pyongyang's Bongsu Church, 150 at Chilgok Church, and about 500 “family churches” throughout the country. Many Pyongyang residents were aware of some of these religious facilities. However, most North Koreans in the provinces were not even aware of the fact that there were such religious facilities in Pyongyang.

[] When the United States designated North Korea as a nation persecuting religious freedom, North Korea complained and responded through articles carried in the Chosun Shinbo (in Japan), pointing out that 200-300 Christians were attending church services at

¹³⁸ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 25 September 2012

¹³⁹ U.S. Commission on International Religious Freedom, Annual Report 2012, North Korea, March 2012, <http://www.uscifr.gov/images/2012ARChapters/north%20korea%202012.pdf>, accessed 27 September 2012

Bongsu Church every Sunday and church services were being observed in the form of “family churches” in 500 locations across North Korea every Sunday. As inter-Korean religious exchanges have increased, joint religious services are being held on a regular basis.”¹⁴⁰

In 2012 the *United States Commission on Religious Freedom Annual Report* stated that Christian churches in Pyongyang are heavily monitored by the state and exist primarily as a showcase for foreign visitors,

“The capital city of Pyongyang contains one Catholic church, two Protestant churches, and a Russian Orthodox church [] Nonetheless, North Korean refugees assert that these churches are heavily monitored and that the sites exist primarily as showpieces for foreign visitors. According to visitors, North Koreans who attend services in the churches are not allowed to interact with foreign visitors, no children are present at the services, and the North Korean worshipers arrive and leave together on tour buses. There is no Catholic clergy in North Korea, but visiting priests occasionally provide mass at the Changchun Church. According to a Russian religious leader who visited North Korea, the Orthodox church is run by a North Korean priest who had studied in Russia. The purported aim of the church was to provide pastoral care for Russians in the country. The North Korean government claims that there are 500 officially approved “house churches” in the country. There are credible reports from South Korean academics that the participants in these gatherings are individuals whose families were Christians before 1950 and as such, are allowed to gather for worship without leaders or religious materials.

Most of the house churches are in urban areas and the families who attend are often segregated in separate housing units. Several schools for religious education exist in the country, but whether these schools teach Christian or Buddhist precepts has not been verified. A religious studies program was established at Kim Il Sung University in 1998. According to refugees who attended the university, graduates from this program work for the religious federations, the foreign trade sector, or as border guards seeking to identify clandestine religious activity. In 2000, a Protestant seminary was opened with assistance from foreign missionary groups, but critics, including at least one South Korean sponsor, charged that the government opened the seminary only to facilitate the reception of donations from foreign faith-based NGOs. There continue to be credible reports of private religious activity in North Korea, though its scope remains difficult to verify. Refugee reports continue to confirm that unapproved religious materials are available and secret religious meetings occur, spurred by cross-border contact with individuals and groups in China. The North Korean government views such activity in the border regions as illegal and a threat to national security. It sees new religious growth as spurred by South Korean humanitarian and missionary groups based in China. Police and border security units are trained to halt the spread of religious ideas and root out clandestine activity.”¹⁴¹

In 2011 the *USDOS Report on International Religious Freedom* stated that foreigners in Pyongyang observed that Christian church services appeared staged and contained political content supportive of the government,

“Several foreigners residing in Pyongyang attended Korean language services at the Christian churches on a regular basis. Some foreigners who visited the country stated that church services appeared staged and, in addition to religious themes, contained political content supportive of the government. Other foreigners who visited the country noted the appearance of genuine worship among some participants. Foreign legislators attending services in Pyongyang in previous years noted that congregations arrived and departed

¹⁴⁰ Korea Institute for National Unification (KINU) , White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672, accessed 25 September 2012

¹⁴¹ U.S. Commission on International Religious Freedom, Annual Report 2012, North Korea, March 2012, <http://www.uscifr.gov/images/2012ARChapters/north%20korea%202012.pdf> , accessed 27 September 2012

services as groups on tour buses, and some observed that the worshipers did not include any children. Some foreigners noted that they were not permitted to have contact with worshipers; others noted limited interaction with them. Foreign observers had limited ability to ascertain the level of government control over these groups, but it was generally assumed that they were monitored closely.

[] NGOs, defectors, and refugees have reported that the government executed some of its opponents in recent years. Among those executed were individuals who engaged in religious activities such as proselytism and having contact with foreign missionaries or other foreign religious individuals. Others reportedly were punished for having contact with South Korean humanitarian or religious groups or missionaries in China.

[] Ownership of Bibles or other religious materials was reportedly illegal and punishable by imprisonment or in some cases execution.¹⁴²

In its 2012 annual report *Amnesty International* stated that the missionary Jun Eddie Yong-su accompanied the US Ambassador for North Korean human rights on his departure from a visit to the country after being detained for religious activity,

"In May, Robert King, the US Ambassador for North Korean human rights and humanitarian affairs, made an unprecedented visit to the country, leading a delegation to gauge the seriousness of the food crisis. On his departure, he was accompanied by newly released Korean- American missionary Jun Eddie Yong-su, who had been detained for six months for "inappropriate or illegal religious activity."¹⁴³

In April 2011 *BBC Asia Pacific* stated that a US citizen arrested in North Korea could have been involved in Christian missionary work,

"North Korea has confirmed that it has arrested a US citizen and is preparing to charge him with "committing a crime" against the country. Jun Young-su was arrested in November last year, the official KCNA news agency said. The US state department announced the arrest on Tuesday and is calling for the detainee's release on humanitarian grounds.[] North Korea did not specify the crimes of which the man had been accused but South Korean media reports suggested he was a Korean-American businessman who could have been involved in Christian missionary work.

North Korea sees organised religious activity as a potential challenge to the leadership. It has detained a number of US citizens in recent years.

In 2010 devout Christian Aijalon Gomes was sentenced to eight years' hard labour for entering North Korea. He was freed after seven months when former US President Jimmy Carter flew to Pyongyang for talks.

Two US journalists, Laura Ling and Euna Lee, were held for several months after their arrest in 2009 for trespassing across the China-North Korea border. Former President Bill Clinton flew to Pyongyang to secure their release.¹⁴⁴

c. Cheondoists

¹⁴² U.S. Department of State, 2011 Report on International Religious Freedom, 2012, <http://www.state.gov/documents/organization/192847.pdf> accessed 29 September 2012

¹⁴³ Amnesty International World Report 2012, North Korea, 2012, <http://www.amnesty.org/en/annual-report/2012/downloads> , accessed 26 September 2012

¹⁴⁴ BBC Asia Pacific, North Korea confirms US citizen is arrested , 14 April 2012, <http://www.bbc.co.uk/news/world-asia-pacific-13075699>, accessed 28 September 2010

In 2011 the *USDOS Report on International Religious Freedom* stated that North Korean officials reported the existence of several religious organisations including the Korea Chondoist Society,

“As part of its 2009 UPR, the country reported the existence of religious organizations such as the Korea Christian Federation, Korea Buddhists’ Federation, Korea Roman Catholic Association, Korea Chondoist Society, and Korea Religionists’ Society.”¹⁴⁵

In 2012 the *Association of Religious Data Archives (ARDA)*, based at Pennsylvania State University, stated that the Chondogyo Young Friends Party was approved by the government and had roughly 40,000 members,

“the Chondogyo Young Friends Party, a government-approved group based on a traditional religious movement, had approximately 40,000 practitioners, according to the Government.”¹⁴⁶

In August 2011 a report by the Republic of Korea based think tank the *Korea Institute for National Unification (KINU)* stated that the Chosun Chondokyo Central Guidance Committee engages in religious activities and that a Chondokyo middle school operates in Pyongyang,

“120 thousand followers of Chondokyo have been eradicated or forced to recant their faith.

[] There are religious educational facilities run by religious organizations. The Chosun Christian League operates the Pyongyang Theological Seminary and the Chosun Buddhist League Central Committee is running a Buddhist school, and the Chosun Catholic Association Central Committee also operates a Chondokyo middle school and teaches students.

[] leaders of Chondokyo in South Korea also established service contacts with North Korean Chondokyoists when South Korean superintendent Kim Chol paid a visit to North Korea in 2001.

[] North Korea also insisted that under freedom of association many religious organizations were engaged in religious activities. Their list included the Chosun Christian League, Chosun Buddhist League, Chosun Catholic Association, Chosun Chondokyo Central Guidance Committee and Chosun Association of Religious Practitioners. The North Korean delegation boasted that religion was completely separate from the state, and no religion was discriminated against or interfered with. People were free to choose and freely practice the religion of their choice. Among the North Korean religious organizations, the most well-known are the “Chosun (Korean) Buddhists League,” “Chosun Christian League,” “Chosun Catholic Association,” “Chosun Chondokyo Central Committee,” “Chosun Russian Orthodox Church Committee,” and the umbrella organization for these groups called “Chosun Religious Practitioners Association.” However, it is not known whether any central religious organization is maintaining branches in the provinces. In the interviews conducted in preparation for a religious report, all defectors interviewed said they were unaware of any religious organization that has branches in the provinces.”¹⁴⁷

d. Adherents of Korean shamanism

In March 2011 Republic of Korea based online newspaper, *DailyNK*, stated that despite state efforts to eradicate the practice, visits to shaman or fortune-tellers have increased in recent years,

¹⁴⁵ U.S. Department of State, 2011 Report on International Religious Freedom, 2012, <http://www.state.gov/documents/organization/192847.pdf>, accessed 29 September 2012

¹⁴⁶ The Association of Religious Data Archives (ARDA), National Profiles, North Korea, 2012, http://www.thearda.com/internationalData/countries/Country_123_2.asp, accessed 30 September 2012

¹⁴⁷ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 25 September 2012

“North Korean defectors believe that the main reason for this increase in visits to fortune tellers was complete loss of faith in the national leadership; this inability to trust the authorities or the state, not to mention exhaustion caused by the mere fight to survive, the declining state of state-provided health care and absence of outside sources of news and information, led people to seek out ethereal sources of believable information.

One defector recalls a pediatrician who diagnosed their son, who was suffering from a high fever, with a “demon spirit,” and summarily recommended a well-known shaman. “Given that even doctors’ are of that mind, what hope is there for everyone else?” he points out.

[] People typically seek out a shaman to address sicknesses, the starting of a business, marriage or even choice of grave site for a parent.

[] One defector from Hyesan explains it well, saying, “Even though it is really hard to survive, the reason people will spend the money for five kilos of rice on a shaman is because they want to find hope, even though it is just in words. They draw courage and strength from the belief that even though not everything the shaman tells them is right, if they go this way, good things will happen.”¹⁴⁸

In March 2011 Republic of Korea based online newspaper, *DailyNK*, stated that authorities have responded to the popularity of fortune-telling with lectures and plays discouraging it,

“Fortune telling is still a banned practice in North Korea. Not that it seems to be having much effect, the authorities have responded to the growth of the activity with lectures about how it is contrary to socialism, and there is even a play called Village Shrine, written solely to remind people of its pointlessness.

The play is about a mother struggling to bring up her only daughter alone during the Japanese occupation. Even though their house is bare, the mother spends every day at the village shrine preparing ritual offerings such as pork, rice cakes and wine for her ancestors, pleading for her child's future.

One day, a young intellectual from the village who has watched the woman coming and going to the shrine tells her, “There is no such thing as superstition. Every person is the master of his own destiny.” Finally convinced by the man, the woman destroys the shrine.”¹⁴⁹

In August 2011 a report by the Republic of Korea based think tank the *Korea Institute for National Unification (KINU)* stated that “fortune-telling” is widespread in North Korean society and superstitious activities are punished by the authorities,

“Superstition is widespread in North Korean society, and citizens discreetly exchange rumors as to the location of good fortunetellers. High-ranking officials must not and will not seek out such services, but their wives are said to sometimes visit fortunetellers and report back to their husbands. The North Korean authorities will punish any superstitious activities such as fortunetelling.

[] A defector testified that anyone who tried to “consult with fortune tellers” or “learn about personal fortune” would be punished by his or her organization. If someone was very good at fortune-telling, even high-ranking security agents, Party members and People's Safety agents would go to consult with that person. In such cases, others who had gone there

¹⁴⁸ Daily NK, People Seeking Hope from Fortune Tellers, Lee Seok Young, 9 March 2011, <http://www.dailynk.com/english/read.php?catald=nk01300&num=7438>, accessed 01 October

¹⁴⁹ Daily NK, People Seeking Hope from Fortune Tellers, Lee Seok Young, 9 March 2011, <http://www.dailynk.com/english/read.php?catald=nk01300&num=7438>, accessed 01 October

could avoid punishment. Security agents would impose punishment on fortune-tellers if they refused to pay bribes or show adequate respect. They would also punish fortune-tellers who became popular or widely known.”¹⁵⁰

In August 2011 a report by the Republic of Korea based think tank the *Korea Institute for National Unification (KINU)* stated that defectors testified that the government had strongly reinforced its anti-occultist stance in recent years and that “fortune tellers” or shamanists had been incarcerated in prison camps,

- Defector XXX testified that in 2001 two fortune-tellers had to undergo a pre-trial for having made some political comments.
- Defector XXX testified that North Korea strongly enforced its anti-occultist position in 2002.
- Defector XXX testified that she was working in 2005 at a “foreign currency-earning” outfit that used to trade with China. There was a fortuneteller who was so good that she could accurately tell the “trading day” with China in advance. One day she was gone. It was later rumored that she was taken to the security agency for saying something wrong while engaged in fortunetelling.
- Defector XXX testified that a fortuneteller named XXX (42 years old) was arrested for having engaged in fortunetelling activities at Pohang District of Chongjin. She had to serve at the labor-training camp in 2005 and 2006. She was also taken to the labor-training camp in 2007, but was released for reasons of pregnancy.
- Defector XXX testified that a woman known as “Youngnam’s Mom” in Namsan District, Musan County, was arrested for her fortunetelling activities and detained at a labor-training camp for 6 months.
- Defector XXX testified that when he was working at a detention center a woman about 50 years old named Suh XX was brought in and detained for some time because of her fortune-telling practice.
- Defector XXX testified that XXX, about 45 years old, was caught engaging in fortunetelling. She was sent off to a labor-training camp.
- Defector XXX testified that a woman named Paik XX was arrested for fortune-telling in 2008. She was sent off to a labor-training camp for six months.”¹⁵¹

¹⁵⁰ Korea Institute for National Unification (KINU) , White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672, accessed 25 September 2012

¹⁵¹ Korea Institute for National Unification (KINU) , White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672, accessed 25 September 2012

F. Freedom of Expression and Association

1. Domestic legal framework

Article 67 of the *Constitution of the Democratic Peoples Republic of Korea* (revised in April 2009) provides for freedom of speech and association and guarantees conditions for the free activities of social organisations,

“Citizens shall have freedom of speech, press, assembly, demonstration, and association. The state shall guarantee conditions for the free activities of democratic political parties and social organizations.”¹⁵²

The 2011 *USDOS* country report on human rights practices stated that the Constitution provides for free speech and press but that these rights were restricted in practice by the government,

“The constitution provides for freedom of speech and press; however, the government prohibited the exercise of these rights in practice.

[] There were numerous instances of persons being interrogated or arrested for saying anything that could be construed as negative towards the government.

The constitution provides for the right to petition. However, the government did not respect this right. For example, when anonymous petitions or complaints about state administration were submitted, the MSS and MPS sought to identify the authors, who could be subjected to investigation and punishment.”¹⁵³

In 2010 *Amnesty International* stated that disseminating information perceived as opposing the state is punishable under the Criminal Code by up to two years in a labour training camp or five years of correction labour,

“Freedom of opinion and expression is severely restricted in North Korea. All media is controlled by the state, and dissent is not tolerated. Listening to broadcasts, retaining information or disseminating information perceived as opposing the state is punishable under the Criminal Code by up to two years in a “labour training camp” (nodong danryundae) or five years of “correction labour” (kyohwaso) in more serious cases. All radios in North Korea are sealed so that only the official broadcasting service channels may be received. If a seal is found broken, the owner is perceived as guilty of listening to foreign broadcasting services and treated as a political criminal.”¹⁵⁴

In February 2012 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* stated that freedom of expression and association should be allowed as provided in the constitution,

“The Special Rapporteur calls upon the Democratic People's Republic of Korea to allow space for participation in Government, freedom of expression, access to information,

¹⁵² North Korean Constitution, April 2009, <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 26 September 2012

¹⁵³ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

¹⁵⁴ Amnesty International, North Korea: Freedom of movement, opinion and expression, 2010, <http://www.amnesty.org/en/library/asset/ASA24/002/2009/zh/d0fc91b5-68b8-4fc8-89d1-fd59a95c7513/asa240022009en.pdf>, accessed 26 September 2012

freedom of association, as provided and recognized in the Constitution and related laws of the Democratic People's Republic of Korea and international standards."¹⁵⁵

In 2012 US NGO, *Freedom House*, stated that all media and communication in the DPRK is strictly regulated by the government, despite constitutional provisions,

"North Korea remained the most repressive media environment in the world in 2010. The one-party regime owns all media, attempts to regulate all communication, and rigorously limits the ability of North Koreans to access information. Although the constitution theoretically guarantees freedom of speech, constitutional provisions calling for adherence to a "collective spirit" restrict all reporting that is not sanctioned by the government in practice. All journalists are members of the ruling party, and all media outlets are mouthpieces for the regime. Under the penal code, listening to foreign broadcasts and possessing dissident publications are "crimes against the state" that carry grave punishments, including hard labor, prison sentences, and the death penalty. In 2010 alone, over 1,000 people were arrested for possessing or watching foreign films and television programs that they had acquired on the black market through smugglers from China. However, citizens are allowed to watch foreign films that are selected by and broadcast through a state-owned station. In a rare turn of events in December, a state-owned station broadcast the British soccer film *Bend It Like Beckham*."¹⁵⁶

In August 2011 the *Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*, Marzuki Darusman, stated that the provisions of the Press Law were not in adherence with the State's obligation under the International Covenant on Civil and Political Rights,

"The provisions of the Press Law of the Democratic People's Republic of Korea are not in line with a State party's obligation under article 19 to the International Covenant on Civil and Political Rights. Article 48 of the Press Law, for instance, empowers the State to criminalize any statement, publication, news or article that is critical of the State or its organs. Furthermore, article 103 of the Penal Code of the Democratic People's Republic of Korea, as amended in 1999, stipulates that anyone seriously disturbing the social order shall be punished with up to 5 years of correctional labour and, in serious cases, their leader(s) shall be punished with up to 10 years of correctional labour. When the Democratic People's Republic of Korea further amended the Penal Code in April 2004, with the aim of including specific acts that would constitute such crimes, it included listening to broadcasts from the Republic of Korea; collecting, possessing and circulating printed matter from the Republic of Korea; and spreading unfounded rumours."¹⁵⁷

2. Treatment of political opponents

In August 2011 the *Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*, Marzuki Darusman, stated that criticism of the government and its leaders was punishable by incarceration in prison camps,

"In the Democratic People's Republic of Korea, freedom of speech and expression is extremely limited. The Special Rapporteur is concerned by recent reports that the authorities in the country continue to impose severe restrictions on freedom of opinion, expression and assembly, despite constitutional guarantees of these rights. Criticism of the

¹⁵⁵ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, February 13 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, accessed 25 September 2012

¹⁵⁶ Freedom House, Freedom in the Press 2011, <http://www.freedomhouse.org/report/freedom-press/2011/north-korea>, accessed 24 September 2012

¹⁵⁷ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, August 24 2012, available at <http://www.hrnk.org/uploads/pdfs/UNSR%20Aug%202011.pdf>, accessed 29 September 2012

Government and its leaders is strictly curtailed, and is punishable by arrest and incarceration in prison camps. The Government distributes radio and television sets with pre-adjusted bandwidth, which the citizens are forbidden to alter so as to make it possible to receive broadcasts from other nations. People who were caught listening to foreign broadcasts were detained by the State authorities and sentenced to long prison terms."¹⁵⁸

In 2012 US NGO, *Freedom House*, stated that strikes and other organised labour activities were illegal,

"Freedom of assembly is not recognized, and there are no known associations or organizations other than those created by the state. Strikes, collective bargaining, and other organized-labor activities are illegal."¹⁵⁹

The 2011 *USDOS* country report on human rights practices stated that censorship was strongly enforced and that there were numerous instances of interrogations and arrests for criticism of the government,

"There were numerous instances of persons being interrogated or arrested for saying anything that could be construed as negative towards the government. The constitution provides for the right to petition. However, the government did not respect this right. For example, when anonymous petitions or complaints about state administration were submitted, the MSS and MPS sought to identify the authors, who could be subjected to investigation and punishment.

[] Domestic media censorship continued to be strictly enforced, and no deviation from the official government line was tolerated. The government prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets, unless altered, are set to receive only domestic programming; radios obtained from abroad had to be altered to operate in a similar manner. Elite citizens and facilities for foreigners, such as hotels, reportedly had access to international television broadcasts via satellite. The government continued to attempt to jam all foreign radio broadcasts.

Internet access for citizens was limited to high-ranking officials and other designated elites, including select university students. An "intranet" was reportedly available to a slightly larger group of users, including an elite grade school, select research institutions, universities, and factories, and a few individuals. The Korea Computer Center acted as the gatekeeper, downloading only acceptable information for access through the intranet. Reporters Without Borders reported that some e-mail access existed through this internal network.

[] The government restricted academic freedom and controlled artistic works. Curriculum was highly controlled by the state. Academic travel was severely restricted. A primary function of plays, movies, operas, children's performances, and books was to buttress the cult of personality surrounding the Kim family."¹⁶⁰

The 2011 *USDOS* country report on human rights practices stated that the government continued to attempt to limit foreign influence on its citizens and did not allow public meetings unless previously authorised,

¹⁵⁸ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, August 24 2012, available at <http://www.hrnk.org/uploads/pdfs/UNSR%20Aug%202011.pdf>, accessed 29 September 2012

¹⁵⁹ Freedom House, Freedom in the World 2012, <http://www.freedomhouse.org/report/freedom-world/2012/north-korea>, accessed 24 September 2012

¹⁶⁰ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

“According to North Korean media, Kim Jong-il frequently told officials that ideological education must take precedence over academic education in the schools. Indoctrination was carried out systematically through the mass media, schools, and worker and neighborhood associations. Indoctrination continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

The government continued its attempt to limit foreign influence on its citizens. Listening to foreign radio and watching foreign films is illegal; however, numerous NGOs reported that foreign DVDs, VCDs, CDs, and videotapes continued to be smuggled into the country. The government intensified its focus on preventing the smuggling of imports of South Korean popular culture, especially television dramas. According to media and NGO reports, in enforcing restrictions on foreign films, police were authorized to search people's homes to search for contraband DVDs. One NGO reported the majority of people incarcerated in low-level detention facilities were detained for watching illegal foreign films.

[] The constitution provides for freedom of assembly; however, the government did not respect this provision in practice and continued to prohibit public meetings not previously authorized.

The constitution provides for freedom of association, but the government failed to respect this provision in practice. There were no known organizations other than those created by the government. Professional associations existed primarily to facilitate government monitoring and control over organization members.”¹⁶¹

In February 2010 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*, Vitit Muntarbhorn, stated that the State constrained freedom of expression and association, including electoral participation and access to foreign media,

“Participation in government, freedom of expression, access to information, freedom of association, and freedom of religion are all constrained by the nature of the State, despite their nominal recognition in the Constitution and related laws. Despite the semblance of an electoral process, the system is built to support a one-party State. People are pressured to vote for the ruling elite, and it is reported that community leaders visit households to pressure them to vote; failure to vote is unacceptable and voting against those in power is regarded as reactionary and subject to punishment.¹⁹ Trade unions and mass movements (associations) are controlled by the Government as part of the State machinery.

While cell phones are now allowed in the capital city, use near the border is prohibited. Radio sets are pre-tuned to government programmes and it is forbidden to view videos from other countries. Reading books from the Republic of Korea is regarded as espionage, and there are sanctions against reading books from China. It is forbidden to own computers without permission. There are special squads which raid homes to see whether there are illegal materials from other countries, and neighbours/communities are encouraged to inform on each other. Bribery may attenuate arrests and sanctions.”¹⁶²

In February 2012 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* stated that the government restricted of any form of association or expression deemed hostile to the government,

“The Special Rapporteur notes with concern that there seems to be continued Government imposition of restrictions on the media and punishment of any form of association and expression that is deemed hostile towards the Government. There are no known independent opposition political parties or NGOs in the country. Independent media, the

¹⁶¹ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

¹⁶² U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

liberty to run NGOs and access to international reporters, which are currently nonexistent in the Democratic People's Republic of Korea, are all essential in an open society.

Furthermore, Internet access is restricted to a few thousand people and, currently, the international Internet network is accessible only by a small minority, a few high-ranking officials and foreign diplomats via a satellite link with servers based abroad. The Intranet is accessible only by academics, businessmen and high-ranking civil servants with special clearance.

In speaking to the asylum-seekers in the Republic of Korea, the Special Rapporteur was also made aware of the risks some of the asylum-seekers undertake by using mobile phones, especially while trying to liaise with traffickers in order to leave the Democratic People's Republic of Korea. The defectors in Japan who met with the Special Rapporteur expressed similar concerns regarding restrictions on and, in many cases, the total absence of freedom of opinion and expression. Some of them claimed they were not even in a position to express their worsening living standards and that the only manner in which they learnt about the outside world was from smuggled DVDs and video CDs.¹⁶³

In their 2011 book *Witness to Transformation, Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard stated that independent forms of social organisation have been prevented by the government, which only permits state-sanctioned bodies,

"There are reasons to doubt that a dramatic political unravelling will occur in North Korea any time soon; outside analysts have underestimated the regime's capacity to survive before. The regime has cultivated a core base of supporters in the army, party and state apparatus. The strength of the coercive apparatus is extraordinary, and the party provides the leadership a highly developed institution for social surveillance and monitoring. The North Korean regime not only has a highly developed propaganda apparatus but also jealously guards competitive source of outside information, including those gleaned from unauthorised exit from the country, in order to limit comparisons that might call its portrayal of material circumstances into question. Above all, the regime has aggressively forestalled independent forms of social organisation, permitting only state-sanctioned bodies such as youth leagues, which provide additional instruments of both elite recruitment and control. There are no independent unions, autonomous religious organizations or forums of intellectuals, all of which have served as platforms for organizing dissent in countries that have democratized in recent decades.

[] In North Korea, as in other highly repressive political systems, pervasive surveillance, a highly developed internal security and monitoring apparatus, and the liberal use of the penal system all serve to reduce trust in society as a whole. Even making jokes about the government is risky, let alone complaining, disparaging the leader or organising against the regime."¹⁶⁴

In July 2012 *Human Rights Watch* reported that those caught with a mobile phone faced beatings and imprisonment,

"In terms of communication and information, North Korean refugees repeatedly told us about difficulties with police when they were suspected of having or using a mobile phone. A 23-year old man who police informants said was seen using a mobile phone and fled North Korea in August 2011 said "I said I do not have a mobile phone...they didn't believe me. That's why I got thrown in prison and beaten with a wooden club...They were beating me for two hours every day...I felt frustrated because I think I'm not guilty. I just talked to

¹⁶³ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea., February 13 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf accessed 25 September 2012

¹⁶⁴ *Witness to Transformation: Refugee Insights into North Korea*, Marcus Noland and Stephan Haggard, The Peterson Institute for International Economics, January 2011, p. 101-102 and 115

my aunt [outside of North Korea] as a family member talks to another...they finally released me because they couldn't find the phone." Others who did admit using a phone had to persuade police they were calling China, not South Korea, with one woman explaining how it was the testimony of relatives and neighbors in her village that convinced the police she was not seeking to go to South Korea. Ultimately a bribe was accepted for her release, showing the new flexibility of administering punishments when money is available."¹⁶⁵

3. Treatment of NGO workers

In 2011 the *US Congressional Research Service* stated that officials tightly controlled and monitored the activities of NGOs and resisted their demands to monitor the distribution of aid,

"As of 2010, a few NGOs have remained active in North Korea, most from European aid agencies. Other active but non-resident NGOs include the Mennonite Central Committee (Canada), First Steps (Canada), the Eugene Bell Foundation (United States/South Korea), Christian Friends of Korea (United States), the Canadian Food Grains Bank, and the Hanns Seidel and the Friedrich Naumann Foundations (Germany). Several European NGOs can expect consular protection from embassies based in Pyongyang, except for Canada, France, and Ireland which have embassies in Seoul. U.S. NGOs rely on the Swedish Embassy in Pyongyang.

The North Korean government has tightly controlled and monitored NGO activities. Its officials have frequently resisted NGO demands to monitor the distribution of aid. North Korean officials initially blocked NGO efforts to visit the northeast provinces of Chagang, South Hamgyong, North Hamgyong, and Ryanggang, as well as portions of Kangwon, South Hwanghae, and North and South Pyongan.

[] Officials also tried to curb NGOs' ability to monitor by excluding Korean speakers from their groups. International organizations and NGOs were not permitted to conduct random site visits. Finally, DPRK officials insisted that NGOs use the government's Public Distribution System to transmit aid. The Public Distribution System is the primary means by which the state allocates food according to the social importance of groups. Between 1998-2000, citing these restrictions on monitoring, some NGOs, notably Doctors without Borders and Oxfam, withdrew from North Korea. Two U.S.-based NGOs, CARE and Catholic Relief Services, left for similar reasons. By 2005, restrictions on NGO travel had dropped substantially but still included smaller portions of the northeast provinces, North and South Pyongan, and Kangwon. North Korean officials ruled out visits to these areas citing security reasons.

The North Korean government has assigned government contacts to NGOs, to serve as a conduit for their aid and provide the regime with buffers between the organizations and the public. These were assigned on the basis of national origin or residency, and have shifted frequently over the years that NGOs have worked in the country. Some NGOs have sought to strengthen their hand by coordinating their own work through these North Korean government entities, with varying degrees of success."¹⁶⁶

The 2011 *USDOS* country report on human rights practices stated that there were no domestic NGOs to monitor human rights and that the government limited international observers from entering the country to assess the human rights situation,

¹⁶⁵ Human Rights Watch, The problem of North Korean refugees in China and possible solutions, 19 July 2012, <http://www.hrw.org/news/2012/07/19/problem-north-korean-refugees-china-and-possible-solutions>, accessed 2 October 2012

¹⁶⁶ Congressional Research Service, Non-Governmental Organizations' Activities in North Korea, Mi Ae Taylor and Mark E. Manyin, March 25, 2011, <http://www.fas.org/sqp/crs/row/R41749.pdf>, accessed 29 September 2012

"There were no independent domestic organizations to monitor human rights conditions or to comment on the status of such rights. The government's North Korean Human Rights Committee denied the existence of any human rights violations in the country.

The government allowed the U.S. special envoy for North Korean human rights issues to enter to the country and held brief conversations about human rights issues with him, it but did not allow access to assess human rights conditions outside of Pyongyang. The international NGO community and numerous international experts continued to testify to the grave human rights situation in the country during the year. The government decried international statements about human rights abuses in the country as politically motivated and as interference in internal affairs. The government asserted that criticism of its human rights record was an attempt by some countries to cover up their own abuses and that such hypocrisy undermined human rights principles.

UN and Other International Bodies: The government emphasized that it had ratified a number of UN human rights instruments but continued to refuse to cooperate with UN representatives. The government prevented the UN special rapporteur on the situation of human rights in the DPRK, Marzuki Darusman, from visiting the country to carry out his mandate, which it continued to refuse to recognize. It rejected the offer of the Office of the High Commissioner on Human Rights to work with the government on human rights treaty implementation. The government did not grant entry to any thematic special rapporteurs, such as those on torture or violence against women."¹⁶⁷

4. Treatment of journalists and other media professionals

In 2012 the US NGO, *Freedom House*, stated that the activities of foreign journalists were strictly curtailed,

"North Korean media portray all dissidents and foreign journalists as liars attempting to destabilize the government, and authorities sharply curtail the ability of foreign journalists to gather information by seizing their mobile telephones upon arrival, preventing them from talking to people on the street, and constantly monitoring their movements. In March 2009, two U.S. journalists, Euna Lee and Laura Ling, were arrested at the Chinese border and incarcerated in North Korea for committing "hostile acts," and were sentenced in June to 12 years in a labor camp. They were freed in early August 2009 after former U.S. president Bill Clinton traveled to Pyongyang to negotiate their release. The dictatorial regime does on occasion invite the foreign press to cover events such as parades and festivals that shed a favorable light on the state. In October 2010, foreign correspondents were invited to the 65th anniversary of the ruling Korean Workers' Party, during which Kim Jong Il formally presented his son Kim Jong Un as his successor.

In 2007, a Japanese journalist and several North Korean refugees launched *Rimjinkang*, the first newsmagazine to be based on independent reporting from inside the country. The reporting is conducted by specially trained North Koreans—most of them refugees along the country's border with China—who have agreed to go back into North Korea and operate as undercover journalists using hidden cameras. Although reports from *Rimjinkang* are easily accessible for people outside North Korea, within the country, most citizens still rely primarily on state-owned broadcasting agencies for news."¹⁶⁸

In August 2011 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*, Marzuki Darusman, expressed concern over the lack of independent

¹⁶⁷ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

¹⁶⁸ Freedom House, *Freedom in the Press 2011*, <http://www.freedomhouse.org/report/freedom-press/2011/north-korea>, accessed 24 September 2012

national media and the restrictions placed on journalists and others who try to exercise freedom of expression,

“The Special Rapporteur is concerned by the fact that the availability of foreign newspapers to the public is highly restricted in the country, which has no independent national media, and by the fact that the State places severe restrictions on journalists’ travel within the country and abroad. Restrictions placed on journalists and others who seek to exercise their freedom of expression and opinion are incompatible with provisions under paragraph 3 of article 19 of the International Covenant on Civil and Political Rights. State-controlled media have also been used to defame independent reporting through allegations attacking the integrity, morals and independence of journalists and media outlets. Complaints have been fabricated to discredit independent non-governmental organizations and journalists.”¹⁶⁹

In 2011 the NGO, *Reporters Without Borders*, placed North Korea 178 of 179 countries included in its Press Freedom Index, stating that there had been some increase in the flow of news and information, it was not clear whether this would continue,

“It is no surprise that the same trio of countries, Eritrea, Turkmenistan and North Korea, absolute dictatorships that permit no civil liberties, again occupy the last three places in the index [] In North Korea (178th), although news and information was able to move across its borders to a greater extent, no one knows whether this will continue under Kim Jong-un, the son and heir of Kim Jong-il. The dynastic succession, the dominance of the military machine and the government’s desire for power give no grounds for optimism.”¹⁷⁰

The 2011 *USDOS* country report on human rights practices stated that virtually all media and information was controlled by the government and that visits by foreign journalists were carefully managed,

“The government sought to control virtually all information. Print media, broadcast media, and book publishing were all tightly controlled by the government. There were no independent media. The government carefully managed visits by foreigners, especially journalists. In September the Associated Press (AP) reached an agreement to expand its television service to an all-format news bureau in Pyongyang. International AP reporters were not resident in the country.

Domestic journalists had little freedom to investigate stories or report freely. In 2010 an NGO reported the alleged execution of someone making an illegal international call to report on rice prices.

During visits by foreign leaders, groups of foreign journalists were permitted to accompany official delegations and file reports. In all cases journalists were monitored strictly. Journalists generally were not allowed to talk to officials or to persons on the street. For all foreign visitors, including journalists, cell or satellite phones were held at the airport for the duration of the stay.”¹⁷¹

In February 2012 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* stated that the punishments faced by journalists was indicative of the restriction of freedom of expression and opinion,

¹⁶⁹ United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, August 24 2012, available at <http://www.hrnk.org/uploads/pdfs/UNSR%20Aug%202011.pdf>, accessed 25 September

¹⁷⁰ Reporters with Borders, World Press Freedom Index 2011-12, January 2012, http://en.rsf.org/IMG/CLASSEMENT_2012/C_GENERAL_ANG.pdf, accessed 26 September 2012

¹⁷¹ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 26 September 2012

"[] The extent of restriction on the freedom of opinion and expression is demonstrated by the nature of punishment placed on journalists. In the last few months, it has been reported that two North Korean journalists died in 2001 in Yoduk "Kwan-li-so" No. 15, a prison camp located in the east of the country. This has only come to light in the recent days through a former political prisoner."¹⁷²

In its 2012 annual report *Amnesty International* stated that despite allowing the Associated Press to establish a news bureau in Pyongyang there remained no independent domestic media and no independent civil society,

"In June, the authorities allowed the Associated Press to establish a news bureau in Pyongyang. Reuters news agency announced that it had received permission to operate a satellite dish in Pyongyang. Nevertheless, there were no independent domestic media, no known independent opposition political parties and no independent civil society. Criticism of the government and its leaders was strictly curtailed, and punishable by arrest and incarceration in a prison camp. Only a select few people had internet access, mostly through a closely monitored intranet network. Officials clamped down on users of Chinese mobile phones, and phone connections were blocked in Sinuiju, the border city near Dandong in China."¹⁷³

¹⁷² United Nations Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea., February 13 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, accessed 25 September 2012

¹⁷³ Amnesty International World Report 2012, North Korea, 2012, <http://www.amnesty.org/en/annual-report/2012/downloads>, accessed 25 September 2012

G. Sexual Orientation

1. Domestic legal framework

In undated information on their website the *International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)* reported that male to male and female to female relationships were legal and that the law did not prescribe punishments for male to male relationships. According to *ILGA* the age of consent for homosexuals is equal to that for heterosexuals.¹⁷⁴

The 2011 *USDOS* country report on human rights practices stated that,

“There are no laws against homosexuality, but no information was available on discrimination based on sexual orientation or gender identity.”¹⁷⁵

2. Treatment of LGBTI persons

In October 2010 the official website of the DPRK stated in a forum response on its stance on homosexuality that,

“Due to tradition in Korean culture, it is not customary for individuals of any sexual orientation to engage in public displays of affection. As a country that has embraced science and rationalism, the DPRK recognizes that many individuals are born with homosexuality as a genetic trait and treats them with due respect.

Homosexuals in the DPRK have never been subject to repression, as in many capitalist regimes around the world. However, North Koreans also place a lot of emphasis on social harmony and morals. Therefore, the DPRK rejects many characteristics of the popular gay culture in the West, which many perceive to embrace consumerism, classism and promiscuity.”¹⁷⁶

In March 2012 *Global Gayz* reported that it is difficult to find information on homosexuality in the DPRK and speculated that homosexuals are coerced into marriage,

“There is such fear and secrecy about many aspects of North Korea that it is difficult to find anything reliable about everyday life there—and doubly so about homosexuality. The concept of same-sex attraction hardly exists in the minds of people. Even with people who feel this attraction, there is ignorance about what it means or how it can be expressed in behavior.

It is not discussed in public and it's a likely assumption that almost all gay or lesbian people are conditioned or coerced into marriage and they live that way without ever understanding their conflicted feelings. Even for someone with a bit of knowledge about human behavior the official view is that homosexuality is an aberration that exists only in a capitalist society.”¹⁷⁷

¹⁷⁴ ILGA Asia, Law, Korea, People's Democratic Republic of, undated, <http://ilga.org/ilga/en/countries/KOREA.%20DEMOCRATIC%20PEOPLE%27S%20REPUBLIC%20OF/Law>, accessed 10 October 2012.

¹⁷⁵ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012.

¹⁷⁶ The official website of the DPRK, DPRK Forum FAQ, 31 October 2010, <http://www.korea-dpr.co/forum/index-p=701.html#20>, accessed 10 October 2012.

¹⁷⁷ GlobalGayz, Gay life in North Korea, 20 May 2005, updated 4 March 2012, <http://www.globalgayz.com/asia/north-korea/gay-life-in-north-korea/>, accessed 10 October 2012.

In December 2011 the *Seattle Gay News* reported that same sex marriages are not recognized and that the DPRK has portrayed homosexuality as characteristic of western moral degeneracy and has opposed the UN declaration on sexual orientation and gender identity,

“There is much more known about what North Korea does not recognize than what it does. For instance, the DPRK does not recognize same-sex marriages, civil unions, or domestic partnerships. Culturally, North Koreans face strong social pressure to marry a suitable person of the opposite sex and the government rarely allows divorce.

It is unclear what the North Korean government's policy on Transgender citizens is. No laws are known to exist that address sexual orientation or gender identity based discrimination or harassment. However, there exists a vaguely worded law that the government can use to punish anyone who is deemed to be 'against the socialist lifestyle,' which could be used to harass or discriminate against LGBT people.

It is also unclear what the age of consent, if any, for homosexual activity is. Article 153 of the criminal law states that a man who has sexual intercourse with a girl under the age of 15 shall be 'punished gravely,' but the law is unclear about the age of consent for boys or for same-sex sexual activity.

North Korean propaganda has sporadically portrayed homosexuality as a characteristic of Western (particularly American) moral degeneracy.

North Korea opposed both the U.N. declaration on sexual orientation and gender identity, which called for the worldwide decriminalization of homosexuality, and the exclusion of sexual orientation as discriminatory grounds for execution. Its precise reasons for doing so remain unclear.”¹⁷⁸

In September 2011 *The Korea Times* reported that according to a broadcast by *Free North Korea Radio* two lesbians had been executed,

“It has been reported that North Korea executed homosexuals, believing that they are influenced by capitalism.

“The North government publicly executed two lesbians for being tinged with capitalism not for demoralization,” Free North Korea Radio (<http://www.fnkradio.com/>) reported on Wednesday.

According to the broadcast, the Korean and Japanese women were caught after it was found they had sexual relationships in their house in Cheongjin, North Hamgyeong Province. “They were badly influenced by capitalism from Japan and brought corruption of public morals,” said the government.”¹⁷⁹

¹⁷⁸ Seattle Gay News, Living in silence, gar North Korea, Volume 39, Issue 51,23 December 2011, http://www.sgn.org/sgnnews39_51/page1.cfm, accessed 1 October 2012

¹⁷⁹ During the timeframe of our research we were unable to locate the original broadcast on the Free Radio North Korea website, <http://www.fnkradio.com/>. The Korea Times, North executes lesbians for being influenced by capitalism, 29 September 2011, http://www.koreatimes.co.kr/www/news/nation/2011/09/182_95702.html, accessed 10 October 2012

H. Women and Children

1. Domestic legal framework

Article 31 of the *Socialist Constitution of the Democratic Peoples Republic of Korea* states that the minimum working age is 16 years,

“In the DPRK, citizens shall begin to work from the age of 16. The state shall prohibit the labor of children under the stipulated working age.”¹⁸⁰

The *Socialist Constitution of the Democratic Peoples Republic of Korea* provides for universal compulsory 11 year education,

“Article 43. The state shall implement the principle of socialist pedagogy, and thus raise the younger generations as resolute revolutionaries who struggle for the society and the people, and as new chuch'e-type people of knowledge, virtue, and physical health.

Article 44. The state shall give priority to the work of educating the people and training national cadres over any other work and closely combine general education with technological education, and education with productive labor.

Article 45. The state shall develop universal 11-year compulsory education, including one-year compulsory preschool education, at a high level in line with the trends in the development of modern science and technology and the realistic demands of socialist construction.

Article 46. The state shall train competent technicians and experts by developing the educational system devoted exclusively to study, as well as the educational system of various forms combining work and study, and by enhancing the scientific and theoretical levels of technological education and education in social studies and basic sciences.

Article 47. The state shall educate all students free of charge and give scholarships to students of universities and technical schools.

Article 48. The state shall strengthen social education and guarantee all the necessary conditions for all the working people to study.

Article 49. The state shall raise children of preschool age at nurseries and kindergartens at the expense of the state and society.. []

Article 73. Citizens shall have the right to receive education. This right shall be guaranteed by an advanced educational system and the state's people-oriented educational measures.”¹⁸¹

Article 65 of the *Socialist Constitution of the Democratic Peoples Republic of Korea* states that citizens have equal rights,

“Article 65. Citizens shall have equal rights in all spheres of the state and social life.”¹⁸²

¹⁸⁰ Constitution of North Korea, Revised 2009, available at <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 10 September 2012

¹⁸¹ Constitution of North Korea, Revised 2009, available at <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 10 September 2012

The *Socialist Constitution of the Democratic Peoples Republic of Korea* states that women have equal rights with men and that marriage and the family are protected,

“Article 77. Women shall be entitled to the same social status and rights as men. The state shall provide special protection to mothers and children by guaranteeing maternity leave before and after childbirth, reducing working hours for mothers with many children, and expanding the network of maternity hospitals, nurseries, and kindergartens, and by implementing other measures. The state shall provide every possible condition for women to participate in society.

Article 78. Marriage and family shall be protected by the state. The state shall take deep interest in consolidating the family, the basic unit of social life.”¹⁸³

2. Situation of women

The 2011 *USDOS* country report on human rights practices stated that rape appeared to be criminalised but there was no information on enforcement. The *USDOS* reported that women in prison camps were raped by prison guards,

“Rape and Domestic Violence: The government appeared to criminalize rape, but no information was available on details of the law or how effectively it was enforced. Women in prison camps reportedly were subject to rape by prison guards and to forced abortions.”¹⁸⁴

In its 2012 world report, covering the events of 2011, *Human Rights Watch* reported that “Guards also rape female detainees.”¹⁸⁵

The 2011 *USDOS* country report on human rights practices stated that violence against women was a significant problem,

“Violence against women has been reported as a significant problem both inside and outside the home. No information was available on government efforts to combat rape, domestic violence, and other societal violence directed against women.

Sexual Harassment: Women who have left the country reported that although “sexual violation” was understood, “sexual harassment” is not defined in the DPRK. Despite the 1946 “Law on Equality of the Sexes,” defectors reported that sexual harassment of women was generally accepted due to patriarchal traditions. Defectors reported that there was little recourse for women who have been harassed.”

Reproductive Rights: It was difficult to obtain accurate information regarding reproductive rights. The country's initial report to the Convention on the Elimination of All Forms of Discrimination Against Women, submitted in 2002, claimed that “family planning is mapped out by individual families in view of their actual circumstances and in compliance with laws, regulations, morality, and customs...women have the decision of the spacing of children in view of their own wish, health condition, and the like. But usually the spacing of children is determined by the discussion between the wife and the husband.” The UN Population Fund estimated that the maternal mortality ratio in 2008 was 250 per 100,000 live births. In 2000

¹⁸² Constitution of North Korea, Revised 2009, available at <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 10 September 2012

¹⁸³ Constitution of North Korea, Revised 2009, available at <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html>, accessed 10 September 2012

¹⁸⁴ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

¹⁸⁵ Human Rights Watch, World Report 2012, <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 1 October 2012

the country reported in UNICEF's multiple indicator cluster survey that a doctor, nurse, or skilled midwife delivered 96.7 percent of babies."¹⁸⁶

The 2011 *USDOS* country report on human rights practices stated that women were under represented in high levels of the party or government,

Discrimination: The constitution states that "women hold equal social status and rights with men"; however, although women were represented proportionally in the labor force, few women reached high levels of the party or the government.

The press and think tanks have reported that while women were less likely than men to be assigned full-time jobs, they had more opportunity to work outside the socialist economy."¹⁸⁷

In July 2011 *Asia Times Online* reported that women are usually the main breadwinner in the family,

"Within North Korea it's hard. To be a North Korean woman is to be tough and brave, fighting all odds in an impoverished country that gives priority to nuclear and missile testing over feeding its population of 23 million, North Korean defectors say.

The mother usually overrules the father in North Korean homes, contrary to the traditional family picture of the obedient wife and mother coupled with the sole breadwinner father, defectors add.

Hunger forced women to take to the streets after North Korea's food rationing system collapsed during a famine in the 1990s. Markets sprang up across the country, and North Koreans bought and sold whatever was available. With shrinking rations at home, the only way to survive was to sell or barter their belongings in the black market in exchange for something to eat.

In North Korea, a woman is usually the family's main breadwinner, while her father, husband and sons are mostly idle, kept away from state-run factories that have shut down or seldom operate.

"Maybe my father was used to the cosy system of communism where rations are equally given whether he works hard or not," said Lee Sung-Min, who fled North Korea and made his way to South Korea in the early 2000s.

"My father found it humiliating to hawk goods in the street," said Lee, who asked that his real name be withheld."¹⁸⁸

In 2003 *UNICEF* reported that despite legislated equality, gender roles prevail with women carrying responsibilities for childcare and household management in addition to roles in the workplace,

"Adulthood (eighteen years onward) is largely defined by reproduction and the associated roles and responsibilities of caregivers. This is the first stage of relative autonomy, during which knowledge, attitudes and practices have multiple impacts on the health and wellbeing of individuals, children and families. There is relative control over contact with and use of available services. There are, however, some key differences characterizing adulthood in

¹⁸⁶ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

¹⁸⁷ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

¹⁸⁸ *Asia Times Online*, North Korean girls escape to slavery, 6 July 2011, <http://www.atimes.com/atimes/Korea/MG06Dq01.html>, accessed 1 October 2012

the DPRK. The formal social organization around collective production and living is intense. Social services and care institutions and social cultural organizations are tightly woven together, therein encouraging conformity. Combined with a virtually homogeneous population, trends within adulthood are fairly uniform across the country. The main categories of vulnerability relate to geography and gender.

In spite of the legislated equality both in the public and private spheres, gender roles and relationships prevail as a potent influence during this life stage. In the DPRK, women have a traditional responsibility for childcare and household management, in addition to their productive roles in the workplace.”¹⁸⁹

In 2003 *UNICEF* reported that shortages in food and fuel have disproportionately impacted on the workload of women and girls,

“The roles and duties of women and girls encompass household sustenance, including gathering firewood, fuel and food, as well as traditional roles of cooking, cleaning and caring for children, particularly in their earlier years. Basic shortages in food and fuel, and the breakdown of water systems, have, therefore, disproportionately impacted girls and women's workload. The socially defined responsibility (duty) for household maintenance in the face of scarcity results in increased vulnerabilities for women and girls in a number of ways. An abundance of anecdotal evidence suggests that individual and family necessities frequently override the capacity to take advantage of measures designed to protect them. For example, the sixty-day maternity leave prior to childbirth is frequently not taken. In sum, the impressive gains made towards gender equality are being seriously challenged by a decline in women's status. This is primarily due to the prolonged hardships and the reduced capacity of families and women to exercise their entitlements. The increasing monetarization of the economy could well heighten future vulnerabilities of women and girls due to the division of labour.”¹⁹⁰

In 2003 *UNICEF* reported that DPRK's healthcare infrastructure has become rundown with a shortage of medicines and supplies,

“The DPRK has a very extensive network of health care institutions and providers. This comprises section (or household) doctors attached to each work team, one per 130 families; clinics, polyclinics and hospitals in each ri and dong; a hospital and anti-epidemic station in each county or urban district; hospitals attached to significant urban factories; and specialized institutions, including maternity and paediatric hospitals in each province and municipal city. There are also tertiary institutions in Pyongyang. Health care is by law provided completely free of charge. The existence of this network is a major achievement and an advantage in the provision of health services to children. However, over the past decade or so, the system has become increasingly vulnerable due to the economic difficulties faced by the country. This has led to a general rundown of infrastructure and especially shortages of medicines and other supplies. The DPRK previously produced its own drugs but, like other parts of the industrial economy, these factories now run well below their potential. In many cases they are dependant on scant foreign aid for raw materials. Most essential drugs are (inadequately) supplied as humanitarian assistance.”¹⁹¹

In July 2012 *Radio Free Asia* reported that contraceptives are illegal in DPRK, leading to a rise in women seeking illegal abortions,

¹⁸⁹ UNICEF, Analysis of the Situation of Children and Women in the Democratic People's Republic of Korea, October 2003, <http://www.unicef.org/dprk/situationanalysis.pdf>, accessed 30 November 2012

¹⁹⁰ UNICEF, Analysis of the Situation of Children and Women in the Democratic People's Republic of Korea, October 2003, <http://www.unicef.org/dprk/situationanalysis.pdf>, accessed 30 November 2012

¹⁹¹ UNICEF, Analysis of the Situation of Children and Women in the Democratic People's Republic of Korea, October 2003, <http://www.unicef.org/dprk/situationanalysis.pdf>, accessed 30 November 2012

"A lack of access to contraceptives and an increasingly sexually liberated culture have led to more women seeking out illegal abortions in North Korea, with a growing number of them succumbing to complications, according to sources inside the "Hermit Kingdom."

The sources, from the northern province of Yanggang along the border of China, say that illicit termination of pregnancies is increasingly common and that obstetricians are more likely to conduct the procedure because of a "decline in sexual morality" and "rampant prostitution" in North Korean society.

In addition, said the sources who spoke on condition of anonymity, it is extremely difficult to procure contraceptive medications and devices that are traditionally smuggled out of China because of an increased clampdown by North Korean authorities on the already illegal products.

As a result, they said, young pregnant women concerned by an uncertain future in the impoverished nation are forced to turn to bribery to bring medical professionals and midwives into their homes to carry out the illicit abortion procedures.

Often, these procedures can lead to severe injuries or even death because the medical practitioners conducting the abortions lack access to medical equipment and medicines already in short supply, thanks to North Korea's inferior and overburdened healthcare system.¹⁹²

3 Situation of children

The 2011 *USDOS* country report on human rights practices stated that children were subjected to punishment for the transgressions of family members, military training was mandatory for fifth grade children, young girls were trafficked in China and street children were denied access to public schools,

"Birth Registration: Citizenship is derived from one's parents and in some cases birth within the country's territory.

Education: The state provides 11 years of free compulsory education for all children. However, reports indicated some children were denied educational opportunities and subjected to punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of family members. NGO reports also indicated some children were unable to attend school regularly because of hidden fees or insufficient food.

Foreign visitors and academic sources reported that from fifth grade children were subjected to several hours a week of mandatory military training and that all children had indoctrination in school.

Medical Care: It was not known whether boys and girls had equal access to state-provided medical care; access to health care was largely dependent upon loyalty to the government.

Child Abuse: Information about societal or familial abuse of children remained unavailable. Article 153 of the criminal law states that a man who has sexual intercourse with a girl under the age of 15 shall be "punished gravely."

¹⁹² Radio Free Asia, North Korea: Illegal abortions on the rise, 31 July 2012, available from <http://www.unhcr.org/refworld/docid/5022283e23.html>, accessed 30 November 2012

Sexual Exploitation of Children: There were reports of trafficking in young girls among persons who had crossed into China.

Displaced Children: According to NGO reports, there was a large population of street children, many of them orphans, who were denied entrance to public schools.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.¹⁹³

In April 2012 the *Los Angeles Times* reported that children suffer harsh, life threatening conditions in labour camps,

"In North Korea, children are bred like livestock in labor camps. They are taught to betray their parents. They are worked to death."¹⁹⁴

In October 2011 US Christian news agency *CBN News* reported an account by a former inmate that children were killed in labour camps as food or in exchange for food, by their mothers,

"Perhaps most chilling is Kim's account of fellow prisoners killing their own children to stave off hunger.

"One time a mother put her 9-year-old daughter in this big cast iron pot and boiled her," she said. "She was a too big for the pot so the mother had to chop her legs and head to fit the body in the pot."

"On another occasion, a lady killed her 16-year-old son, chopped him into pieces and took him to a butcher shop to get some corn in exchange," she said."¹⁹⁵

In 2003 *UNICEF* reported that child malnutrition is inter-generational in part due to food shortages, natural disasters, failing health and sanitation systems and the poor health status of women,

"An examination of early childhood in the DPRK suggests that malnutrition has taken on an inter-generational pattern therein eroding survival, growth and development. This in turn manifests itself in reduced wellbeing and performance throughout the lifecycle. Whereas food shortages and natural disasters had a significant effect on early childhood development in the mid to late 1990s, the present state of malnutrition reflects a wider range of determinants. These include a combination of:

- poor physical status of women, the overall care environment and reduced capacities of primary and secondary caregivers to provide adequate care;
- the erosion of health delivery and water and sanitation systems, inhibiting caregivers from ensuring that children are appropriately and adequately nourished and stimulated, and are shielded from communicable diseases."¹⁹⁶

4. Trafficking in persons (internal and external)

In December 2011 Syracuse University's human rights monitoring website *Impunity Watch* stated that the government allowed human traffickers to operate with impunity,

¹⁹³ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

¹⁹⁴ The Los Angeles Times, A real-life 'Hunger Games', 4 April 2012, <http://articles.latimes.com/2012/apr/04/opinion/la-oe-harden-north-korea-camps-20120404>, accessed 1 October 2012

¹⁹⁵ CBN News, Inside N. Korea's prisons: Moms kill children to survive, 28 October 2011, <http://www.cbn.com/cbnnews/world/2011/October/Witness-to-Evil-Mothers-Kill-Children-to-Survive/>, accessed 1 October 2012

¹⁹⁶ UNICEF, Analysis of the Situation of Children and Women in the Democratic People's Republic of Korea, October 2003, <http://www.unicef.org/dprk/situationanalysis.pdf>, accessed 30 November 2012

"In addition to failing to provide food security to its people, the government under Kim Jong-il allowed human traffickers to operate with virtual impunity. Women continue to be systematically sold to buyers in China as wives, sex slaves or laborers. Furthermore, inside the country, the DPRK's government effectively treats many of its citizens as slaves by mandating their type of employment."¹⁹⁷

In July 2011 Hong Kong based online newspaper *Asia Times online* reported that an estimate 80% of North Korean women who enter China are sold as brides to Chinese men,

"North Koreans have increasingly been crossing into the northern border cities of China, with women outnumbering men. "Women represent about 70% of some 200,000 North Koreans who fled from North Korea into China in the past few years," Kim Tae-jin, a North Korean defector who leads a non-government organization to protect the human rights of fellow North Koreans tells Inter Press Service.

North Korean men are less tempted to cross the border because, with little local connections in China, they are easily tipped off for arrest by security guards and subsequently sent back to North Korea, Kim explains. "Besides, North Korean men could hardly compete with the Chinese for the few jobs available."

In contrast, young North Korean women are sold as brides to Chinese farmers in northern border villages, while older ones take menial jobs working in restaurants or karaoke rooms. "We estimate about 80% of North Korean women who fled the North are sold as brides to Chinese men," Kim says.

"Once in China, fear of being sent back to North Korea grips them, keeping them silent and obedient no matter how abusively they are treated," Kim adds.

Some former brides managed to make it all the way to South Korea. "My Chinese husband regularly reminded me of how much he paid for me. I felt like his possession," says one North Korean woman.

The price for each North Korean girl aged 15 or so reportedly ranges from 3,000 to 10,000 yuan (US\$463 to \$1,500) depending on her physical condition.

"When I visit China's northern border villages, I often see a group of North Korean teenagers-turned-brides of Chinese husbands," Kim says. "They gather around a village well, chatting and laughing. Many of these brides must stay there for fear of being captured by North Korean guards to be sent back to the North."

In the face of the harsh reality in China, some women even consider going back. "When I first arrived in China, I went through shame, fear and humiliation. I even missed my home in North Korea. Although I was starving at home, I was at least a citizen there. In China, I had to be invisible and dumb," says Yoh Su-Wa, a woman who fled North Korea and made her way to South Korea after four years in China."¹⁹⁸

In May 2012 the US based newspaper *Christian Science Monitor* reported estimates that 20,000 to 30,000 North Korean women are entrapped in China, many forced into sexual slavery,

"The price for a North Korean woman named Kim Eun-sun, her mother, and her sister to escape to China was 2,000 Chinese yuan, slightly more than \$300. Like thousands of North Korean women before them, they crossed the Tumen River into China and met a woman

¹⁹⁷ Impunity Watch, Kim Jong Il, A Legacy of Brutality, 24 December 2011 <http://impunitywatch.com/kim-jong-il-a-legacy-of-brutality/>, accessed 10 September 2012

¹⁹⁸ Asia Times Online, North Korean girls escape to slavery, 6 July 2011, <http://www.atimes.com/atimes/Korea/MG06Dq01.html>, accessed 1 October 2012

who said she would help them escape – only to discover that they'd been sold to a Chinese farmer who wanted a wife.

“A lot of women come to China not knowing what they are getting into,” says Ms. Kim, who escaped the farmer with her family but was caught by Chinese police and then sent back to North Korea. “Women are secretly sold in China.”[]

Kim Sang-hun, director of the Database Center for North Korean Human Rights, estimates 20,000 to 30,000 North Korean women are now entrapped in China in what many observers see as a form of slavery. “Most of the women,” he says, “are forced into sexual slavery.”

Female defectors typically must choose between being forced into marriage, serving as a hostess in a karaoke bar or “massage” establishment, or escaping into forbidding mountains where life is a constant struggle for food and shelter. The last option means eluding Chinese police often working in tandem with North Korean security officials.

Estimates of the number of North Koreans, both men and women, living in China range from 100,000 to 200,000, he says, though there's no accurate way of counting since they hide in obscure jobs, merging with a populace that includes a community of more than 2 million Chinese citizens of Korean descent.”¹⁹⁹

In May 2012 the US based newspaper *Christian Science Monitor* reported that South Korean gangs force North Korean women to work in Karaoke bars and telephone and internet sex ‘chat rooms,’

“Human rights organizations blame South Korean gangs for some of the suffering. Working in cahoots with Chinese Koreans, investing in karaoke bars in China, they are said to hold women against their will while paying them just enough to survive.

“South Korean businessmen are their best customers,” says Tim Peters, director of Helping Hands Korea, dedicated to aiding North Korean children in China. “It’s a blot on South Korean society,” he says, blaming the Chinese for “doing nothing about a criminal system in violation of the rights of women.”

Ha Tae-keung, president of Open Radio North Korea, broadcasting into North Korea via short wave for one or two hours a day from Seoul, says informants in China report hundreds of North Korean women are forced to work in “chat rooms” selling telephone and Internet sex at high prices.

“They are detained in a room all the time, talking to people in South Korea,” says Mr. Ha, elected last month to the South Korean national assembly representing a district in the port city of Pusan.”²⁰⁰

The 2012 *USDOS Trafficking in Persons* report stated that the DPRK is a source country for the trafficking of men, women and children and that nationals are subjected to forced labour within prison camps, many of whom have not been convicted of a criminal offence, further citizens can not choose or change their jobs at will,

“The Democratic People’s Republic of Korea (DPRK or North Korea) is a source country for men, women, and children who are subjected to forced labor, forced marriage, and sex trafficking. Within North Korea, forced labor is part of an established system of political

¹⁹⁹ Christian Science Monitor, North Korean women sold into ‘slavery’ in China, 11 May 2012, <http://www.csmonitor.com/World/Asia-Pacific/2012/0511/North-Korean-women-sold-into-slavery-in-China/%28page%29/2>, accessed 1 October 2012

²⁰⁰ Christian Science Monitor, North Korean women sold into ‘slavery’ in China, 11 May 2012, <http://www.csmonitor.com/World/Asia-Pacific/2012/0511/North-Korean-women-sold-into-slavery-in-China/%28page%29/2>, accessed 1 October 2012

repression. The North Korean government is directly involved in subjecting its nationals to forced labor in prison camps. North Koreans do not have a choice in the work the government assigns them and are not free to change jobs at will. North Korea is estimated to hold between 130,000 and 200,000 prisoners in political prison camps in remote areas of the country. Many of these prisoners were not actually convicted of a criminal offense. In prison camps, all prisoners, including children, are subject to forced labor, including logging, mining, and farming for long hours under harsh conditions. Reports indicate that political prisoners endure severe conditions, including little food or medical care, and brutal punishments; many are not expected to survive. Many prisoners fell ill or died due to harsh labor conditions, inadequate food, beatings, lack of medical care, and unhygienic conditions.

The North Korean government recruited laborers to work abroad under bilateral contracts with foreign governments, including in Russia; Africa, Central and Eastern Europe, East and Southeast Asia, including especially Mongolia, and the Middle East. Credible reports showed that many North Korean workers sent abroad under these contracts were subjected to forced labor, with their movement and communications constantly under surveillance and restricted by North Korean government "minders." There were also credible reports that these workers faced threats of government reprisals against them or their relatives in North Korea if they attempted to escape or complain to outside parties. Workers' salaries are deposited into accounts controlled by the North Korean government, which keeps most of the money, claiming fees for various "voluntary" contributions to government endeavors. Workers reportedly only received a fraction of the money paid to the North Korean government for their work. Between 10,000 and 15,000 North Korean workers are estimated to be employed in logging camps in Russia's Far East, where they reportedly have only two days of rest per year and face punishments if they fail to meet production targets. Over the past year, reports indicated that the North Korean government worked harder to place North Korean workers in Russia, particularly in the Far East. Wages of some North Korean workers employed in Russia reportedly were withheld until the laborers returned home. North Korean workers at joint ventures with foreign investors within the DPRK are employed under arrangements similar to those that apply to overseas contract workers.²⁰¹

The 2012 *USDOS Trafficking in Persons* report states that women migrating to China are vulnerable to forced marriage, labour and sex slavery. The *USDOS* reports that border guards on both sides are complicit in the trafficking of women,

"NGOs and researchers estimate that thousands of undocumented North Koreans currently live in northeast China, and as many as 70 percent of them are women. There is no reliable information on how many of these North Koreans have been trafficked, but their status in China as illegal economic migrants who may be deported to North Korea makes them particularly vulnerable to trafficking. North Korean women and girls commonly migrate to China, often with the help of a facilitator, seeking food, work, freedom, and better life prospects, but may then be forced into marriage, prostitution, or labor.

Trafficking networks of Korean-Chinese and North Koreans (usually men) operate along the China-North Korea border, reportedly working with border guards from both countries to recruit women for marriage or prostitution in China. North Korean women often pass through many hands, with multiple brokers involved in their trafficking. Reports indicate that security along the North Korea-China border increased during the reporting period. It is unclear what impact this change had on trafficking trends. Some North Korean women who make their own way to China are lured, drugged, or kidnapped by traffickers upon arrival. Others are offered jobs, but are subsequently compelled into domestic service through forced marriages to Chinese men, often of Korean ethnicity, or are forced into prostitution in

²⁰¹ United States Department of State, *Trafficking in Persons* report 2012, <http://www.state.gov/documents/organization/192596.pdf>, accessed 1 October 2012

brothels or through the Internet sex trade. Some are forced to serve as hostesses in nightclubs and karaoke bars. If found by Chinese authorities, victims are deported to North Korea where they are subject to harsh punishment, including forced labor in DPRK labor camps."²⁰²

The 2012 *USDOS Trafficking in Persons* report stated that the DPRK does not comply with minimum standards for the elimination of trafficking and has not made law enforcement efforts to combat trafficking,

"The North Korean government does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so. The government did not demonstrate any efforts to address human trafficking through prosecution, protection, or prevention measures. The government contributed to the human trafficking problem through its ban on emigration, its failure to address its poor economic and food situation, and through its forced labor camps, where North Koreans live in conditions of servitude, receiving little food and little, if any, medical care."²⁰³

[]

The North Korean government made no discernible law enforcement efforts to combat trafficking in persons during the reporting period. The government continued to deny that human trafficking was a problem. Article 233 of the penal code criminalizes border crossing and Article 234 prohibits border guards from assisting border crossers; both carry a penalty of up to 25 years of detention in a labor facility. Article 289 of the penal code prohibits the abduction of children and Article 290 prohibits the abduction of individuals or groups. Both statutes prescribe penalties of three to 10 years of "labor correction." Article 7 of the 1946 Law on Equality of the Sexes forbids trafficking in women. However, fair trials did not occur in North Korea and the government was not transparent with its law enforcement data, so it remained unclear under what provisions of the law, if any, traffickers were prosecuted. During the reporting period, there were no known prosecutions or convictions of trafficking offenders or officials complicit in forced labor or forced prostitution. The government did not report whether it provided any anti-trafficking training to its officials. Reports indicate that repatriated North Koreans were subjected to harsh punishments during the reporting period. North Korean defectors reported instances of the government punishing traffickers, including execution."²⁰⁴

The 2012 *USDOS Trafficking in Persons* report stated that the government did not make efforts to identify, assist or protect trafficking victims,

"The North Korean government did not make any known attempts to protect trafficking victims during the reporting period. The government reported no efforts to identify or assist trafficking victims. Government authorities provided no discernible protection services to trafficking victims, nor did it permit indigenous NGOs to operate freely in North Korea. The few international NGOs allowed into the DPRK were not permitted to assist trafficking victims. The government provided no assurances to trafficking victims that they would be exempt from being penalized for unlawful acts committed as a direct result of their being trafficked. DPRK authorities continued to screen North Koreans for contacts with South Koreans and exposure to South Korean cultural influences, but did not distinguish between trafficking victims and illegal migrants. Article 233 of the penal code criminalizes border crossing and Article 234 prohibits border guards from assisting border crossers; both articles carry a penalty of up to two to five years of forced labor. North Koreans forcibly repatriated by Chinese authorities, including women believed to be trafficking victims, were

²⁰² United States Department of State, Trafficking in Persons report 2012, <http://www.state.gov/documents/organization/192596.pdf>, accessed 1 October 2012

²⁰³ United States Department of State, Trafficking in Persons report 2012, <http://www.state.gov/documents/organization/192596.pdf>, accessed 1 October 2012

²⁰⁴ United States Department of State, Trafficking in Persons report 2012, <http://www.state.gov/documents/organization/192596.pdf>, accessed 1 October 2012

sent to prison camps, where they may have been subjected to forced labor, torture, sexual abuse by prison guards, or other severe punishment. Repatriated victims who were suspected of having become pregnant with a child of possible Chinese paternity may be subject to forced abortions and infanticide. Reports indicate that prison authorities brutally killed infants born to repatriated victims while in prison.

[]

North Korean authorities made no discernable efforts to prevent human trafficking during the reporting period. Internal conditions in the DPRK prompted many North Koreans to flee the country, making them vulnerable to human trafficking. Although press reports indicated that border security increased during the reporting period, there was no evidence that the DPRK government attempted to prevent human trafficking by screening migrants along the border. DPRK authorities made no discernible efforts to reduce the demand for commercial sex acts. North Korea is not a party to the 2000 UN TIP Protocol.²⁰⁵

²⁰⁵ United States Department of State, Trafficking in Persons report 2012, <http://www.state.gov/documents/organization/192596.pdf>, accessed 1 October 2012

I. Freedom of Movement

1. Legislative framework governing freedom to move within DPRK

Article 75 of the *Constitution of the Democratic Peoples Republic of Korea* (revised in April 2009) states that "Citizens shall have freedom of residence and travel."²⁰⁶

In February 2012 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* stated that under Article 62 of the Criminal Code it is a criminal offence to leave the country without permission,

"In the case of persons from the Democratic People's Republic of Korea, their Government deems it a criminal offence to leave the country without permission. For instance, article 62 of the Criminal Code bans citizens from travelling to another country without State permission, which is in clear violation of Democratic People's Republic of Korea's obligation under article 12 of the International Covenant on Civil and Political Rights. Beyond the legal provision itself, allegations of stricter control of people's movement, especially of those leaving the country, continue to be recorded. It is widely reported, as the Special Rapporteur also gathered during the interviews he conducted, that when persons from the Democratic People's Republic of Korea are returned, they can expect to face arrest, detention and undergo beatings, sexual violence, forced labour, forced abortion, torture and, in some cases, death."²⁰⁷

In 2012 a report by the *US Committee for Human Rights in North Korea* stated that the Resident Registration Bureau supervises the tracking of North Korean citizens throughout the country,

"The Resident Registration Bureau guides and supervises the tracking of North Korean citizens throughout the country. It keeps track of a citizen's resident classification and movement documents (the so-called "resident registration dossier"). It also oversees the census."²⁰⁸

In 2012 the US NGO, *Freedom House*, stated that there is no freedom of movement within the country and access to Pyongyang is restricted,

"There is no freedom of movement, and forced internal resettlement is routine. Access to Pyongyang, where the availability of food, housing, and health care is somewhat better than in the rest of the country, is tightly restricted. Emigration is illegal, but many North Koreans have escaped to China or engaged in cross-border trade. Ignoring international objections, the Chinese government continues to return refugees and defectors to North Korea, where they are subject to torture, harsh imprisonment, or execution."²⁰⁹

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that all citizens must carry travel permits with them when travelling within the country in accordance with Article 6 of the country's Travel Regulations,

²⁰⁶ North Korean Constitution, April 2009, <http://asiamatters.blogspot.co.uk/2009/10/north-korean-constitution-april-2009.html> , accessed 26 September 2012

²⁰⁷ United Nations General Assembly Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, A/HRC/19/65 13 February 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, accessed 24 September 2012

²⁰⁸ Committee for Human Rights in North Korea, Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php> accessed 25 September 2012

²⁰⁹ Freedom House, Freedom in the World 2012, <http://www.freedomhouse.org/report/freedom-world/2012/north-korea>, accessed 24 September 2012

“All North Koreans must, in principle, carry travel permits even when traveling within the country. In accordance with Article 6 of North Korea’s Travel Regulations, people must obtain travel permits before taking any trip.

[] Special control areas issue permits with unique numbers. At the central government level, there may exist established procedures, but in the provinces different sets of procedures seem to exist, depending on agencies and localities. Furthermore, the color of diagonal lines on the pass will vary from region to region, and the authorities will frequently change the color of those lines, presumably to prevent fake passes or forgery.

Article 30 of North Korea’s “People’s Security Control Act” stipulates, “The People’s Security Agency shall exercise control over violations of the rules for traveling and walking the streets.” Those traveling without permits or traveling on fake permits are penalized with fines (Admin. Penalty Law, Art. 167). After arrival, the traveler must report to the head of the local neighborhood unit or *inminban*, register on the travel roster, and get his or her travel pass stamped by a local MPS official. The local “people’s unit leader” must report those visitors traveling without permits to the local security agent in charge. Also, as soon as one arrives at the travel permit destination, one must report and register with the local security agency (police station)

[] The “return home” date is indicated on the travel permit; it will normally be 10 days from the issue date. The traveler must report to the security branch at the railway station 4 days before departure in order to obtain a (train) boarding ticket.

In addition to ID checks on the road, the traveling public is also subjected to “bed checks” upon arrival at their destinations. Military “safety units” conduct these “bed checks” on other’s sectors to investigate if anyone staying at a private home has failed to register for the stay or if anyone is staying without a citizen’s ID. These inspections are usually conducted during “special alert” periods, and during these periods inspections are conducted every day. Also, inspectors will target specific towns if there is a special event scheduled for the area or if there is a deserter or fugitive in the area. Bed-check inspections are routinely conducted along the border regions.

The “special alert” periods include the following dates: New Year’s Day, Lunar New Year’s Day, birthdays of Kim Jong-il (Feb. 16) and Kim Il-sung (Apr. 15), Korean Armistice Day (Jul. 27), Youth Day (Aug. 28), Government Anniversary (Sept. 9), and KWP Party Anniversary (Oct. 10).

Those violating the overnight registration rules are penalized with heavy fines, and anyone who illegally allows overnight stays by accepting money or other valuables will be sentenced to “labor education” for up to two months in accordance with Article 132 of the Administrative Penalty Law. People’s Security units conduct bed-checks to check for violations of the overnight registration rules (Art. 33 of the People’s Security Control Law).²¹⁰

In August 2011 a report by the *Korea Institute for National Unification (KINU)* also stated that changes had taken place in travelling styles in recent years with travel becoming less restrictive and gifts or bribes to travel officials increasing,

“Although this travel permit system is still maintained, many North Korean defectors have testified that significant changes are taking place in traveling styles due to the economic hardships. Despite official regulations, it appears that controls over travel are becoming less restrictive in reflection of the current realities in the country. In principle, domestic

²¹⁰ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 25 September 2012

travel permits are issued free of charge. However in reality, if the clerk does not get some kind of gift, processing is often delayed. Thus it takes a long time to obtain a travel permit if one only follows the proper procedures. As the need for quick peddling trips has increased, people often resort to bribes of money, cigarettes, etc.

Since the Kiyowon, or "clerk," helps to fill out the application forms and get the approval of various sections, people usually provide gifts or bribes to him/her. The nature of the gift varies depending on the applicant's purpose and destination of travel. The agents in charge of travel permits will issue the permits to those citizens who offer money through their acquaintances even if they don't have jobs. In other words, the agents make money by selling travel permit forms.

The travel permit system still exists, but the practice of bribery seems to have had the effect of relaxing all travel restrictions, except for travel to or near security-sensitive areas. Strict restrictions are still imposed on special areas, but due to the recent economic hardships and increased corruption among officials, people can obtain travel permits to almost all areas, except to Pyongyang and areas designated as "off-limits." Although the number of travellers has increased, there is still no alternative public transportation except for the trains.

As in the case of 'freedom of travel,' North Korean citizens have no 'freedom of relocation' without the permission of the authorities. Should anyone relocate to a new address without permission, he/she will not obtain a citizen card and his/her social activities, including jobs, will be extremely limited. A typical example of a breach of individual freedom of movement is forcible banishment' (from one's hometown). The North Korean authorities forcibly banish those whom they believe to be politically unfaithful."²¹¹

2. Imposition of travel restrictions for certain groups and/or in certain areas, including documentation needed for internal travel

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that under aged persons cannot obtain travel permits and must be accompanied by an adult, college students are issued with "temporary residence cards". Those wishing to travel must submit an application two weeks in advance,

"In principle, all North Korean citizens must carry travel permits when they travel outside of their own county or city of residence. Underaged persons who are too young to have citizenship IDs cannot obtain travel permits and must be accompanied by an adult who has one.

[] In principle, one who plans to attend the funeral or wedding of a closest relative may travel as far as the city or county of the event, but additional personal travel to any neighboring region is not allowed. If, however, one is on official business, one may travel to any of the destinations indicated on the permit. If a soldier, government employee, or factory worker has a business trip order from their office, he or she can travel anywhere in the country, according to the travel order. If a patient has a diagnostic document, he can travel to any major clinic or hospital in the city or province of his residence, or he can choose to travel to the residence of a close relative who can help take care of the patient's illness.

"Temporary resident cards" are issued to college students from outside Pyongyang, provincial students who are admitted to the No. 1 Pyongyang High School, soldiers

²¹¹ Korea Institute for National Unification (KINU) , White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 26 September 2012

stationed in Pyongyang, government officials on temporary duty, and enterprise workers. Of course, the duration of these cards varies depending on the purpose and duration of duty or work.

People planning to travel must submit an application to their factory or office supervisor through the Accounting Section two weeks in advance. Approval depends on a review of the applicant's ideology and his or her "voluntary labor contribution" records. After this preliminary procedure, the traveller has to apply again three days in advance at the permit section of the local People's Safety Agency (police department). The Agency will review the applicant in terms of whether he/she is a dangerous person, is under surveillance, has any criminal record, etc. After overall confirmation by the local security agency, the applicant is issued a travel permit through the party secretary at his or her place of employment. However, most defectors testified that they received travel permits from Section 2 of the *inminban* (neighborhood unit) through their place of work. The application would progress through the following route: from the office supervisor, to the office statistician (recording date of birth, destination, purpose, etc.), to the office travel clerk, to Section 2 of the *inminban*. Each region or province is assigned a limited number of travel permits, and these are issued within the assigned limit. Thus security agents can check the permit number against a list of numbers to see if the permit is genuine. Those who do not have jobs must get travel permits through their *inminban*. In this case, they must get the approval of the local branch of People's Safety Agency (police), plus a guarantor. Ordinary citizens have to wait for about 2-3 days to travel to non-restricted areas and 7-15 days to restricted areas. However, there is no guarantee that travel permits will come."²¹²

In 2012 a report by the *US Committee for Human Rights in North Korea* stated that lengthy bureaucratic procedures are required in order to obtain travel permits and checks are routinely conducted on travellers to ensure they have the correct documentation,

"In order to travel outside the limits of their native city or province, North Korean citizens are obliged to obtain special "travel permits" from the MPS. In order to obtain these, it is necessary to go through lengthy bureaucratic procedures. Some regions of the country, including its capital Pyongyang, are virtually closed to private visitors.

The Ministry of People's Security (In-min Bo-an-bu) functions primarily as the national police in North Korea. Ministry police officers are the most visible face of the North Korean public security apparatus, routinely conducting checks on travellers to ensure they possess appropriate travel documents; maintaining check points to inspect buses, trucks, and trains; and performing normal police patrols."²¹³

In 2012 the *US Committee for Human Rights in North Korea* stated that those assigned certain *songbun* levels are often forcibly relocated to remote areas of the country,

"Although the UDHR and the ICCPR declare that everyone has the right to "liberty of movement and freedom to choose [one's] residence," those assigned specific *songbun* levels are often forcibly relocated to isolated areas. The forced relocations also violate North Koreans' right to freely move and choose their residence. Those with lower *songbun* rankings are prohibited from living in, or even visiting, Pyongyang and fertile areas of the countryside. Their geographical separation from those of higher rank in the capital is meant to establish and maintain the dominance of the privileged class, which creates a form of political apartheid that pervades every aspect of life."²¹⁴

²¹² Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 27 September 2012

²¹³ Committee for Human Rights in North Korea, Coercion, Control, Surveillance, and Punishment; An Examination of the North Korean Police State, Ken E. Gause, 2012, <http://www.hrnk.org/publications/hrnk-publications.php>, accessed 27 September 2012

²¹⁴ The Committee for Human Rights in North Korea, Marked for Life: SONGBUN, North Korea's Social Classification System, Robert Collins, 2012, <http://www.hrnk.org/publications/hrnk-publications.php> accessed 25 September 2012

The 2011 *USDOS* country report on human rights practices stated that both foreign and internal travel were carefully controlled by the government and that there was no effective transport network within the country,

“The law provides for the “freedom to reside in or travel to any place”; however, the government did not respect this right in practice. During the year the government continued to control carefully internal travel. The government did not cooperate with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons.

[] The government continued to restrict freedom to move within the country. Only members of a very small elite class and those with access to remittances from overseas had access to personal vehicles; movement was hampered by the absence of an effective transport network and by military and police checkpoints on main roads at the entry to and exit from every town.

The government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country. Foreign officials visiting the country observed checkpoints on the highway leading into Pyongyang.

[] The government also restricted foreign travel. The government limited issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, and academics. Short-term exit papers were available for some residents on the Chinese border to enable visits with relatives or to engage in small-scale trade.”²¹⁵

In August 2012 US funded news NGO, *Radio Free Asia*, stated that the government planned to enforce even stricter control over internal movement by issuing electronic identification cards containing personal information including a record of travel,

“Authorities in repressive North Korea are planning to exert even stricter controls on citizens by issuing electronic identification cards containing personal information, according to sources inside the country.

According to one source, who spoke to RFA on condition of anonymity, the current plastic IDs will be replaced with cards containing circuit chips which store data about the cardholder, including address, family background, and record of travel.

“North Korean people will be made to bring the new ID cards when they travel so security officers can know everything about their trip, such as the person's destination, when he or she has traveled, and how many times they have traveled,” the source said.

[] The source said that the new cards are the same as those that will be used to upgrade identification cards in China beginning next year and that Beijing has strongly supported Pyongyang's adoption of the new technology, which would help control movement across their shared border.”²¹⁶

3. *Legislative and practical limitations on freedom of movement to cross border directly to neighboring countries or by sea, exit and entry procedures*

²¹⁵ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 01 October 2012

²¹⁶ Radio Free Asia, IDs to Include Data Chips, 21 August 2012, <http://www.rfa.org/english/news/korea/ids-08212012105201.html>, accessed 24 September 2012

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that travel permits and an approval number from the Security Guidance office were necessary in order for citizens to travel to the border regions or demilitarized zone of the country,

“Those without a Pyongyang residence card or temporary residence permit may only enter the city once they have obtained a travel permit stamped with a Pyongyang city permit number. In order for ordinary citizens to travel to the cities and counties near the border regions such as the DMZ (Demilitarized Zone), the Apnok River (Yalu River), and the Tuman River, they must carry “travel permits” issued by their province of residence and bearing permit numbers issued by the Section 2 Office of the provincial people’s committee of their destination, such as North Pyong-an Province, Jakang Province, Yanggang Province, or North Hamkyong Province.

Along with its travel permit system, North Korea still has travel restrictions on special areas. Those wishing to travel to the border regions or military areas must obtain an approval number from the Security Guidance office. Those living in the inner regions have more difficulty obtaining permits to travel to the border areas. Meanwhile, inhabitants in the border regions need to obtain the approval signature of a local security agent to get travel permits.

Even citizens living in the provinces bordering the Tuman and Apnok (Yalu) Rivers must carry travel permits if they wish to travel to other provinces. These permits are issued by the Section 2 Office of the people’s committee of the traveller’s province of residence.”²¹⁷

In its 2012 annual report *Amnesty International* stated that reports in July suggested authorities had ordered a crackdown on those leaving the country without permission,

“North Korean citizens faced severe restrictions on travel both within the country and abroad. Thousands of North Koreans who fled to China in search of food and employment were often forcibly repatriated to North Korea by the Chinese authorities. They were routinely beaten and detained upon return. Those suspected of being in touch with South Korean NGOs or attempting to escape to the Republic of Korea (South Korea) were more severely punished. Reports in July suggested that North Korean authorities ordered a crackdown on people leaving the country without permission. In October, unconfirmed reports indicated that the National Security Agency had arrested at least 20 North Koreans in September in Shenyang, China. The 20 were forcibly returned to North Korea and detained at a National Security Agency facility in North Hamkyung province.”²¹⁸

In August 2011 a report by the *Korea Institute for National Unification (KINU)* stated that overseas travel is possible only with a border-area travel permit or a passport and that such opportunities are granted only to those whose loyalty to the regime has been proven beyond all doubt,

“Overseas trips by North Koreans are divided into two categories: long-term trips for work or official business, and short-term trips for travel or visiting relatives. Long-term overseas stays are on the rise as overseas employment opportunities continue to increase. However, this type of opportunity is granted very selectively and only to those whose ideological integrity has been proven beyond any doubt. In most cases, ordinary people who travel to China do so to visit with their relatives or for purposes of vending and peddling.

Overseas travel is possible only with a border-area travel permit or a passport. Article 2 of North Korea’s “Immigration Law of 1999” stipulates that “Citizens and foreigners entering or exiting North Korea should have appropriate exit/entry permits, such as passports,

²¹⁷ Korea Institute for National Unification (KINU) , White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 25 September 2012

²¹⁸ Amnesty International World Report 2012, North Korea, 2012, <http://www.amnesty.org/en/annual-report/2012/downloads> , accessed 25 September 2012

overseas North Korean certificates, boat crew certificates, or visas.” Article 9 of the law stipulates, “Citizens may enter or exit on official or personal business. Those entering or exiting must obtain exit/entry certificates through appropriate agencies, including the foreign ministry or agencies responsible for the entry/exit authorization.”

North Korea's State Safety Protection Agency and China's Public Safety Agency have been enforcing strict controls over the movement of their citizens across the border based on the “Bilateral Agreement on Mutual Cooperation for the Maintenance of State Safety and Social Order” (July 1998). Section 3, Article 3 of the agreement stipulates, “The security agents and city and county immigration agencies of the two countries along the border regions will issue a one-month travel permit ‘B’ to any border area resident who wishes to visit relatives on the other side of the border. On these ‘border travel permits’ each side will affix regulation stamps. Also, the border-area residents’ applications to visit their relatives shall be carefully examined, and the permits will be issued only in case there are close relatives actually residing on the other side.”

If border-area residents want to visit relatives who are not very closely related, then permits shall be issued based on “letters of invitation.” As for the definition of “close relatives” and the format of “letters of invitation,” these are to be determined at a bilateral security agency chief delegates meeting. In addition, the chief and deputy chief delegates will issue travel permit “A”s valid for one year to those officials engaged in official business along the borders of the two sides. The vehicles involved in cross-border trips must display “Vehicular Border Passes” and must use only the predesignated routes; They must travel only to authorized areas and over the designated highways inside the visiting country. North Koreans are allowed to visit their relatives in China only, and personal information of the relative should be recorded in the traveler's personal file (official file), including the relative's name, address, and so on.

Currently, anyone over the age of 45 who has a citizen ID and no criminal record can apply for a passport for the purpose of visiting his or her relatives in China. Meanwhile, the city and county security agencies are reported to be maintaining internal regulations prohibiting overseas travels by family groups and by people over the age of 70. But defector XXX testified that passports are issued only to men over 49 years of age and women over 45. In fact, one must obtain a letter of invitation from China in order to get a passport. In addition, confirmation must be made by the manager of one's agency or enterprise as well as by the local security agency and national safety protection agency; then, a final review must be approved by the foreign affairs agent at the city security agency. Passports are issued by the vice minister of the National Safety Protection Agency. Upon receipt of the passport, the citizen must submit a written oath promising that he/she will not defame the honor of the Republic and will return home at the appointed date.²¹⁹

In August 2011 a report by the *Korea Institute for National Unification (KINU)* also stated that any citizens who have relatives in China are now allowed to visit them if a letter of invitation can be obtained but are required to register their names and pay a significant amount of money in order to get a permit,

“Defectors have testified that people who have relatives in China are often allowed to travel. In the past, permission was limited based on age and personal background. Upon instructions from Kim Jong-il in December of 2003, the policy has changed, and now anyone, from anywhere in North Korea, is allowed to visit his or her relatives in China, including those along the border regions who enjoyed special privileges. “Border region travel permits” are issued to those living along the border regions whenever they want to visit their relatives in China. River-crossing permits are issued without letters of invitation

²¹⁹ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672, accessed 25 September 2012

from the Chinese relatives, but citizens are not even allowed to apply for passports without an invitation from their Chinese relatives. Since 2005, those who have relatives in China have been required to register their names. If the Chinese relatives are not registered in North Korea's electronic list, they cannot meet with their North Korean relatives, and likewise their North Korean relatives cannot travel to China. If a North Korean resident in the border region wants to visit China for a short trip, a "river-crossing pass" may be issued. For anyone engaged in cross-border trade, a 24-hour or 48-hour pass will be issued. A letter of invitation from China is not required for this kind of "river-crossing" permit, and these are issued immediately upon application.

The permitted duration of stay for a visit to China is up to 3 months, but in reality the authorities usually grant only about one month. However, it is possible to get a one-month extension from the Chinese security agency. A significant amount of money is needed to get a permit to visit China. Defector XXX testified that it is necessary to provide almost one million five hundred thousand won in addition to a letter of invitation from a relative in China.

Those wishing to visit China must pay not only the official fees but also some extra money (called an "express fee") to the agents in charge in order to expedite the process. Consequently, North Koreans who are in China on permits must work hard to make up the money they spent to obtain the permit. If the North Korean cannot get help from his relatives in China or has no way of making up the money, he might voluntarily decide to remain in China illegally until he can make up for the losses. There are three types of passports in North Korea: diplomatic, official and travelers' passports. Diplomatic passports are only carried by diplomats or special agency personnel such as Party officials or officials of government agencies. When operatives from the Party and spy agencies are sent abroad they are given diplomatic passports.

Upon return to North Korea, travellers must return their passports to the authorities; they are not allowed to keep them. In the past, officials staying abroad on official business could be accompanied by one of their children.²²⁰

The 2011 *USDOS* country report on human rights practices stated that foreign travel was restricted and exit visas were only granted to officials and trusted residents,

"The government also restricted foreign travel. The government limited issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, and academics. Short-term exit papers were available for some residents on the Chinese border to enable visits with relatives or to engage in small-scale trade.

[]

The government did not allow emigration, and reports indicated that it tightened security on the border, which dramatically reduced the flow of persons crossing into China without required permits. NGOs reported strict patrols and surveillance of residents of border areas and a crackdown on border guards who may have been aiding border crossers in return for bribes."²²¹

The 2011 *USDOS* country report on human rights practices stated that the government had issued shoot-to-kill orders against attempted border crossers,

"Substantial numbers of citizens have crossed the border into China over the years. Reports suggested that the number of North Koreans living in northeastern China declined during the year.

²²⁰ Korea Institute for National Unification (KINU), White Paper Human Rights, August 2011, http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?bid=DATA04&page=1&num=32&mode=view&category=2672 accessed 25 September 2012

²²¹ U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 24 September 2012

The South Korean press reported that the government issued orders for guards to shoot-to-kill attempted border crossers. NGOs reported that Kim Jong Un called for stricter punishments for those suspected of illegal border crossing. The law criminalizes defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of "labor correction." In "serious" cases defectors or asylum seekers are subject to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions. Some sources indicated that particularly harsh treatment was reserved for those who had extensive contact with foreigners, including those with family members resettled in the ROK.

In the past, reports from defectors indicated that the government differentiated between persons who crossed the border in search of food (who might be sentenced only to a few months of forced labor or in some cases merely issued a warning) and persons who crossed repeatedly or for political purposes (who were sometimes sentenced to heavy punishments, including death). The law stipulates a sentence of up to two years of "labor correction" for the crime of illegally crossing the border.

Repatriated refugees were subject to harsh punishments, including imprisonment. During the year the government reportedly continued to enforce the policy that all border crossers be sent to prison or reeducation centers. An NGO reported that families of resettled defectors in South Korea were treated harshly and were forcibly relocated to areas away from the border.²²²

²²² U.S. Department of State, 2011 Country Reports on Human Rights Practices, 24 May 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 24 September 2012

J. Further Human Rights Considerations

1. *Treatment of persons who have left DPRK in an irregular manner returning from abroad*

[\[See also Section I. Freedom of Movement\]](#)

In March 2007 *Human Rights Watch* reported that those who crossed the DPRK border faced imprisonment and abusive conditions on return

“In an ominous hardening of policy, North Korea appears to be punishing its citizens with longer sentences in abusive prisons if they are caught crossing the border to China or have been forcibly repatriated by Beijing, Human Rights Watch said in a new briefing paper released today.

According to recent escapees from North Korea interviewed by Human Rights Watch, Pyongyang announced that it would send people who crossed the border, including first-time “offenders” and those crossing only to find food, to prison for up to five years. “North Koreans are crossing into China to avoid starvation since their government is either unwilling or unable to feed them,” said Sophie Richardson, deputy Asia director at Human Rights Watch. “Not only does the North Korean government fail to feed its population, but it also persecutes its citizens for simply trying to survive.”

Human Rights Watch recently interviewed 16 North Koreans who crossed the border to China between mid-July and early December 2006. Although the number of the interviewees was not large enough for Human Rights Watch to obtain comprehensive information on the conditions inside the country, the diversity in age, gender, hometown, social class and personal experience of those interviewed suggests that their testimonies provide a credibly objective picture. Most importantly, they provided consistent testimonies on harsher punishments for those recently repatriated. According to the North Korean interviewees, North Korean authorities as early as 2004 began warning citizens across the country that even first-time border-crossers would be sent to prison for terms that varied from one to five years.[] North Korean border-crossers who had been imprisoned described to Human Rights Watch the abuses they suffered, including strip searches, verbal abuse and threats, beatings, forced labor, little or no medical care, and severe shortages of food, often described as a “fistful of powdered cornstalk per meal.” As punishment for disobedience, former detainees said they were forced to hit their own heads against cell bars and to sit up and down repeatedly until they fainted. Such punishments were often inflicted for failing to sit still for hours on end, and collective punishments of entire groups of cellmates were common.”²²³

In its 2012 world report, covering the events of 2011, *Human Rights Watch* reported that leaving the DPRK without permission is a criminal offence with severe punishments on repatriation including torture and forced labour,

“North Korea criminalizes leaving the country without state permission. Those who leave—most often by crossing the country’s northern border into China—face harsh punishment upon repatriation, including interrogation, torture, and punishments depend on North Korean authorities’ assessments of what the returnee did while in China. Those suspected of simple commerce or other money-making schemes are usually sent to work in forced labor brigades. Others suspected of religious or political activities, including contact with

²²³ Human Rights Watch, North Korea: Border-crossers harshly punished on return, 7 March 2007, <http://www.hrw.org/news/2007/03/04/north-korea-border-crossers-harshly-punished-return>, accessed 2 October 2012

South Koreans, are given lengthier terms in horrendous detention facilities or forced labor camps with chronic food and medicine shortages, harsh working conditions, and mistreatment by guards.

Hundreds of thousands of North Koreans have fled since the 1990s, and some have settled in China's Yanbian Korean Autonomous Prefecture. Beijing categorically labels North Koreans in China "illegal" economic migrants and routinely repatriates them, despite its obligation to offer protection to refugees under both customary international law and the Refugee Convention of 1951 and its 1967 protocol, to which China is a state party.

Many North Korean women in China live with local men in de facto marriages. Even if they have lived there for years, they are not entitled to legal residence and face the risk of arrest and repatriation. Some North Korean women and girls are trafficked into marriage or prostitution in China. Many children of such unrecognized marriages are forced to live without a legal identity or access to elementary education because their parents fear that if they register the children the mother will be identified by Chinese authorities and forcibly repatriated to North Korea.²²⁴

In February 2012 the *Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* stated that there were approximately 23,700 asylum seekers from the DRPK in the Republic of Korea. The *Special Rapporteur* reported that the DPRK operates a shoot to kill policy against those attempting to flee the country,

"There has been a steady increase in the number of persons seeking refuge in the Republic of Korea. Until the late 1990s, fewer than 1,000 asylum-seekers from the Democratic People's Republic of Korea had made their way to the Republic of Korea. By the end of 2012, there were around 23,700 asylum-seekers in the Republic of Korea. Of these arrivals, around 75 per cent are women (which has been more or less the case for the past five or six years). One plausible explanation provided for proportionally high number of women asylum-seekers is that women have more mobility in the Democratic People's Republic of Korea, while men are expected to be at work or to look for work. In 2011, an increase of 17 per cent in the number of arrivals to the Republic of Korea was recorded over the figures for the previous year.

48. As in the previous year, the Special Rapporteur had the opportunity to visit the Hanawon centre, a Government-supported reception point for newly arrived asylum-seekers from the Democratic People's Republic of Korea. The increase in the number of asylum-seekers into the Republic of Korea has prompted the authorities in that country to build a new centre that could accommodate an additional 500 asylum-seekers at any given time. At Hanawon, the Special Rapporteur interacted with a number of asylum-seekers who had endured various types of harrowing experience in the Democratic People's Republic of Korea. Most of the asylum-seekers with whom he spoke had undergone harsh punishment in forced labour camps, had either witnessed or heard of torture being used on other inmates, and suffered punishment on the basis of "guilt by association". The Special Rapporteur also heard with concern the increase in the number of neighbourhood social squads or "minders", as they were commonly referred to. While some asylum-seekers manage to finally make their way to the Republic of Korea, numerous others are forcibly returned to the Democratic People's Republic of Korea by the neighbouring country.

49. During the visit, a number of non-governmental organizations and diplomats raised serious concerns about the refoulement of asylum-seekers. It was reported that border controls were tightened in 2011, making access to international protection more difficult. It was also reported that orders to shoot and kill those fleeing the Democratic People's Republic of Korea had been issued by the authorities. Some interlocutors also reported that

²²⁴ Human Rights Watch, World Report 2012, <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed 1 October 2012

fleeing asylum-seekers had been shot and killed by troops of the Democratic People's Republic of Korea. Such tightened border controls have forced asylum-seekers to take the sea route to Japan or the Republic of Korea. Statistics show that, in 2011, 47 people, on seven boats, arrived by sea, compared with only nine people, on five boats, in 2010. The Special Rapporteur was informed that the Democratic People's Republic of Korea has increased coast patrols as a result of this development.

50. The Special Rapporteur shares deeply the concerns raised with him by civil society organizations and the diplomatic community, and calls on States to adhere to their obligation of providing international protection to such asylum-seekers."²²⁵

In its 2012 annual report, covering the events of 2011, *Amnesty International* stated that 23,500 DPRK citizens were granted nationality in the Republic of Korea and that there were 917 asylum seekers from the DPRK in refugee like situations around the world. *Amnesty* reported that following the escape of nine asylum seekers from the DPRK to the Republic of Korea in June, the DPRK authorities restricted travel to border areas,

"More than 23,500 North Koreans were granted nationality in South Korea; hundreds were in Japan. According to figures released in 2011 by UNHCR, the UN refugee agency, there were 917 North Korean asylum-seekers in "refugee-like situations" in 2010 in countries including Australia, Germany, Netherlands, UK and USA.

- In March, 27 North Koreans were handed over to the North Korean navy. They were part of a 31-member group (20 women, 11 men) whose fishing boat had drifted into South Korean waters in thick fog in February. Four of this group decided to remain in South Korea and were given nationality.
- In June, nine North Koreans reached South Korea by boat. Following this, the North Korean authorities reportedly restricted travel of its citizens to border areas and banned small boats along its west coast.
- In September, nine North Koreans, including three children, were discovered off the coast of Japan's Ishikawa Prefecture aboard a small wooden fishing boat. They were initially detained in Nagasaki and were later allowed to leave for South Korea."²²⁶

In February 2012 *Amnesty International* reported concerns for nine Koreans returned to the DPRK from China, stating that it is illegal to leave the DPRK without state permission. *Amnesty* further reported that the DPRK authorities have threatened border crossers with severe punishments on return,

"At least 40 North Koreans are said to be currently held in detention facilities near the China-North Korea border in North East China after being caught in transit. If sent back to North Korea, they would be at serious risk of torture and other ill-treatment, forced labour, imprisonment in political prison camps and execution.

In January the North Korean authorities reportedly condemned border-crossers and threatened them with severe punishments on their return.

"The reported denouncement of border-crossers by North Korea's new government during a time of leadership transition could signal that those returned may be subjected to even harsher punishment than usual," said Rajiv Narayan, Amnesty International's Korea expert.

²²⁵ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, 13 February 2012, A/HRC/19/65, , http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf, accessed 2 October 2012

²²⁶ Amnesty International, Annual Report 2012, North Korea, <http://www.amnesty.org/en/region/north-korea/report-2012>, accessed 1 October 2012

"The North Korean authorities must ensure that no one is detained or prosecuted for going to China, nor subjected to gross violations of their human rights on return there."

"The Chinese authorities must also stop breaking international law and cease forcibly returning people to a country where they face persecution, torture and death. []

Some of those forcibly returned to North Korea face detention in one of the country's network of political prison camps such as the notorious Yodok facility, where inmates are forced into hard labour for up to 12 hours a day.

In 2011 former detainees at Yodok told Amnesty International that prisoners are forced to work in conditions approaching slavery and are frequently subjected to torture and other cruel, inhuman, or degrading treatment. All those interviewed had witnessed public executions.

North Koreans are not allowed to travel abroad without state permission, making it virtually impossible to leave.

However, despite significant risks, thousands of North Koreans illegally cross the border into China every year.

China considers all undocumented North Koreans to be economic migrants and forcibly returns them to North Korea if they are caught.

Although China is a state party to the UN Refugee Convention, it has prevented UNHCR, the UN refugee agency, from gaining access to North Koreans in the country."²²⁷

In May 2012 US based newspaper, the *Christian Science Monitor*, reported that China views DPRK citizens in the country illegally as economic migrants and that on repatriation individuals are taken to camps, interrogated and indoctrinated,

"Kim Sang-hun [Director of the Database Center for North Korean Human Rights] says Chinese authorities view those whom they capture as economic migrants who have entered China illegally, preferring to appear oblivious to the issue of slavery. The Chinese show little inclination to respond to demands not to return defectors to North Korea. Typically they are sent to North Korea by buses at night with curtains drawn and then placed in special camps for interrogation and indoctrination."²²⁸

In May 2012 US based newspaper, the *Christian Science Monitor*, reported that women who flee the DPRK to China risk being sold into slavery. If caught by authorities and returned to the DPRK women face imprisonment and beatings,

"In the end, the lure of relative freedom trumps the knowledge of the ordeal women are up against if caught.

Once back in North Korea, they face beatings and humiliation at the hands of prison guards even if they're not charged with crimes such as selling stolen goods or spying, both capital offenses.

"Typically, 60 women are held in one room," she says. "When you first are there, you are stripped naked. They search every part of your body to look for money. If you want to go to

²²⁷ Amnesty International, Fears for nine forcibly returned from China to North Korea, 28 February 2012, <http://www.amnesty.org/en/news/fears-nine-forcibly-returned-china-north-korea-2012-02-28>, accessed 2 October 2012

²²⁸ Christian Science Monitor, North Korean women sold into 'slavery' in China, 11 May 2012, <http://www.csmonitor.com/World/Asia-Pacific/2012/0511/North-Korean-women-sold-into-slavery-in-China>, accessed 1 October 2012

the bathroom, you have to ask permission. You feel like the North Korean regime has stripped you of humanity.”²²⁹

In July 2012 *Human Rights Watch* reported that asylum seekers from the DPRK face punishment on return and exploitation from officials on both sides of the border. According to *Human Rights Watch* China views North Koreans illegally in China as “escapees”, “defectors” or “economic migrants,” returning them to the DPRK rather than offering them protection as refugees,

“North Koreans who have fled their country are literally a moving target – not just for human rights groups like us, who wish them well and want to help them tell their story, but also for many others who wish to arrest them and/or profit from them. There are scores of North Korean officials trying to prevent departures and punishing those caught leaving; border officials on both sides extorting refugees to let them pass; Chinese police and other agencies rounding up and returning the refugees to certain punishment in North Korea; human traffickers delivering North Korean women into the hands of Chinese men seeking wives; and people smugglers prepared to profit by delivering them to Thailand and ultimately, a chance to come to South Korea.

In this past year Human Rights Watch has managed to interview over 60 North Koreans who have fled the country in 2010, 2011, and the first quarter of 2012. We’re still analyzing the interviews so I cannot offer a comprehensive analysis at this stage, but will rather offer some snapshots of some of the things we’ve found and promise that you’ll see more in the coming months.

Overall, what our research shows is that private market activities, corruption of North Korean officials and new information and communication technologies are increasingly combining to facilitate heretofore restricted activities, permit greater internal movement, break down government propaganda, and enable flight from North Korea. These trends in turn make it ever more critical for UNHCR and the international community to persuade China to comply with its international human rights obligations and recognize North Koreans. And not as “escapees” or “defectors” or “economic migrants” but rather what they really are, as “refugees” eligible for protection and durable solutions such as third country resettlement to South Korea, the US, or other countries prepared to receive them. []

China tries to maintain that all these persons fleeing North Korea are “economic migrants” and defies its commitments to respect the 1951 Convention on the Status of Refugees and its 1967 Protocol -- both which were ratified by China in 1982 -- by denying North Koreans the right to seek protection from UNHCR and seek determination of their refugee claims. The bar to refoulement is a matter of customary international law and China’s action belies its claims to be a country that respects rule of law. []”²³⁰

In July 2012 *Human Rights Watch* reported that a 2010 decree made defection a crime of “treachery against the nation” and that those returned face persecution, imprisonment, psychological and physical torture, forced labour and internment in collection centres and labour training centres,

“The key point is whether they are former government officials or farmers, they will be persecuted and tortured when forced back to North Korea. The Ministry of Public Security adopted a decree in 2010 making defection a crime of ‘treachery against the nation.’ And not surprisingly, a senior officer of the North Korea Security Department (*bowibu*) who defected told Human Rights that “every captured defector [in my area] was sent to me” and described torture during interrogations of defectors. He said “psychological suffering is the

²²⁹ Christian Science Monitor, North Korean women sold into ‘slavery’ in China, 11 May 2012, <http://www.csmonitor.com/World/Asia-Pacific/2012/0511/North-Korean-women-sold-into-slavery-in-China>, accessed 1 October 2012

²³⁰ Human Rights Watch, The problem of North Korean refugees in China and possible solutions, 19 July 2012, <http://www.hrw.org/news/2012/07/19/problem-north-korean-refugees-china-and-possible-solutions>, accessed 2 October 2012

first...they are put in solitary confinement and minimum food given, only enough for surviving... A person saying nothing will be beaten. Depending on the reaction, beating will be different." Of course, those suspected of links to South Korea face harsher punishments, including possibly being sent to the *kwan-li-so* or *kyo-hwa-so*. This is certainly understood by those fleeing who repeatedly told Human Rights Watch that even if they were intending to go to South Korea they would claim they were only doing trading in China if they were caught. But even those who the security forces determine were only intending to go to China face physical beatings, forced labor and others abuses at the *jip-kyul-so* (the so-called "collection centers") or the *ro-dong-dan-ryeon-dae* (the so-called "so-labor training centers."²³¹

2. Impact of the loyalty system on access to human rights (de facto castes [based on perceived loyalty to the Leader]: "core" (*haeksim kyechung*), "wavering" (*tongyo kyechung*), and "hostile" (*joktae kyechung*))

In 2012 NGO, the U.S. Committee for Human Rights in Korea published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that 'songbun,' a hereditary caste based system which ranks citizens according to their family's political background, underpins human rights abuses in the DPRK,

"'Marked For Life' is not an exaggerated term for the socio-political classification conditions under which every North Korean citizen lives out his life; it is a cruel and persistent reality for the millions who must experience it on a daily basis. North Korea's socio-political classification system, or "*songbun*," has an impact on human rights in North Korea that is incalculable and interminable in its highly destructive and repressive effects on the vast multitude of the North Korean population. Focused on origin of birth, this party-directed "caste system" is the root cause of discrimination and humanitarian abuses. The grim reality of North Korea is that this system creates a form of slave labor for a third of North Korea's population of 23 million citizens and loyalty-bound servants out of the remainder.

[]

The institution of *songbun* means that each and every North Korean citizen is assigned a heredity-based class and socio-political rank over which the individual exercises no control but which determines all aspects of his or her life. Under this classification system, all citizens become part of one of three designated classes—the 'core' or loyal class, the 'wavering' class, or the 'hostile' class. The designations enable the Kim regime³ to establish and reinforce its political control over all North Korean society. The classifications are based on socio-political judgments which empower the party-state at the expense of the individual's civil, political, economic, social and cultural rights.

Akin to the class distinctions of ancient feudal systems, but with important differences, *songbun* provides extensive privileges to those deemed loyal, based largely on their birth and family background, and metes out pervasive disadvantages to those deemed disloyal. This creation of favored and disfavored classes of people based on their perceived support of the regime is reminiscent of Stalin's efforts to brand landowners, capitalists, and independent farmers as enemies of the state in order to destroy their influence and consolidate Soviet power."²³²

²³¹ Human Rights Watch, The problem of North Korean refugees in China and possible solutions, 19 July 2012, <http://www.hrw.org/news/2012/07/19/problem-north-korean-refugees-china-and-possible-solutions>, accessed 2 October 2012

²³² Robert Collins, Marked for Life: Songbun, North Korea's Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that the core (*haeksim*) class is perceived to be loyal to the Kim regime and therefore receives privileges, including social welfare support,

“The *core (haeksim) class* is assessed by the regime to be loyal to the Kim regime and therefore receives significant privileges in all aspects of life. Members of the core class overwhelmingly tend to serve in positions that sustain and protect the Kim regime. The core class, with its high political reliability rating, is given priority in every known social welfare and support category, whether employment, education, housing, medical treatment, or food and the provision of life's necessities.”²³³

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that the loyalty of the wavering (*dongyo*) class is considered to be less reliable than the core class and requires constant ideological indoctrination,

“The *wavering (dongyo) class* is made up of those whose loyalty to the party is deemed questionable but who can serve the regime well through proper economic and political performance, particularly if they demonstrate loyalty to the party and its leaders. The party assesses that constant ideological indoctrination is essential to maintaining the reliability of the wavering class.”²³⁴

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that the hostile (*choktae*) class is regarded as disloyal and are subjected to discrimination, including in access to employment, education, food, housing and medical care,

“The lowest level, the *hostile (choktae) class*, is prejudged as being disloyal to the socialist revolution, the party, and its leadership. The hostile class is commonly referred to as “impure elements” or “anti-party and anti-revolutionary forces.” Members of this class are regarded as class enemies by the Kim regime, and they suffer the most traumatic victimization of the *songbun* system. They are discriminated against in terms of employment, military service, education, food, housing, medical care, and especially opportunity. Marrying someone of low *songbun* is unthinkable for someone in the core group. Essentially a rigid caste system, *songbun* leaves most North Koreans with little-to-no hope for reward for personal initiative and very little room for personal choice. It is very difficult to improve one's *songbun*, particularly if it derives from one's family's pre-revolutionary class status or the behavior of one's parents or relatives.”²³⁵

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that it is rare to move up a class but that *songbun* status can be downgraded for committing offences or failing to cooperate with officials, conviction for political crimes may cause the status of third degree relatives to be downgraded and extended family members to be imprisoned,

“At the same time, it is possible for one's *songbun* to change dramatically, particularly falling from a good *songbun* background to a bad *songbun* background. One's *songbun* can be downgraded for committing offenses, political or criminal, or even failing to cooperate with party, government, or economic management officials. Conviction of a political crime—

²³³ Robert Collins, *Marked for Life: Songbun, North Korea's Social Classification system, 2012*, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²³⁴ Robert Collins, *Marked for Life: Songbun, North Korea's Social Classification system, 2012*, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²³⁵ Robert Collins, *Marked for Life: Songbun, North Korea's Social Classification system, 2012*, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

particularly slander or action against the Kim regime—will not only cause one's *songbun* level to fall to rock bottom, but so will that of one's family members up to third-degree relatives, which will last for generations. Regardless of one's *songbun*, such political crimes result in imprisonment for the individual together with three generations of his/her family and, possibly execution. At a minimum, such crimes result in loss of job, housing and other privileges based on *songbun* for oneself and one's extended family. This is not uncommon. Moving up in *songbun* category requires a lifetime of devotion to the Kim family regime, the party, and their teachings, but these occasions are not common."²³⁶

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that the *songbun* system is itself a violation of human rights and is used to justify abuses,

"The *songbun* system of classification is by its very nature a violation of human rights. Grounded in inequality and discrimination, its purpose is to institutionalize one group's dominance over others and to ensure the Kim regime's control. The human rights abuses committed by the regime are not only executed through the *songbun* system but are also rationalized by it. In the Korean Workers' Party's official newspaper, the Rodong Sinmun, the Party historically publishes editorials justifying its actions, policies and positions, and explains its position on human rights relative to class structure, enemies of the state and friend vs. foe. "We don't hide our class structure in human rights any more than we hide our party loyalty. Socialist human rights are not supra-class human rights that give freedom and authority to hostile elements that oppose socialism and impure elements that bring harm to the people's benefit." Article 12 of the 2009 North Korean Constitution states, "The state shall adhere to the class line and strengthen the dictatorship of the people's democracy, and thus firmly protect the people's sovereignty and socialist system from the maneuvers for destruction by hostile elements at home and abroad."²³⁷

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that *songbun* denied DPRK citizens basic human rights such as the principle that all are born equal, and the right to make decisions regarding marriage, employment, housing, education and medical treatment,

"*Songbun's* impact on North Korean society is so extensive that the Universal Declaration of Human Rights (UDHR), often described as the "global expression of rights to which all human beings are inherently entitled," ironically reads as a listing of all the rights *songbun* denies to North Koreans.

[]

The UDHR states in its first article that "all human beings are born free and *equal in dignity and rights*." Article 2 provides that "everyone is entitled to all the rights and freedoms set forth in this Declaration, *without distinction of any kind*," including "*political or other opinion*," "*national or social origin*," and "*birth or other status*." Article 7 specifically states that "all are equal before the law and are entitled *without any discrimination* to equal protection of the law. The policy of *songbun*, deliberately designed to create political class differences and social inequality within North Korean society, is in direct contradiction to the Declaration's assertion that human beings are equal and have inherent rights without discrimination. The *songbun* system justifies privilege for political loyalty and restricts, even eliminates, the rights of political opponents. It is one of the major political tools (along with state terror, pervasive state surveillance, and state-controlled socio-economic resource allocation), by which the Kim regime controls society. The discrimination created by *songbun* ensures politically-directed denial of the right to make many of the decisions other countries assume

²³⁶ Robert Collins, Marked for Life: *Songbun*, North Korea's Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²³⁷ Robert Collins, Marked for Life: *Songbun*, North Korea's Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

to be a matter of individual prerogative—one's occupation, spouse, housing, education, and medical treatment."²³⁸

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that the DPRK detains people solely based on their songbun category,

"North Korea's detention of its citizens based solely on their *songbun* classification violates these basic human rights. As noted previously, many North Koreans are sent to political prison camps for being (or having ancestors who were) class enemies—landowners, collaborators with the Japanese, capitalists, religious leaders, or family members of someone who escaped to South Korea. North Korea forces these victims to perform strenuous and hazardous labor in the camps without adequate rest, food, or medical care.² "These camps are notorious for abysmal living conditions and abuse, including...lack of proper housing and clothes, mistreatment and torture by guards..." Each instance of imprisonment and execution in the prison camps is a violation of the victim's fundamental right to life, liberty, and the right to be free from servitude or inhumane treatment."²³⁹

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that those with higher songbun levels are treated more leniently within the criminal justice system,

"Article 14 of the ICCPR states that, "[a]ll persons shall be equal before the court." However, North Korea relies on *songbun* categorization to determine guilt or innocence in their criminal justice system, which violates the basic human rights of equality and justice. Criminal defendants in North Korea are treated differently depending on their *songbun* ranking.²⁶⁵ Those with higher levels are shown leniency and given lighter sentences. Even North Korea's Constitution, as noted above, proclaims that all institutions and people must "struggle actively against class enemies and all law offenders."²⁶⁶ North Korea's use of birth and social class to create inequalities in the criminal justice system is another clear violation of the fundamental human right to equal treatment for all people regardless of "race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."²⁴⁰

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that access to education is dependent on one's songbun level,

"The *songbun* system also violates the right to education, to free choice of employment, and to an adequate standard of living. The ICESCR stipulates that higher education must be equally accessible to all people and that all people have the right to freely choose their employment and to have equal access to promotion in that employment. It also protects the right to adequate food, housing and clothing—including the right to equitable distribution of these supplies to those in need. However, in North Korea, access to higher education is determined by one's *songbun* level. Furthermore, as illustrated in previous chapters, the *songbun* system is used to restrict access to employment and food."²⁴¹

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that under the songbun

²³⁸ Robert Collins, Marked for Life: Songbun, North Korea's Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²³⁹ Robert Collins, Marked for Life: Songbun, North Korea's Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²⁴⁰ Robert Collins, Marked for Life: Songbun, North Korea's Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²⁴¹ Robert Collins, Marked for Life: Songbun, North Korea's Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

system people are not free to marry someone from a lower class, stating that authorities have forced parents to divorce due to them having different statuses,

“The *songbun* system unlawfully interferes with the family unit. International human rights law stipulates that, “[t]he family is the natural and fundamental group unit of society” and “[t]he widest possible protection and assistance should be accorded to the family.” These protections include the right to freely marry. The *songbun* system limits people’s right to freely enter marriages because contrary to the will of the parties involved, people with higher *songbun* levels are often prevented from marrying potential spouses from a lower *songbun* class. Even more egregiously, North Korean authorities have broken up families and forced parents to divorce because of one family member’s undesirable background.”²⁴²

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense reported that religious believers are placed in the most disadvantaged class,

“The Kim regime’s elimination of religious individuals from North Korean society was a detailed process that focused on ideological indoctrination to eliminate, or “convert” Christians to an atheistic belief in socialist ideology, imprison them if such conversion did not take hold, and execute religious leaders or those who attempted to convert others to their religion. The *songbun* system has placed religious believers among the most disadvantaged class.”²⁴³

In July 2012 *Human Rights Watch* reported that many Koreans have fled following being labelled as belonging to “wavering” or “hostile” classes and that such “classes” are subject to discrimination and harassment,

“Many North Koreans who have fled their country have done so because they have been classified as among the “wavering” classes or even “hostile” class, and faced discrimination, harassment, arrest, and imprisonment for a wide variety of so-called crimes that involve legitimate rights and activities protected under the International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights, both of which have been ratified by Pyongyang. But there are others, such as farmers and laborers, or government officials from the so-called more loyal classes and their relatives who would have, at first glance, apparently less reason to flee but still have decided to do so.”²⁴⁴

2. Forced relocation/internal exile

In 2012 NGO, the *U.S. Committee for Human Rights in Korea* published a report by Robert Collins, a former North Korea analyst with the US Department of Defense which reported that those with low *songbun* rankings may be forcibly relocated to isolated areas and are not permitted to live in or visit Pyongyang,

“Although the UDHR and the ICCPR declare that everyone has the right to “liberty of movement and freedom to choose [one’s] residence,” those assigned specific *songbun* levels are often forcibly relocated to isolated areas. The forced relocations also violate North Koreans’ right to freely move and choose their residence. Those with lower *songbun* rankings are prohibited from living in, or even visiting, Pyongyang and fertile areas of the

²⁴² Robert Collins, *Marked for Life: Songbun, North Korea’s Social Classification system*, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²⁴³ Robert Collins, *Marked for Life: Songbun, North Korea’s Social Classification system*, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²⁴⁴ Human Rights Watch, *The problem of North Korean refugees in China and possible solutions*, 19 July 2012, <http://www.hrw.org/news/2012/07/19/problem-north-korean-refugees-china-and-possible-solutions>, accessed 2 October 2012

countryside. Their geographical separation from those of higher rank in the capital is meant to establish and maintain the dominance of the privileged class, which creates a form of political *apartheid* that pervades every aspect of life."²⁴⁵

In 2012 the US NGO, *Freedom House*, stated that "forced internal resettlement is routine."²⁴⁶

In 2011 the *USDOS* country report on human rights practices stated that it was not known whether legislation prohibits forced exile and that some citizens were exiled internally,

"It was not known whether the law prohibits forced exile; the government reportedly forced the internal exile of some citizens. In the past it forcibly resettled tens of thousands of persons from Pyongyang to the countryside. Sometimes this occurred as punishment for offenses, although there were reports that social engineering was also involved. For example, although disabled veterans were treated well, other persons with physical and mental disabilities, as well as those judged to be politically unreliable, were sent out of Pyongyang into internal exile."²⁴⁷

In April 2011 Republic of Korea based newspaper, the *DailyNK*, reported that a decree had been issued stating that those caught communicating with people outside North Korea would be sent to a reeducation camp and their family exiled,

"It has been confirmed that the North Korean authorities issued a decree earlier this month stating that persons found to have communicated with persons outside North Korea are to be sent to a reeducation camp and their families exiled.

The policy was previously reported at the beginning of April by The Daily NK.

A source from Yangkang Province was able to confirm it on April 11th. He said, "In a people's unit meeting on April 8th they stated 'If a person is caught making a phone call to South Chosun or China, that person will be sent to a reeducation camp and his/her family exiled without exception. The time for ideological education has already passed. Those who commit hostile acts by communicating secretly with traitors will be severely punished.'"

The source also confirmed that families have already fallen victim to the decree; at 10AM on April 9th, the family of Kang, a family within the 18th people's unit in the Hyekang-dong of Hyesan was deported to Naepo-ri in Poongsan (an inaccessible area in the heart of Yangkang Province)."²⁴⁸

3. Food (in-)security

In a 2012 update the *World Food Programme* reported that 16 million people, out of a population of 24.1 million, suffer from chronic food insecurity,

"The people of the Democratic People's Republic of Korea (DPRK) endure poor health care, high levels of maternal and child malnutrition, political and economic isolation, recurrent natural disasters and international increases of food and fuel prices. The population's high vulnerability is due to the failure to appropriately and systematically

²⁴⁵ Robert Collins, Marked for Life: Songbun, North Korea's Social Classification system, 2012, U.S. Committee for Human Rights in North Korea, http://hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf, accessed 2 October 2012

²⁴⁶ Freedom House, Freedom in the World 2012, <http://www.freedomhouse.org/report/freedom-world/2012/north-korea>, accessed 24 September 2012

²⁴⁷ U.S. Department of State, 2011 Country Reports on Human Rights Practices, May 24, 2012 <http://www.state.gov/documents/organization/186491.pdf>, accessed 25 September 2012

²⁴⁸ DailyNK, Internal exile decree confirmed, 12 April 2011, <http://www.dailynk.com/english/read.php?catald=nk01500&num=7555>, accessed 2 October 2012

address the underlying risk factors of food insecurity, limited or weak coping mechanisms, and extremely poor sanitation and safe water access.

While international humanitarian assistance has made considerable progress towards meeting some of the basic needs, 16 million people continue to suffer from chronic food insecurity (at various degrees), high malnutrition rates, and deep-rooted economic problems. Inadequate medical supplies and equipment make the health care system unable to meet basic needs, while sanitation, water supply and heating systems continue to fall into disrepair. Young children, pregnant and lactating women and the elderly are particularly vulnerable. The country is further challenged by climate change, poorly developed agricultural techniques and technology, periods of localised floods and harsh weather conditions with loss of crops agricultural fields as a result.²⁴⁹

In February 2012 the *UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* stated that there is a chronic food shortage in the DPRK, and that as of March 2011, six million people needed urgent international food assistance,

"In recent years, chronic shortage of food has become one of the most pressing issues in the Democratic People's Republic of Korea, a topic that the previous and the current mandate holders have constantly focused on, in view of its impact on the people and the crucial importance that the right to adequate food has for the enjoyment of a number of other rights.

22. In March 2011, a United Nations survey found that, in the Democratic People's Republic of Korea, more than 6 million vulnerable people urgently required international food assistance. Following the survey, an assessment mission was jointly conducted by the Food and Agriculture Organization of the United Nations (FAO) and WFP in October 2011. On the basis of the mission, a report on the current food situation in the Democratic People's Republic of Korea was released in November 2011. In the country, the State-run public distribution system remains the primary source through which food is delivered. In 2011, given that for prolonged periods time the system only provided around one-third of daily energy requirements, households were forced to seek food from other sources. Notably, relatives living on cooperative farms in rural areas gave up portions of their own food allocations to assist people dependent on the distribution system in urban areas.

23. The above-mentioned FAO/WFP report showed that many of the factors behind the shortage of food in the Democratic People's Republic of Korea remain the same in 2012, but have intensified; these include the adverse weather conditions, underdevelopment and structural problems, which have all had a serious impact on food and crop production in 2010/11.

24. In 2012, it is estimated that, while harvests in the Democratic People's Republic of Korea are expected to increase by about 8.5 per cent over the results of the previous year, the country would still have to import 739,000 tons of cereal. Considering the planned Government imports of 325,000 tons, the WFP/FAO mission estimates an uncovered food deficit of 414,000 tons. In the 2011/12 marketing year, substantial increases in commercial imports and/or external assistance will be needed to make up for the deficit. The alarming deterioration in the availability of food is also affected by the decline in bilateral and multilateral food aid from the international community. The country's planned commercial imports and recommended food assistance will not cover the food deficit, leaving an additional shortfall of 294,000 tons of cereals.

²⁴⁹ World Food Programme, Overview of needs and assistance in the Democratic People's Republic of Korea, 2012 update, <http://www.wfp.org/sites/default/files/DPRK%20Overview%20Of%20Needs%20And%20Assistance%202012.pdf>, accessed 10 October 2012

25. The Special Rapporteur is concerned that the current dire food shortage in the Democratic People's Republic of Korea will lead to serious health problems, especially in children, women and the elderly. In 2011, health officials in the country reported a 50 to 100 per cent increase over the total in 2010 in admissions of malnourished children into paediatric wards. In addition, a sharp rise in low birth weights, and several cases of oedema were noted. Other vulnerable groups are pregnant and lactating women, who are at greater risk of acute malnutrition and micronutrient deficiencies.

26. The Special Rapporteur underscores the importance of meeting the food shortfall by ensuring that an adequate quantity of food of good quality is available through additional imports by the Government, supported by the international agencies and bilateral donors. The Special Rapporteur emphasizes that the primary obligation to feed people lies with the State, which must take all measures necessary to rectify existing flaws in the production and distribution system that have contributed for the shortage of food. He also calls on the Government to allocate more resources to agriculture rather than to its military sector.²⁵⁰

In 2012 *Freedom House* reported that an NGO mission had found chronic malnutrition in the DPRK,

"In February 2011, a group of five nongovernmental organizations from the United States—Christian Friends of Korea, Global Resource Services, Mercy Corps, Samaritan's Purse, and World Vision—found insufficient access to food and chronic malnutrition in North Korea; an assessment from the World Food Programme in March confirmed those findings. Both groups also reported the likely potential for food shortages during the lean months, which would put several millions of people at risk. In May, the United States Agency for International Development and U.S. Special Envoy for North Korean Human Rights Robert King led another food assessment team into North Korea to get a better sense of the severity of the food situation. King's visit marked the first time a designated human rights envoy had been allowed in the country, though he was not there for formal negotiations.

In June, the EU pledged \$14.5 million in food aid to North Korea. Later in the year, South Korea approved private sector humanitarian efforts, and although refusing to grant direct aid to the North, approved government provision of food aid through third party organizations. The United States, however, had yet to come to a decision over whether it would provide assistance by the end of the year.²⁵¹

A *WFP/FAO/UNICEF* mission to the DPRK in February/March 2011 found that there was chronic under nutrition,

"There is chronic under-nutrition in DPRK, as in other developing countries in Asia. Although there has been steady improvement over the past few years, maternal and child under-nutrition remains a serious problem. There is a high prevalence of anaemia among women of reproductive age. There are high prevalence rates of stunted (low height-for-age) and under-weight (low weight-for-age) children. The high stunting rates indicate chronic malnutrition, as a result of: inadequate nutrition over a long period of time, limited energy intake, limited dietary diversity, and recurrent or chronic diseases."²⁵²

However the *WFP/FAO/UNICEF* mission further reported that, "The nutrition situation, as assessed during the mission, appears to be relatively stable."²⁵³

²⁵⁰ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, 13 February 2012, A/HRC/19/65, http://ap.ohchr.org/documents/dpage_e.aspx?c=50&su=59, accessed 2 October 2012

²⁵¹ Freedom House, Freedom in the World 2012; North Korea, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/north-korea>, accessed 2 October 2012

²⁵² WFP/FAO/UNICEF Rapid Food Security Assessment Mission, Special Report, 24 March 2011, <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp233442.pdf>, accessed 2 October 2012

²⁵³ WFP/FAO/UNICEF Rapid Food Security Assessment Mission, Special Report, 24 March 2011, <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp233442.pdf>, accessed 2 October 2012

In March 2011 a *WFP/FAO/UNICEF* mission to the DPRK reported that some northern and eastern provinces have the highest number of counties with food shortages,

“The northern and eastern provinces of Ryanggang, Chagang, North Hamgyong, South Hamgyong, and Kangwon have the greatest number of food deficit counties. The MICS 2009 results show these provinces also have prevalence rates for underweight children at or above the WHO threshold of twenty percent. Based upon these two established measures of food insecurity, these five (5) provinces should be considered the most vulnerable to food and nutrition security. North Pyongan, South Pyongan, North Hwanghae and South Hwanghae, and Nampo city, each have only a few counties that are food deficit. These five provinces all have underweight prevalence rates below twenty percent. Pyongyang municipality is the most food secure as it has low prevalence of malnutrition and is a major beneficiary of food transfers from surplus counties.”²⁵⁴

In March 2011 a *WFP/FAO/UNICEF* mission to the DPRK reported that certain demographic groups are more vulnerable to food insecurity,

“Certain household members are more vulnerable to food insecurity, including: i) children; ii) pregnant and lactating women (PLW); iii) the elderly living alone; iv) large households with a high dependency ratio; v) People with a prolonged illness; and vi) People with disabilities. People in these demographic categories may not be able to work, collect the wild vegetables and foods in the steep mountains or fish. There are an estimated 6,100,000 vulnerable people of which 4,029,000 reside in the five most food insecure northern and eastern provinces, where malnutrition rates are highest. An additional 1,971,000 people reside in the four southern and western provinces, where malnutrition rates are lower and fewer counties are food deficit. There are approximately 100,000 other highly vulnerable people in need of food assistance, including: 12,000 children living in orphanages; 52,000 TB patients; 22,000 people with disabilities; and 14,000 patients in paediatric wards.”²⁵⁵

²⁵⁴ WFP/FAO/UNICEF Rapid Food Security Assessment Mission, Special Report, 24 March 2011, <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp233442.pdf>, accessed 2 October 2012

²⁵⁵ WFP/FAO/UNICEF Rapid Food Security Assessment Mission, Special Report, 24 March 2011, <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp233442.pdf>, accessed 2 October 2012